

---

## INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM

**Adopted:** 13 April 2005

**Opened for Signature:** 14 September 2005

**Entered into Force:** 7 July 2007

**Number of States Parties:** 77

**Signatories that have not ratified:** 61

**Depositary:** UN Secretary-General

### Treaty Text

**Background:** In 1996, the UN Secretary-General (UNSG) prepared a report pursuant to UN General Assembly [Resolution 50/53](#), in which he reviewed existing international legal instruments relating to international terrorism and concluded that there was a need to elaborate international treaties or other kinds of instruments in areas not covered by existing treaties. Among the measures proposed by the UNSG was preventing the use of weapons of mass destruction (WMD) by terrorists.

The draft convention was proposed by the Russian Federation, and considered by the Legal Committee of the UN General Assembly. UN General Assembly [Resolution 51/210](#) of 17 December, 1996 established an Ad Hoc Committee to elaborate the draft convention.

The Russian Federation, in its explanatory note on the draft convention, noted that the [1980 Convention on the Physical Protection of Nuclear Material](#) (CPPNM) had a number of substantial gaps concerning countering acts of nuclear terrorism, particularly at the stage of stopping the terrorist act and eliminating its consequences. It claimed the CPPNM alone was not able to eliminate the danger of nuclear terrorism in all its manifestations, and therefore, the draft convention was aimed at combating new and dangerous manifestations of terrorism, stimulating the adoption of effective preventive measures in that sphere, and establishing a reliable international legal mechanism for cooperation at all stages of combating nuclear terrorism. The Russian Federation claimed that the draft convention was particularly significant in that it was the first international legal instrument in the area of anti-terrorist activities that was specially designed as a “pre-emptive instrument.”

Several concerns delayed the adoption of the convention for many years. Foremost among these concerns related to Article IV. Many non-nuclear weapon States (NNWS), in particular the Non-Aligned Movement (NAM), opposed any language that could legitimize the use of nuclear weapons by military forces of nuclear weapon States (NWS). These concerns were addressed by the adoption of an amendment added to Article IV stipulating that the convention cannot be interpreted as addressing the “legality of the use or threat of use of nuclear weapons by States.”

Other difficulties included lack of agreement on a definition of terrorism. Although the convention defines several related issues, it contains no definition of terrorism.

A number of delegations also preferred focusing on the [draft Comprehensive Convention on International Terrorism](#), since progress on the definition of terrorism would have a positive impact on the draft Nuclear Terrorism Convention.

The 35<sup>th</sup> meeting of the Ad Hoc Committee on International Terrorism reached an agreement to offer the document for signature based on its ability to overcome the final obstacles to the committee’s consensus approval. Committee members noted that the clarification of Article IV, as well as agreements by Cuba, Egypt, Iran, Pakistan, and the United States to withdraw certain amendments, allowed the convention to pass.

The General Assembly unanimously approved the International Convention for the Suppression of Acts of Nuclear Terrorism on 13 April 2005 during the 91st plenary meeting of the General Assembly by resolution [A/RES/59/290](#), the first anti-terrorism treaty adopted since the 11 September 2001 attacks. The treaty, which places no new restrictions on the use of nuclear weapons by States, opened for signature on 14 September 2005, and with the 22<sup>nd</sup> ratification (Bangladesh), it entered into force on 7 July 2007.

The nuclear terrorism convention joined the 12 previously existing universal anti-terrorism conventions, strengthening the international legal framework in connection with terrorist acts and further promoting

## NUCLEAR TERRORISM CONVENTION

the rule of law.

Key provisions of the convention include:

- A wider definition (than the Convention on the Protection of Nuclear Materials) on materials and facilities covering both military and peaceful applications
- The criminalization of planning, threatening, or carrying out acts of nuclear terrorism; it also requires States to criminalize these offenses via national legislation and to establish penalties in line with the gravity of such crimes
- Conditions under which States may establish jurisdiction for offenses
- Guidelines for extradition and other measures of punishment
- The requirement for States to take all practicable measures to prevent and counter preparations for offenses to take place inside or outside of their territories
- The distinction that the convention does not cover the activities of armed forces during an armed conflict or military exercise.

Presently, there are 61 signatories to the convention and 77 Parties (Algeria, Antigua and Barbuda, Armenia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Brazil, Burundi, Central African Republic, Chile, China, Comoros, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Dominican Republic, El Salvador, Fiji, Finland, Gabon, Georgia, Germany, Guinea-Bissau, Hungary, India, Japan, Kazakhstan, Kenya, Kiribati, Kyrgyzstan, Latvia, Lebanon, Lesotho, Libya, Liechtenstein, Lithuania, Luxembourg, Malawi, Mali, FYR Macedonia, Mauritania, Mexico, Moldova, Mongolia, Morocco, Nauru, Netherlands, Nicaragua, Niger, Panama, Paraguay, Peru, Poland, Romania, Russia, Saudi Arabia, Serbia, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, St. Vincent and the Grenadines, Switzerland, Tunisia, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, and Uzbekistan).

**Provisions:** The convention defines the act of nuclear terrorism as the use or threat to use nuclear material, nuclear fuel, radioactive products or waste, or any other radioactive substances with toxic, explosive, or other dangerous properties. The definition includes the use or threat to use any nuclear installations, nu-

clear explosive, or radiation devices in order to kill or injure persons, damage property, or the environment, or to compel persons, States, or international organizations to do or to refrain from doing any act. The unauthorized receipt through fraud, theft, or forcible seizure of any nuclear material, radioactive substances, nuclear installations, or nuclear explosive devices belonging to a State Party, or demands by the threat or use of force or by other forms of intimidation for the transfer of such material would also be regarded as acts of nuclear terrorism.

The convention applies exclusively to acts by individuals, and its scope would not include the issue of the nonproliferation of nuclear weapons or nuclear threats posed by States or intergovernmental organizations.

**Compliance and Enforcement:** The convention obligates the parties to cooperate in preventing or prosecuting acts of nuclear terrorism by adopting necessary legislative and technical measures to protect nuclear material, installations and devices, and to forestall unauthorized access to them by third parties.

The convention does not affect international law provisions on States' competence to conduct investigations on vessels that were not flying their flags or in aircraft that were not registered in their territories. States Parties would help each other in prosecuting the relevant acts and, when the prosecution is completed, any nuclear material or devices would be returned to the State Party to which they belonged.

### Developments:

**2011:** The following State became party to the convention in 2011: Algeria (3 Mar.).

On 14 April U.S. President Obama [sent](#) draft legislation to Congress calling for the United States to ratify the convention "as swiftly as possible."

According to [reports](#), on 27 April the Parliament of Iraq read a draft law on Iraq's plan to join the convention.

**2010:** The following States became parties to the Convention in 2010: Morocco (31 Mar.), Poland (8 April), Georgia (23 April), Bahrain (4 May), the Netherlands (30 June), St. Vincent and the Grenadines (8 July), Nauru (24 Aug.), Lesotho (22 Sept.), and Tunisia (28 Sept.).

On 13 April, the [Communiqué](#) of the Washington Nuclear Security Summit expressed support for the objectives of the Convention as an essential component of the global nuclear security architecture. Fur-

## NUCLEAR TERRORISM CONVENTION

thermore, the Convention was the first item at the top of the Summit [Work Plan](#), which encouraged participating states to achieve universality of the Convention, assist States with its implementation, and discuss measures for its effective implementation.

In May, the [Final Document](#) of the NPT Review Conference encouraged states to become party to the Convention, both in the review section of the document and in the action plan contained in Conclusions and Recommendations.

In December, the UN General Assembly passed two resolutions pertaining to nuclear terrorism. GA Resolution [A/RES/64/177](#) urges states to strengthen international cooperation to prevent and combat terrorism in all forms, while Resolution [A/RES/64/118](#) encourages states to become party to the Conventions on Terrorism and develop cooperation with other states and various UN organs.

**2009:** The following States became parties to the Convention in 2009: Finland (13 Jan.), Azerbaijan (28 Jan.), Paraguay (29 Jan.), Nicaragua (25 Feb.), Peru (29 May), Cuba (17 June), United Kingdom of Great Britain and Northern Ireland (24 Sept.), Solomon Islands (24 Sept.), Brazil (25 Sept.), Liechtenstein (25 Sept.), and Malawi (Oct. 7).

At the 2009 NPT PrepCom, all three versions of the draft recommendations for the 2010 Review Conference sought to affirm the importance of the full implementation of the Convention as a means to strengthen nuclear safety and security.

UN Security Council Resolution 1887, adopted unanimously on 24 September, called for universal adherence to the Convention.

**2008:** The following States became parties to the Convention in 2008: United Arab Emirates (10 Jan.), Cyprus (28 Jan.), Germany (8 Feb.), Central African Republic (19 Feb.), Turkmenistan (28 Mar.), Moldova (18 April), Mauritania (28 April), Uzbekistan (29 April), Fiji (15 May), Dominican Republic (11 June), Niger (2 July), Kazakhstan (31 July), Guinea-Bissau (6 Aug.), Burundi (24 Sept.), Luxembourg (2 Oct.), Switzerland (15 Oct.), Libya (22 Dec.).

**2007:** On 7 June 2007, Bangladesh became the 22<sup>nd</sup> country to ratify the International Convention for the Suppression of Acts of Nuclear Terrorism, allowing the treaty to enter into force thirty days later on 7 July 2007.

The following States deposited instruments of ratification or accession to the Convention in 2007: Romania (24 Jan.), Russian Federation (29 Jan.), Spain (22 Feb.), Comoros (12 Mar.), Belarus (13 Mar.),

FYR Macedonia (19 Mar.), Denmark (20 Mar.), Hungary (12 April), South Africa (9 May), Croatia (30 May), Bangladesh (7 June), Panama (21 June), Lithuania (19 July), Japan (3 Aug.), Ukraine (25 Sept.), Sri Lanka (27 Sept.), Gabon (1 Oct.), Kyrgyzstan (2 Oct.), Saudi Arabia (7 Dec.).

**2006:** The Ad Hoc Committee established by General Assembly Resolution 51/210 took place from 27 February to 3 March 2006 at United Nations Headquarters in New York. In its 10<sup>th</sup> session, on 3 March, the Ad Hoc Committee adopted its Report ([A/61/37](#)). The committee was chaired by Ambassador Rohan Perera (Sri Lanka) and vice-chaired by Carlos Fernando Díaz Paniagua (Costa Rica), Maria Telalian (Greece), and Sabelo Sivuyile Maqungo (South Africa). The chairman's report noted that during the committee meetings substantial efforts were made to explore further whether there might be possible suggestions on which a compromise solution on the outstanding issues regarding the draft comprehensive convention on international terrorism could be based.

The following States deposited instruments of ratification in 2006: Slovakia (23 Mar.), Kenya (13 April), Mexico (27 June), Czech Republic (25 July), Latvia (25 July), Austria (14 Sept.), Serbia (26 Sept.), Mongolia (6 Oct.), Lebanon (13 Nov.), El Salvador (27 Nov.), India (1 Dec.).

**2005:** The Ad Hoc Committee established by General Assembly Resolution 51/210 of 17 December 1996, entitled "Measures to eliminate international terrorism" completed seven years' drafting work by adopting the draft convention, by consensus, without amendment. In its ninth session from 28 March to 1 April 2005, the committee was chaired by Ambassador Rohan Perera (Sri Lanka). Carlos Fernando Diaz Paniagua (Costa Rica), Albert Hoffman (South Africa), and Maria Telalian (Greece) served as vice-chairs.

Distinct from prior years, the political will and momentum to conclude the draft texts of the convention existed, in part, due to the impetus of the December 2004 High Level Panel Report on *Threats, Challenges and Change* and the secretary-general's March 2005 report, *In Larger Freedom*. An agreement on the text was struck after it was assured that the treaty would not be used to impose a generic definition on terrorism, a highly controversial issue.

Informal consultations were conducted by the chair, during the course of which four new proposals were presented for amendments on behalf of Cuba (A/AC.252/2005/WP.2), Egypt (A/AC.252.2005/WP.3), the United States of Amer-

## NUCLEAR TERRORISM CONVENTION

ica (A/AC.252.2005/WP.4), as well as the Islamic Republic of Iran (A/AC.252.2005/WP.5). The chair advised these delegates that the proposals did not enjoy great support, as evidenced through debate during consultation. He requested that the respective sponsors withdraw their proposals in the interest of finalizing the draft. All sponsor nations agreed to the withdrawal of their proposals. In addition, the Syrian proposal to remove paragraphs two and three from Article IV was not adopted.

With regard to Article IV, it was recognized that the final draft was “based on the International Convention for the Suppression of Terrorist Bombing and the International Convention for the Suppression of the Financing of Terrorism, and that it constituted a compromise text aimed at bridging the diverging views on the matter.” As such, a large majority of delegations supported the current wording of Article IV (with the inclusion of subparagraph 4, adopted at a previous meeting), and it was accepted in the final adoption of the text.

The committee requested the secretary-general to adopt and open the convention for signature at UN headquarters from 14 September 2005 to 31 December 2006. The General Assembly subsequently unanimously approved the International Convention for the Suppression of Acts of Nuclear Terrorism on 13 April 2005 during the 91st plenary meeting of the General Assembly by resolution [A/RES/59/290](#).

**2004:** The eighth session of the Ad Hoc Committee (established in 1996 with the mandate of developing a collection of conventions to supplement existing legal instruments against international terrorism in its various forms) was held from 28 June to 2 July at the United Nations Headquarters in New York. Coordinators’ reports indicated that States continued to diverge in their views on several aspects of the draft convention, despite their agreement that terrorism constitutes a pressing issue and that the draft urgently needs to be finalized. Coordinator Albert Hoffman of South Africa reported that delegates differed over whether or not the committee should continue with negotiations.

Specifically, long-standing disagreement persisted regarding Article IV of the draft convention, which deals with possible exemptions to its terms and its applicability or lack thereof to States’ own armed forces and their use of nuclear weapons. Many had expressed the view that the convention should not act as a “law enforcement instrument,” which it might, some worried, if it addressed the issue of whether or not the use or threat of use of nuclear weapons is ille-

gal for a State. Syria proposed an amendment to Article IV by deleting its second and third paragraphs, which make reference to the legality of States’ use of nuclear weapons.

At a previous session in 2002, Mexico had offered an alternative revision of the article suggesting the addition of a paragraph stating that the convention did not seek to address “the issue of the legality of the use or threat of use of nuclear weapons by States,” but some delegations expressed concern that it was insufficient.

Delegations also expressed differences of opinion regarding the definition of nuclear weapons as stated in Article I of the draft convention, and about a proposal to address the dumping of toxic waste. Costa Rica contended that the international fight against terrorism be universalized, perhaps through the establishment of a UN high commissioner against terrorism.

The committee’s report included recommendations that the Sixth Committee of the UN General Assembly continue the process of negotiating the draft convention and also consider planning a high-level UN conference to address terrorism-related concerns.

**2003:** The Ad Hoc Committee met for its seventh annual session from 31 March to 2 April, under Chairman Rohan Perera (Sri Lanka). During general discussion at its plenary meeting on 31 March, some delegations described the adoption of an International Convention for the Suppression of Acts of Nuclear Terrorism as “a pressing and urgent need in view of the risk posed should certain terrorist groups gain access to weapons of mass destruction,” and thus expressed support for the advancement of work on the draft text. However, in a report presented on the results of bilateral consultations held with delegations “to review the situation in relation to the outstanding issues and to ascertain if there was a possibility of resolving differences,” the meeting’s coordinator noted several problematic areas. The report noted concerns regarding Article IV of the draft convention; while some delegations reiterated that the current text should remain, others were dissatisfied with it and suggested that the relationship between the draft convention and States’ nuclear- or weapons-related actions be better defined. Mexico’s proposal for an additional paragraph was also discussed, with some delegations expressing support for and others disagreeing with it. The coordinator concluded that “although views on the outstanding issues continue to be divergent, without any clear consensus emerging, it was also noted that the important progress achieved, which was reflected in the current text, should be retained.”

## NUCLEAR TERRORISM CONVENTION

Also during the session, the Ad Hoc Committee decided to recommend that the Sixth Committee, scheduled to meet in the fall, establish a Working Group to continue efforts toward the adoption of both a draft Comprehensive Convention on International Terrorism and the draft International Convention on the Suppression of Acts of Nuclear Terrorism.

On 6 October, the Sixth Committee convened and established a Working Group, to be open to all member States of the [United Nations](#), the specialized agencies, or the [International Atomic Energy Agency \(IAEA\)](#). Rohan Perera (Sri Lanka) was elected as the group's chairman, and Albert Hoffman (South Africa) was appointed coordinator for the Draft International Convention for the Suppression of Acts of Nuclear Terrorism. Informal consultations were held on 7 October, with the second part of these focusing on the draft convention. In a summary, issued following these consultations, the coordinator stated that delegations had primarily re-voiced their previous views regarding Article IV, and that many felt that inability to agree on the draft would hinder work toward adopting a Comprehensive Convention on International Terrorism and amending the [Convention on the Physical Protection of Nuclear Material](#).

The Working Group decided to recommend to the Sixth Committee the continuation of work toward finalizing the draft convention's text, particularly in regards to Article IV.

On 9 December, following the meetings of the Sixth Committee, the United Nations General Assembly adopted [Resolution 58/81](#) on measures to eliminate international terrorism. Among other recommendations, it decided that the Ad Hoc Committee should continue work on resolving the remaining issues surrounding the Draft International Convention for the Suppression of Acts of Nuclear Terrorism "as a means of further developing a comprehensive legal framework of conventions." The resolution also stated that the committee should aim to convene a high-level conference under the UN in order to produce a cooperative international response to terrorism. Further, it was decided that the Ad Hoc Committee would meet again from 28 June to 2 July 2004, and that, if the draft convention were completed, the committee should report to the General Assembly during its 58th session and report any progress on its implementation during the 59<sup>th</sup> session.

**2002:** During the 28 January to 1 February session of the Ad Hoc Committee, informal consultations focused on the outstanding issues pertaining to the draft International Convention for the Suppression of Acts of Nuclear Terrorism. In that regard, the representa-

tive of the IAEA briefed delegations on the Agency's measures aimed at combating acts of terrorism involving nuclear materials and other radioactive materials. In its report, the Committee recommended allocating appropriate time for the continued consideration of the outstanding issues on the nuclear terrorism convention.

Also during the session, Mexico submitted a [proposal](#) to amend Article IV of the draft convention, which addressed the relationship between the convention and the rights of States' armed forces to use nuclear weapons. It sought the addition of the following paragraph in order to clarify the convention's relationship to the rights of States' armed forces: "This convention does not address, nor can it be interpreted as addressing, in any way the issue of the legality of the use or threat of use of nuclear weapons by States."

On 7 October, at its 11<sup>th</sup> meeting, the Sixth Committee established a Working Group to continue to work on the elaboration of a comprehensive convention on international terrorism, and to allocate appropriate time for the continued consideration of the outstanding issues on the nuclear terrorism convention. At the same meeting, the Committee decided to open the Working Group to all States Members of the United Nations or members of the specialized agencies or of the IAEA.

The Working Group held two meetings on 15 and 16 October. At its first meeting on 15 October, the Working Group decided to proceed with discussions in informal consultations, which were held in two stages: the first focused on the draft comprehensive convention on international terrorism, and the second on the outstanding issues pertaining to the draft International Convention for the Suppression of Acts of Nuclear Terrorism. At the second meeting, on 16 October, the coordinator of the informal consultations presented an oral report on the results of discussions on both draft conventions. The Working Group decided to recommend to the Sixth Committee that work continue with the aim of finalizing the text of a draft comprehensive convention on international terrorism and the text of a draft international convention for the suppression of acts of nuclear terrorism, building upon the work accomplished during the meetings of the Working Group.

**2001:** At its February meetings, the Ad Hoc Committee delegations were unable to conduct substantive work on the draft convention. They agreed to continue consultations to resolve outstanding issues. Some delegations favored the inclusion of provisions dealing with the dumping of radioactive waste in the draft convention.

## NUCLEAR TERRORISM CONVENTION

At the October debate on measures to eliminate international terrorism in the UNGA, views were expressed on the early completion of the draft convention.

The meeting of the Sixth Committee Working Group was scheduled to take place from 15 to 26 October. On 18 October, the Chairman of the Ad Hoc Committee noted that work on the draft convention had largely been completed. He noted that there remained only one outstanding issue regarding the scope of the draft convention and that this issue required resolution at the policy level.

**2000:** During the Ad Hoc Committee meeting in February, the States discussed the revised text of the draft convention prepared by the Friends of the Chair. The Australian representative, Ms. Cate Steains, reported that during the inter-sessional informal consultations, the States were unable to bridge differences concerning the scope of the draft convention and that consultations would continue on a bilateral basis. The inter-sessional consultations as well as bilateral consultations held during the meeting revealed the existence of several important problems:

- Some delegations wanted provisions of Article IV, Par. 2 regarding the protection of nuclear installations and devices to be deleted and noted that any proposals to the contrary would be unacceptable.
- Some delegations made it clear that they did not attach high priority to the adoption of the draft convention since much of its substance was covered by the existing conventions.
- Some delegations pointed out that the difference of opinion on the scope of the draft conventions were too fundamental to be bridged.
- Some delegations insisted that the scope of the draft convention should be extended to cover acts of State terrorism, including acts of State armed forces.
- Some advocated the inclusion of provisions related to the dumping of radioactive waste.
- Some delegations raised the question of the legality of the possession of nuclear weapons, while others claimed that this question had no bearing on the issues before the Committee and only distracted it from substantive work.

Several delegations urged the Committee to complete the draft convention expeditiously. The participants in the end decided to continue further inter-sessional consultations for the consideration of the Sixth Committee's Working Group in September-October.

At the September-October meetings of the Working Group and the November meeting of the Sixth Committee, it was concluded that the inter-sessional consultations had not led to successful resolution of outstanding problems and that further broader consultations might be required in the pursuit of a solution that would lead to the adoption of the draft convention. Several speakers favored the speedy completion of work on the draft convention as well as its adoption.

In its [Resolution 55/158](#), the UNGA called on the Ad Hoc Committee to resolve the outstanding issues relating to the elaboration of the draft convention. The language of the resolution suggested that the consideration of the draft Comprehensive Convention on Terrorism should take priority over the resolution of outstanding differences over the draft convention.

**1999:** At the March meeting of the Ad Hoc Committee, Russia urged States to adopt the draft text as soon as possible and warned that failure to agree on the draft text would send the wrong signal to the terrorist groups. Some States supported the early agreement on the draft convention; however, a number of disagreements remained, including the scope of the draft convention, its relationship with other international legal instruments on international terrorism, the question of armed forces and armed conflicts, and the question of the legal definition of terrorism and its relationship to anti-colonial and liberation struggles.

At the September meeting of the Sixth Committee Working Group, States agreed that broader consultations were required to find an acceptable solution to the remaining issues concerning the scope of the convention. The Working Group was informed that while there appeared to be a willingness among delegations to continue work on the draft convention, it was determined that the time was not opportune for the convening of informal consultations during the Working Group. The Chairman appointed Ms. Cate Steains (Australia) to act as coordinator on the issue with a view to organizing open-ended informal consultations at the appropriate time.

There were neither formal nor informal discussions on the draft convention during the 1999 Ad Hoc Committee and Working Group meetings. Their work in 1999 was dedicated entirely to the negotiation of the Convention for the Suppression of the Financing of Terrorism.

At the November meetings of the UN Sixth Committee, some speakers favored the speedy completion of the work on the draft convention and its adoption. Concern was expressed regarding the limited pro-

## NUCLEAR TERRORISM CONVENTION

gress achieved in the resolution of the outstanding issue of the scope of its application. A point was made that, taking into consideration the risks of nuclear terrorism, the outstanding issues related to the scope of the draft convention should be resolved as soon as possible; States were called upon to enhance efforts to overcome those remaining issues. Support was expressed for the position of the Non-Aligned Movement (NAM) members in this regard, namely that the scope of the draft convention be expanded to include the activities of State militaries. A reference was made to the need for the treaty to encompass State terrorism as well. The view was also expressed that a distinction should be drawn between the draft convention, as well as the issues raised by the International Court of Justice (ICJ) Advisory Opinion on Nuclear Weapons, and the use and possession of nuclear weapons by the NWS.

On 9 December, the UNGA adopted Resolution 54/100 entitled “Measures to Eliminate International Terrorism,” which tasked the Ad Hoc Committee with further elaborating the draft convention, as well as commencing consideration of a comprehensive convention dealing with international terrorism.

**1998:** The Ad Hoc Committee turned to the discussion of the draft convention at its second meeting in February. Addressing the meeting, the Russian Federation said that the international community must establish effective measures to counter acts of nuclear terrorism, which could threaten global peace and security and cause irreparable damage to the environment. It said that depending on the circumstances of a criminal attack, it might fall under either the scope of the draft convention, the 1980 Physical Protection Convention, the 1997 Terrorist Bombing Convention, a combination of them, or all of them.

During the deliberations, the substance of the draft text received general support from the States, but there was uncertainty on some specific details. States pointed out the following shortcomings of the draft convention and concerns:

- Its definitions were too broad and, at the same time, too narrow in scope.
- Its definitions should be brought into line with the language used in established international instruments.
- The draft convention’s relationship with existing legal instruments, i.e., the 1980 [Physical Protection Convention](#), the 1996 [CTBT](#), and the 1997 [Terrorist Bombing Convention](#) must also be examined in order to avoid possible overlap.

- The legal gaps should not necessarily be addressed by a new instrument, rather they could be better addressed by strengthening the existing legal instruments, e.g., by drafting a protocol to the 1980 Physical Protection Convention.
- Provisions regarding jurisdiction, extradition, and legal assistance, similar to those contained in the 1997 Terrorist Bombing Convention, should be incorporated into the draft convention.
- The Ad Hoc Committee of the UN Sixth Committee would not be the most appropriate forum for the discussion of the draft convention since the IAEA has the most competence on the issue of nuclear material.
- The draft convention should only deal with measures to counter terrorism and not encompass provisions on the physical protection of nuclear material.
- The scope of the draft convention should be expanded to stress counter-terrorism and punishment.
- Special attention should be given to the problems of State terrorism.
- The draft convention could undermine the legal use of nuclear material; therefore, the definitions should be revised to specify that the acts in question were intentional and unlawful crimes.
- The coverage of the draft convention should be extended to the broadest possible range of radioactive material, as well as nuclear facilities, explosives, and other devices, including measures to prevent unauthorized access to such material, to protect facilities from intrusion, and to develop more effective controls against illicit trafficking.

Speaking at the meeting, the IAEA Legal Advisor said that the draft convention’s definitions of “nuclear material” should be based on definitions contained in the 1963 Vienna Convention on Civil Liability for Nuclear Damage, the 1980 Physical Protection Convention, and a Draft Safety Guide on “Preventing, Detecting and Responding to Illicit Trafficking in Radioactive Materials.” Speaking on the overlap between the draft convention and the 1980 convention, the IAEA representative said that the overlap regarding the crimes covered, coupled with differing jurisdictional provisions, could complicate their implementation and lead a Party to choose which instrument to apply in a given case.

After the exchange of views, States identified three main points of discussion: definitions, relationship to existing instruments covering the same subject mat-

## NUCLEAR TERRORISM CONVENTION

ter, and scope of the draft convention. The Committee carried out a first reading of substantive elements of the draft text. Upon the closure of the February meeting of the Ad Hoc Committee, States did not reach agreement on whether to create a new convention on nuclear terrorism or amend the 1980 Physical Protection Convention. They also disagreed on the scope of the proposed convention. Some States proposed new articles that would safeguard the inalienable right of States to use nuclear energy for peaceful purposes and exempt the military activities of States in armed conflict or in exercise of their official duties from the scope of the draft convention. Regarding the issue of definitions, there was a general agreement that they should focus on combating terrorist acts. A number of delegations proposed additional paragraphs to the draft convention's preamble. According to those paragraphs, the preamble would recognize the importance of a universally agreed definition of international terrorism; recall UNGA resolutions on the importance of nuclear disarmament; emphasize the responsibility of a State for the establishment, implementation, and maintenance of a physical protection system for nuclear material, devices, and installations on its territory; stress the inherent right of all States to engage in research, production, and use of nuclear energy for peaceful purposes; and recall IAEA recommendations for physical protection of radioactive materials and facilities. Some speakers voiced concern about the difficulties that might arise if the return of stolen nuclear material was obligatory, because some States were legally precluded from returning nuclear components or products. Some delegations stressed the need to take into account the role that the IAEA could play, while others felt IAEA could have more of a limited role.

On 16 September, the UN Sixth Committee established a Working Group to follow up the work on elaborating the draft convention carried out by the Ad Hoc Committee at its February meeting. Between 28 September and 9 October, the Working Group conducted 13 meetings, during which the Group conducted informal consultations, reviewed proposals and amendments, and produced a revised text of the draft convention.

States noted that the revised text was generally acceptable, however disagreement on certain provisions still existed, including the scope of application (European Union), activities of armed forces in armed conflict (NAM), extradition and prosecution, inclusion of nuclear [Non-Proliferation Treaty \(NPT\)](#) obligations (Pakistan) in the draft convention, the number of required ratifications (22) for the entry into force (Pakistan), and the legal definition of terrorism and

its relationship to anti-colonial and liberation struggles. Group discussions reflected the need to conduct considerably more work on the provisions that are specific to nuclear terrorism.

Some States expressed hope that the UNGA would be able to adopt the draft text by the end of 1998. However, others, including those belonging to the NAM, suggested that such action on the draft convention should be delayed pending further consultations. Some States questioned the very approach the Ad Hoc Committee and the Working Group used to fulfill their mandate to establish a comprehensive legal anti-terrorism regime. They developed separate conventions concerned with different subject matter rather than a comprehensive convention on terrorism as required to combat terrorism in all its forms and manifestations.

**1997:** The Ad Hoc Committee was primarily concerned with considering and adopting the text of the International Convention for the Suppression of Terrorist Bombing. On 19 November, after the UN Sixth Committee approved the draft text of this convention, it also reaffirmed, without a vote, the mandate of the Ad Hoc Committee to continue its work on the elaboration of an International Convention for the Suppression of Nuclear Terrorism with the participation of the representatives of the IAEA.