



# THE GENERAL ASSEMBLY SIXTH COMMITTEE

## LEGAL

### PURVIEW OF THE GENERAL ASSEMBLY SIXTH COMMITTEE

The General Assembly Sixth Committee addresses issues relating to international law. The Committee not only drafts new international law, but also offers interpretations of existing international law, as well as recommendations for Members to implement international regulations through national law. The Committee also considers legal issues which affect the United Nations Secretariat and operations. The Sixth Committee does not resolve legal disputes; that is the responsibility of the International Court of Justice. For more information concerning the purview of the United Nations General Assembly as a whole, see page 22.

Please note: When considering the reports of sub-committees that may change the United Nations Charter or other legal documents, the Sixth Committee may act on provisions within that report and write resolutions appropriate to carry out any recommendations from such reports. When a topic results in a recommendation to change the United Nations Charter, the provisions laid out in Chapter XVIII and elsewhere in the Charter must be followed in the GA Plenary session, followed by submission of any approved portion to the Member States before ratification. Similarly, if this Committee recommends the formation of a new treaty or comparable legal agreement, a treaty conference would be called for during the GA Plenary session, to be held at a later date.

**Website:** [www.un.org/ga/sixth/index.shtml](http://www.un.org/ga/sixth/index.shtml)

### MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

Eliminating terrorism has proven to be one of the most complex and difficult challenges for the international community to resolve. Terrorism is not a new problem on the world stage. Since the beginning of modern terrorism in Russia in the late 1800s, the number of terrorist attacks has increased to over ten thousand each year by 2013. Methods and strategies for attacks have changed drastically. Advancements in technology and the rise of the Internet have allowed terrorist groups to communicate with audiences that they would never have reached just decades ago. In recent years, many new threats have arisen. Most notable is the rise of the Islamic State of Iraq and the Levant, which rose to prominence in 2011 during the Syrian Civil War. While States may focus their attention on threats and attacks from foreign nationals, attacks from domestic citizens and residents are becoming increasingly prevalent. The April 2013 bombings at the Boston Marathon in the United States and the January 2015 shootings in Paris, France highlight the ever-increasing need for States to consider the threat of terrorism from within their own borders.

For over fifty years the United Nations has been working toward the most effective way to eliminate terrorism through both regional and international cooperation while adhering to international law. The United Nations has struggled to provide a legal framework to address international terrorism, while also respecting the wishes of Member States and local laws. The 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft was one of the first attempts to combat terrorism, yet it was viewed as largely ineffective because Member States did not always comply with their obligations under the treaty.

Efforts to combat international terrorism continued in 1994 when the General Assembly adopted, by resolution, the Declaration on Measures to Eliminate International Terrorism.

This Declaration outlined the different obligations that States have in the fight against international terrorism: to apprehend, prosecute, extradite and consider prior to granting asylum if the seeker committed acts of terrorism. Further changes were made to the Declaration in 1996, including the establishment of an Ad Hoc Committee to examine the legal frameworks for suppressing terrorist activities and develop a comprehensive counter-terrorism convention to replace the patchwork pre-existing conventions and protocols. This document became known as the Comprehensive Terrorism Convention and, while debate has occurred since 1998, no draft has yet been submitted to Member States for signature. The Ad Hoc Committee's mandate was annually renewed and revised by the General Assembly until 2014, when the General Assembly voted to suspend the Ad Hoc Committee and return the debate over the draft Comprehensive Terrorism Convention to the Sixth Committee at large.

Adherence to counter-terrorism instruments remains low, and the General Assembly is continuously modifying its mandate and mission of combating terrorism in all forms. It is difficult to pinpoint the motives that drive a person or group to commit acts of terror. In some cases, it is to inflict harm on another group of people; in others, nationalist ideals are identified as the primary reason. What began at the United Nations as a means of trying to eliminate the act of terror itself soon shifted to focusing on eliminating the broader factors that may lead a person or group to commit an act of terror.

The International Convention for the Suppression of the Financing of Terrorism, which was adopted in January 2000, aims to reduce the flow of funds to terrorist groups and also reminds the international community of their obligation to respect a State's territorial integrity and sovereign equality and the precepts of international law when detaining any person believed to be involved in terrorist activities. In response to the terrorist attacks in the United States on 11 September 2001, Member States renewed their interest in creating a strong international framework to combat terrorism. On 28 September 2001, the United Nations Security Council unanimously approved Resolution 1373, calling upon all States to take specific legal and financial steps to eliminate international terrorism and implement relevant counter-terrorism Conventions.

After the 2005 General Assembly World Summit, Member States updated and amended existing conventions on combating terrorism. Also at the Summit, world leaders pledged to adopt a new counter-terrorism strategy. In September 2006, the General Assembly adopted the United Nations Global Counter-Terrorism Strategy, which focuses future action through four pillars: addressing conditions conducive to terrorism, preventing and combating terrorism, building capacity to prevent terrorism, and ensuring respect for human rights in the fight against terrorism. This is the first time that Member States have agreed upon a concrete, coordinated plan to combat the spread of international terrorism. The Strategy also includes the Secretary-General's Counter-Terrorism



Implementation Task Force, which is mandated to coordinate efforts across the United Nations system. It offers assistance to Member States in developing appropriate policies and implementing counter-terrorism measures in accordance with international law. Recently, the Sixth Committee has been attempting to develop the draft Comprehensive Convention on Terrorism into a document that would codify the measures taken in its previous resolutions on the topic. The Committee has struggled to make progress on that draft.

Moving forward, the Sixth Committee will need to consider how to update the international legal framework to better match the policy prescriptions of the United Nations Global Counter-Terrorism Strategy. In its deliberations on this question, the Sixth Committee will need to grapple with a number of significant shifts in terrorist tactics that are not well-addressed within current counter-terrorism laws, both local and international. These tactics include the rise of cyber-terrorism, the flow of foreign fighters across borders, and the increasing use of the Internet as a tool for terrorist recruitment and propaganda. At the same time, the Committee will need to evaluate the effectiveness of the current framework of international law as it relates to more traditional terrorist tactics and to older threats, especially the long-feared possibility of nuclear terrorism. The Sixth Committee will also need to pay careful attention to the question of how to best balance the competing needs associated with preventing terrorism and protecting human rights as required by international law.

As the Sixth Committee grapples with these problems, it will likely revisit the longstanding debate over whether international law should recognize the existence of State-sponsored terrorism, or if it should confine itself to terrorism by non-state actors. This question has long been controversial. Some Member States believe that there is a meaningful distinction between violence by a state actor and violence by a non-state actor, believing that violence by a state, even when in violation of international humanitarian law, should not be considered terrorism. Many Member States believe that the failure to acknowledge State-sponsored terrorism significantly limits the capacity of the United Nations to effectively combat any form of terrorism.

Questions to consider from your government's perspective on this issue include the following:

- How would the international community's official recognition of State-sponsored terrorism affect the treatment of terrorists under national and international law?
- What aspects of international human rights law must Member States take into consideration concerning persons already convicted or facing conviction of terrorism?
- What are the implications of conflicting humanitarian, human rights, and counter-terrorism laws and Conventions? How can these be resolved?
- What impediments remain to finishing a draft of the Comprehensive Convention on International Terrorism?

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## THE LAW OF TRANSBOUNDARY AQUIFERS

According to the International Groundwater Resources Assessment Centre, an aquifer is “[a] permeable water-bearing geological formation underlain by a less permeable layer and the water contained in the saturated zone of the formation.” As the world’s population has increased, so have the demands on the world’s aquifers. Groundwater from aquifers is used for all human water needs such as drinking, cooking, agriculture and hygiene. Over 200 of the world’s aquifers span country borders, requiring moderation and regulation in order to assure that the aquifers are used fairly and responsibly by the involved States. In many areas worldwide these transboundary aquifers are the sole source of fresh water. Groundwater is important but is often forgotten in regulatory and legal processes, making the need to protect aquifers increasingly important. Conflicts arise when those on one side of a border are perceived to draw more than their fair share of an aquifer’s water or when pollutants enter the aquifer from one country, contaminating the aquifer for everyone. These issues are complicated by the fact that some of the world’s most important transboundary aquifers are located in high-conflict zones in the Middle East, where disagreements over the use of these groundwater resources have existed for thousands of years.

Aquifers include recharge and discharge zones—areas which contribute water to the aquifer and areas where water leaves the aquifer. Recharge water may be supplied by rainfall, runoff from the ground or infiltration through the soil. Discharge zones include any area where water leaves the aquifer, such as springs, wetlands and wells. The exact areas of the recharge and discharge zones can be controversial, as they often extend beyond the boundaries of the aquifer itself, increasing the potential for zones to cross international borders. Aquifers may be used to extract heat and minerals in addition to water, and may also be used for the storage or disposal of any substance.

Access to water is essential for human life and is widely recognized as a necessary resource for economic growth and development. United Nations involvement in encouraging sovereignty over natural resources dates back to the early 1960s. In 1962, the General Assembly outlined how Member States may allocate their wealth and resources to encourage development. However, the General Assembly cautioned that all transactions must comply with international law.

In 2008 the General Assembly, in cooperation with the United Nations International Law Commission (ILC), passed the first resolution focusing solely on the legal aspects of international aquifers. This resolution presented, without adopting, the ILC’s draft Articles on the Law of Transboundary Aquifers. These Articles outlined the responsibilities of Member States toward the status and safety of transboundary aquifers. They confirmed that each State has sovereignty over those portions of an aquifer that lie within its territory. However, they also indicated that States must utilize their transboundary aquifers in accordance with the “principle of equitable and reasonable utilization.” The Articles went on to define this principle as acting to protect the “equitable and reasonable accrual of benefits” from the aquifer: to maximize the long-term benefits of the aquifer’s water; to establish a utilization plan; and to refrain from using a recharging aquifer faster than it can be replenished.

In the resolution taking note of the Articles, the General Assembly also encouraged regional cooperation, advising States to enter into bilateral or regional agreements concerning transboundary aquifers and aquifer

systems. The United Nations further encouraged regional and international cooperation and called for any relevant UN bodies to continue technological assistance and scientific research on the issue.

Despite the efforts of the United Nations, regional cooperation has been difficult to come by and the recent past has been marked by regional disputes on the use of transboundary aquifers. Many of those disputes stem from water-shares between countries. While international treaties do need to be considered in the use of aquifers, the laws of individual countries and the boundaries of the aquifers remain key aspects. Laws regarding transboundary aquifers span more than just political policy; laws protecting ecosystems, pollution levels, commerce and many other legal issues need to be taken into account when considering the issue of transboundary aquifers.

Starting with the International Year of Water Cooperation in 2013, the United Nations continues to encourage Member States to cooperate and maintain the territorial integrity of their shared water resources. Further, the United Nations has expressed its concern for the establishment of appropriate bilateral and regional arrangements for the management of shared aquifers. Under a recent Sixth Committee resolution, the United Nations encourages Member States to consider drafting legislative agreements pertaining to key concerns, such as the equitable usage of aquifers, conservation of ecosystems and its place in the local ecosystem, as well as the life cycle of aquifers as addressed in the Transboundary Diagnostic Analysis and the Shared Aquifer Diagnostic Analysis.

The United Nations also convenes States to discuss and agree upon common approaches to protecting international water sources through Strategic Action Programmes. States have agreed upon Strategic Action Programmes in a number of areas, such as the Prespa Park Area, a freshwater lakes system shared by Greece, Albania and the Former Yugoslav Republic of Macedonia, as well as the Nubian Aquifer System shared by Chad, Egypt, Libya and Sudan.

These joint cooperation projects receive support for their ongoing efforts from the Global Environment Facility, the United Nations Development Programme, and the United Nations Educational, Scientific, and Cultural Organization (UNESCO). The United Nations provides additional resources through the International Hydrological Programme, a program of UNESCO, which participates in the multi-agency Internationally Shared Aquifer Resources Management Initiative with the International Association of Hydrogeologists. These initiatives work to improve the understanding of scientific, socio-economic, legal, institutional and environmental issues related to managing transboundary aquifers.

Implementation of standards for newly forming bilateral and multi-lateral agreements for the management of transboundary aquifers has the potential for becoming the focus of the United Nations discussions of international water policy. Some standards have already been introduced, such as the Model Provisions introduced by the United Nations Economic Commission for Europe, used to establish standards for the management of transboundary aquifers, including environmental preservation, pollution prevention and the sustainable use of aquifers.

There is a general consensus among Member States that transboundary aquifers must be used in a sustainable manner, so that rainfall and other natural sources can replenish the aquifer at a greater rate than it is being



consumed. So long as the amount of fresh water provided by aquifers is adequate to meet the needs of those reliant upon it, this principle will remain in general consensus. The Sixth Committee is concerned with how to establish principles of international law that support the shared and peaceful uses of transboundary aquifers, even when conflicts arise over those aquifers. With a growing global population, and an increasing demand for clean water for developing countries, conflicts over transboundary aquifers have the potential to become a more significant—and violent—problem in the future.

Questions to consider from your government's perspective on this issue include the following:

- How could the United Nations better encourage regional cooperation on the use of transboundary aquifers?
- What actions could Member States take to preserve the safety and integrity of transboundary aquifers without impeding on the national sovereignty of other affected States?
- What legal issues hinder the development of more effective agreements on the use of transboundary aquifers?
- What further actions could the United Nations take to ensure the lawful and proper use of groundwater resources for national growth and development?

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