A/C.6/71/SR.31

This record is subject to correction. Corrections should be sent as soon as possible, under the signature of a member of the delegation concerned, to the Chief of the Documents Control Unit (srcorrections@un.org), and incorporated in a copy of the record. Corrected records will be reissued electronically on the Official Document System of the United Nations (http://documents.un.org/).

**Sixth Committee**

**Summary record of the 31st meeting**

Held at Headquarters, New York, on Friday, 4 November 2016, at 10 a.m.

**Agenda item 108: Measures to eliminate international terrorism**

*Oral report by the Chair of the Working Group on measures to eliminate international terrorism*

31. **Mr. Perera** (Sri Lanka), Chair of the Working Group, recalled that, pursuant to General Assembly resolution 70/120, the Sixth Committee had decided to establish a working group with a view to finalizing the process on the draft comprehensive convention on international terrorism as well as discussing the question of convening a high-level conference under the auspices of the United Nations. Pursuant to paragraph 9 of General Assembly resolution 51/210 and consistent with past practice, the Working Group was open to all States Members of the United Nations or members of the specialized agencies or of the International Atomic Energy Agency. In keeping with its established practice, the Working Group had decided that members of the Bureau of the Ad Hoc Committee established by the General Assembly in its resolution 51/210 of 17 December 1996 would continue to act as Friends of the Chair. The Working Group had had before it the report of the Ad Hoc Committee on its sixteenth session (A/68/37) and the annexes thereto; written proposals relating to the outstanding issues surrounding the draft convention; an informal summary of the discussions during the plenary and the informal consultations prepared by the Chair, including the proposed accompanying draft resolution; a letter from the Permanent Representative of Egypt to the United Nations addressed to the Secretary-General (A/60/329); and a letter from the Permanent Representative of Egypt to the United Nations addressed to the Chair of the Sixth Committee (A/C.6/60/2).

32. The Working Group had held three meetings, on 17 and 20 October and 1 November 2016. At its first meeting, it had adopted its work programme and had decided to hold discussions in the framework of informal consultations. At that meeting, the Working Group had discussed outstanding issues relating to the draft convention. At its second meeting, it had considered the question of convening a high-level conference under the auspices of the United Nations. Informal consultations on the draft convention and on the way forward had been held at all three meetings. The Chair and the coordinator of the draft comprehensive convention had also engaged in informal and bilateral discussions with interested delegations on the outstanding issues relating to the draft convention.

33. At its third meeting, the Working Group had decided to recommend that, at the seventy-second session of the General Assembly, the Sixth Committee should establish a working group with a view to finalizing the process relating to the draft comprehensive convention on international terrorism, as well as discussions included in its agenda, pursuant to General Assembly resolution 54/110, concerning the question of convening a high-level conference under the auspices of the United Nations. The Working Group had also recommended that the General Assembly should recognize the efforts of Member States to resolve any outstanding issues and that it should encourage all Member States to redouble their efforts during the intersessional period.

34. During the informal consultations on 17 October 2016, the Chair had provided detailed background information on the work undertaken thus far and an update on the status of the negotiations regarding the outstanding issues surrounding the draft convention, including the attempts made over the years to overcome the differences among delegations. Delegations had generally reaffirmed their commitment to the negotiating process and had mentioned the issues that remained unresolved. In particular, some delegations had reiterated the need for all proposals to be fully taken into account so that the definition of terrorism was as clear and as comprehensive as possible. Other delegations had affirmed that there was a need for political will to overcome the remaining differences. In that regard, the view had been expressed that changing the name of the draft comprehensive convention might help in managing expectations as to the scope of the convention, thus moving the process forward. Other delegations had expressed doubts as to whether such a change in name would achieve that purpose.

35. Some delegations had affirmed that the 2007 proposal contained in the report of the Ad Hoc Committee on its sixteenth session (A/68/37) still constituted a valid departure point which had not been rejected outright by any delegations. Some delegations, despite preferring the text as had been previously elaborated following negotiations in 2002, had been prepared to consider the 2007 text as a possible way forward. The view had been expressed that the definition of terrorism must be broad enough to encompass all terrorist acts, wherever and by whosoever committed. Other delegations had expressed the view that the pre-eminence of international humanitarian law must be respected at all times, including in situations of foreign occupation, so as not to render unlawful acts which were lawful and were governed by that law.

36. Delegations had also exchanged views in relation to draft article 3 [18] of the 2007 text. Concerning paragraph 1, a proposal had been advanced to refer explicitly to the definition of national liberation movements as contained in Protocol I Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, in order to add clarity to the text. The question had also been raised as to the interpretation of paragraph 2, specifically whether the meaning of “armed forces” would include both State and non-State actors and whether the potential inclusion of non-State actors might mean that attacks by terrorist organizations would not be governed by the convention in certain circumstances. In that regard, the Chair had invited delegations to avoid conflating the legislative process with that of adjudicating context-specific cases on the basis of the text that might be drafted. Concerning the way forward in the negotiations, the view had been expressed that the timing of the discussions might be reassessed, and that it was perhaps time to start holding consultations biennially. The view had also been expressed that, in the absence of political agreement, the time had perhaps come to acknowledge that consensus was currently unattainable and that consultations should be suspended.

37. During the informal consultations on 20 October and 1 November, the coordinator had given an account of the efforts made to advance the consultations towards completion of the draft comprehensive convention. He had described the negotiating efforts at the bilateral and small-group level and had reiterated the necessity for further informal consultations. He had noted that there was a willingness to continue redoubling efforts during the intersessional period. Regarding the process for the future, he had noted that although some delegations had proposed to have a formal intersessional meeting where the output of such informal processes would be reported, the preponderant view had been that a more informal setting would be more conducive to the detailed discussion which was necessary in order to advance in the negotiations. With that in mind, he had expressed the willingness to hold bilateral discussions, starting in late January 2017, to prepare for a fruitful and substantial intersessional dialogue. Concerning the substance of the outstanding issues to be considered during such a dialogue, he had referred to some general questions concerning the scope of the draft comprehensive convention, specifically the references to “armed forces” and conduct which was “not unlawful”, and in general, the relationship between the law of counter-terrorism and the law of armed conflict.

38. During the informal consultations on 17 and 20 October 2016, delegations had commented

on the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations. Several delegations had reiterated their support for the convening of a high-level conference, expressing the view that the differences in opinion concerning the draft comprehensive convention on terrorism were of a political nature, and could thus be resolved only at such a level. Some other delegations had expressed the view that the convening of such a conference would be premature until agreement was reached at the technical level. During the informal consultations on 20 October, the sponsor delegation of Egypt had recalled that it had made the proposal to convene an international conference more than a decade earlier. In light of the political impasse in the negotiations on the draft comprehensive convention, it was important to clearly assess whether political agreement was possible or not.

39. The Chair of the Working Group, the Friends of the Chair and the coordinator had been heartened to note that there appeared to be fresh interest among delegations in exploring other potential avenues. The issues of concern revolved around draft article 3 [18], in particular a clear understanding of and compromise on the scope of the exception reflected as a “choice of law” clause. Throughout the informal consultations and discussions, positive ideas that could be the subject of further exploration had been presented; some guarded optimism was therefore justified. To move forward, Member States should continue to be willing to show flexibility and to demonstrate the necessary political will.

40. **The Chair** said he took it that the Committee wished to take note of the report of the Chair of the Working Group on measures to eliminate international terrorism.

41. *It was so decided*.