



Twelfth United Nations Congress on Crime Prevention and Criminal Justice

Distr.: General
21 December 2009

Original: English



Salvador, Brazil, 12-19 April 2010

Item 4 of the provisional agenda*

**Provision of technical assistance to facilitate the
ratification and implementation of the international
instruments related to the prevention and suppression of
terrorism**

Provision of technical assistance to facilitate the ratification and implementation of the international instruments related to the prevention and suppression of terrorism

Working paper prepared by the Secretariat

Contents

	<i>Page</i>
I. Introduction	2
From Vienna and Bangkok to Salvador	2
II. Taking stock	4
A. The evolving international legal framework	4
B. Status of ratification and implementation of the international conventions and protocols related to terrorism and the role of the United Nations Office on Drugs and Crime	6
III. Addressing the challenges	7
A. Challenges in terms of content	7
B. Challenges in terms of delivery modalities	11
IV. Enhancing partnerships	14
A. Partnerships with recipient countries	14
B. Partnerships with donor countries	15
C. Partnerships with entities inside and outside the United Nations system undertaking counter-terrorism work	16
V. Conclusions and recommendations	19

* A/CONF.213/1.



I. Introduction

From Vienna and Bangkok to Salvador

1. Terrorism poses a major threat to international peace, security and stability. It is a scourge that threatens all countries and all people and requires a global response. The United Nations Global Counter-Terrorism Strategy, unanimously adopted by the General Assembly on 8 September 2006 (resolution 60/288), reaffirms the international community's firm resolve to strengthen the global response to terrorism, through a broad range of counter-terrorism measures, underpinned by the commitment to uphold the rule of law and human rights.
2. To be effective, the global response needs to be comprehensive and follow a criminal justice-based approach, preventing terrorist incidents from taking place and providing an adequate response to terrorist violence.
3. One key aspect of the international community's counter-terrorism efforts has been the gradual establishment of a common international legal framework, based on the premise that perpetrators of terrorist crimes should be dealt with by the criminal justice process as the most appropriate and fairest mechanism to ensure justice. The core of this framework consists of a set of conventions and protocols on the prevention and suppression of terrorism, currently 16 of them. The framework further encompasses a series of Security Council resolutions, most prominently resolution 1373 (2001), adopted immediately after the events of 11 September 2001, which imposes a number of binding obligations on Member States and calls on them to become parties to these conventions and protocols as soon as possible.
4. While significant progress has been made regarding the ratification of these instruments, universal ratification has not yet been achieved. Moreover, long-term efforts are required for their effective application, for which States need adequately functioning national counter-terrorism legal regimes as well as associated implementation capacity in their criminal justice systems.
5. Countries that do not have the required capacity need to be provided, upon request, with specialized technical assistance. While most counter-terrorism assistance is still provided bilaterally, the Global Strategy underlines the role of the United Nations in building State capacity to counter terrorism.
6. The Twelfth United Nations Congress on Crime Prevention and Criminal Justice offers an ideal opportunity (a) to take stock of technical assistance provided so far, in particular in reaching the goals set in the plans of action¹ for the implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century,² the Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice³ and the Global Strategy, and (b) to identify what can be done to make future assistance more effective and efficient. Special attention will be given to the work undertaken by the United Nations Office on Drugs and Crime (UNODC), in particular its Terrorism

¹ General Assembly resolution 56/261, annex.

² General Assembly resolution 55/59, annex.

³ General Assembly resolution 60/177, annex.

Prevention Branch, as a leading provider of multilateral assistance on legal and related capacity-building to counter terrorism.

7. The potential contribution of the UNODC crime programme to the global efforts against terrorism was reviewed in the aftermath of 11 September 2001, immediately after the adoption of the plans of action for the implementation of the Vienna Declaration in January 2002. In 2002, the General Assembly approved an expanded programme of activities for UNODC Terrorism Prevention Branch, focusing on the provision of technical assistance to countries, upon request, in the legal and related aspects of counter-terrorism, especially in ratifying and implementing the international legal instruments against terrorism and in strengthening the capacity of national criminal justice systems to apply the provisions of those instruments in compliance with the rule of law.

8. The counter-terrorism mandates of UNODC have been further reinforced since the Eleventh Congress, held in Bangkok. The Global Counter-Terrorism Strategy encouraged UNODC to enhance its technical assistance and Member States to make use of this assistance. Most recently, in its resolution 64/179, the Assembly requested UNODC “to reinforce the provision of technical assistance to Member States, upon request, for the ratification and legislative incorporation of those international legal instruments and for the building of capacity to implement them” (para. 2); urged Member States “to strengthen ... international cooperation in order to prevent and combat terrorism ... and to ensure adequate training of all relevant personnel in executing international cooperation” (para. 3); and requested UNODC “to take into account in its technical assistance programme to counter terrorism the elements necessary for building national capacity in order to strengthen criminal justice systems and the rule of law” (para. 4); and “to intensify its efforts to continue to systematically develop specialized legal knowledge in the area of counter-terrorism and pertinent thematic areas of relevance to the mandates of the Office ..., especially through the preparation of technical tools and publications and the training of criminal justice officials” (para. 5).

9. The Twelfth United Nations Congress will discuss how to further strengthen the provision of technical assistance in facilitating the ratification and implementation of the international instruments related to terrorism, in terms of both substantive content and delivery modalities.

10. Drawing on the discussion guide (A/CONF.213/PM.1) prepared in pursuance of Assembly resolution 63/193, four regional preparatory meetings for the Twelfth Congress were held. The reports of the regional preparatory meetings⁴ contain various conclusions and recommendations for discussion, underlining:

(a) The priority that Member States need to give to the ratification and implementation of the 16 international instruments against terrorism, along with the implementation of procedures enabling countries to cooperate regionally and internationally, especially with regard to extradition and mutual legal assistance;

(b) The importance of technical assistance in building the capacity of Member States to deal effectively with the prevention and suppression of terrorism and the role of the United Nations in this regard;

⁴ A/CONF.213/RPM.1/1, A/CONF.213/RPM.2/1, A/CONF.213/RPM.3/1 and A/CONF.213/RPM.4/1.

(c) The value of considering countering terrorism and protecting human rights mutually supporting goals, and the importance of developing efficient criminal justice systems and making justice accessible to all, as a basis for effectively addressing terrorism, promoting the rule of law and fostering development;

(d) The need to consider the potential for synergy between the regimes applicable to terrorism and those applicable to transnational organized crime, corruption and money-laundering; to make full use of the United Nations Convention against Transnational Organized Crime⁵ and the United Nations Convention against Corruption⁶ as tools to prevent and combat terrorism and strengthen judicial and other international cooperation; and to foster different forms of technical assistance with a view to better addressing the links between terrorism and other forms of crime;

(e) The importance of properly identifying and communicating technical assistance needs; and the necessity of having in place needs-assessment processes and mechanisms, objective benchmarks and requirements for evaluating the need for assistance reflecting national priorities, concerns and values of recipients and assistance providers, as well as strategies to engage all relevant stakeholders, including civil society, in identifying and prioritizing key issues in overall training and capacity-building programmes and assistance packages;

(f) The need to give appropriate consideration to ways and means of ensuring the sustainability and long-lasting impact of technical assistance by promoting consultations, coordination and cooperation among the various stakeholders and the recipients of such assistance.

II. Taking stock

A. The evolving international legal framework

11. The first 12 international legal instruments related to terrorism were elaborated by the international community between 1963 and 1999. These instruments were developed under the auspices of the United Nations and its specialized agencies, in particular the International Civil Aviation Organization (ICAO), the International Maritime Organization (IMO) and the International Atomic Energy Agency (IAEA), and are open to participation by all States. They were largely responses to specific terrorist incidents, methods or threats covering acts of aircraft hijacking; acts of aviation sabotage; acts of violence at airports; acts against the safety of maritime navigation; acts against the safety of fixed platforms located on the continental shelf; crimes against internationally protected persons; acts of unlawful taking and possession of nuclear material; acts of hostage-taking; acts of terrorist bombings; and acts of funding the commission of terrorist acts and terrorist organizations.

12. Until 2001 limited progress had been made with regard to the ratification and implementation of these instruments, except for the early ICAO conventions. This changed drastically after 11 September 2001, with the adoption by the Security

⁵ United Nations, *Treaty Series*, vol. 2225, No. 39574.

⁶ *Ibid.*, vol. 2349, No. 42146.

Council, acting under Chapter VII of the Charter of the United Nations, of resolution 1373 (2001) on 28 September 2001. The Council called upon all States to become parties as soon as possible to the relevant international conventions and protocols, including the International Convention for the Suppression of the Financing of Terrorism.⁷ Also in that resolution, the Council established the Counter-Terrorism Committee, which monitors the implementation of resolution 1373 (2001). This monitoring capacity has been further strengthened following the creation of the Counter-Terrorism Committee Executive Directorate through resolution 1535 (2004).

13. In resolution 1373 (2001), special reference is also to be made to Security Council resolution 1267 (1999) and follow-up resolutions, which deal with the implementation of sanctions against the Taliban and Al-Qaida, particularly relating to the freezing of assets, arms embargo and travel ban.⁸ Also of importance is Council resolution 1540 (2004), which requires all States to take a series of legal, regulatory, administrative and operational measures to prevent weapons of mass destruction and their means of delivery from getting into the hands of terrorists.

14. Since the Eleventh Congress, the international legal framework has further evolved. On 13 April 2005, Member States adopted the International Convention for the Suppression of Acts of Nuclear Terrorism,⁹ which entered into force on 7 July 2007. The Convention is aimed at strengthening international cooperation in the investigation, prosecution and extradition of those who commit terrorist acts involving radioactive materials or a nuclear device. It covers a broad range of acts and possible targets, including nuclear power plants and nuclear reactors. Also in 2005, the international community introduced substantive changes to three of the existing international instruments: States adopted the Amendment to the Convention on the Physical Protection of Nuclear Material,¹⁰ the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation¹¹ and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.¹² These two Protocols contain provisions relating to the use against, discharge from, or transportation on a ship of explosive, radioactive, biological, chemical or nuclear materials or weapons.

15. Provisions similar to those contained in those two Protocols are currently being discussed by Member States, under the auspices of ICAO, in the review of the international instruments related to civil aviation.

16. Moreover, since 2000, the Ad Hoc Committee established by the General Assembly in its resolution 51/210 of 17 December 1996 has been negotiating the

⁷ Ibid., vol. 2178, No. 38349.

⁸ Security Council resolution 1267 (1999) has been followed up by resolutions 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1730 (2006), 1735 (2006), and 1822 (2008).

⁹ General Assembly resolution 59/290, annex.

¹⁰ Adopted on 8 July 2005 by the Conference to Consider and Adopt Proposed Amendments to the Convention on the Physical Protection of Nuclear Material.

¹¹ Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (LEG/CONF.15/21).

¹² Adopted on 14 October 2005 by the Diplomatic Conference on the Revision of the SUA Treaties (LEG/CONF.15/22).

text of a comprehensive convention on international terrorism,¹³ which would contain a definition of terrorism and fill any gaps left by the “sectoral” treaties. Agreement on the comprehensive convention would be an important political achievement.

17. World leaders at the 2005 World Summit also requested Member States to work, through the Assembly, on the adoption of a strategy that would promote comprehensive, coordinated and consistent responses at the national, regional and international levels to counter terrorism. Drawing on the Secretary-General’s report “Uniting against terrorism: recommendations for a global counter-terrorism strategy” (A/60/825), Member States engaged in negotiations which led to the adoption of the Global Counter-Terrorism Strategy in September 2006.

18. The Strategy reinforced, complemented and ensured broadly shared ownership of General Assembly and Security Council counter-terrorism resolutions and mechanisms. Member States underscored the importance of the international conventions and protocols related to terrorism by pledging to consider becoming parties without delay and implementing their provisions.

B. Status of ratification and implementation of the international conventions and protocols related to terrorism and the role of the United Nations Office on Drugs and Crime

19. Considerable progress has been made regarding the ratification and implementation of the international conventions and protocols related to terrorism:

(a) At the time of the attacks of 11 September 2001, only two States had become parties to the first 12 international legal instruments. In April 2005, at the time of the Bangkok Congress, 69 countries had done so, and by 1 December 2009, the number of parties had reached 105;

(b) The number of countries that are parties to fewer than 6 of these 12 instruments decreased from 106 in September 2001 to 37 in April 2005 and to 25 as at 1 December 2009;

(c) As at 1 December 2009, 58 countries had become parties to the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted in April 2005.

20. The counter-terrorism technical assistance work of UNODC has been instrumental to these developments. Since the start of its Global Project on Strengthening the Legal Regime against Terrorism, in January 2003, 168 countries have benefited from the specialized legal technical assistance services offered by the UNODC Terrorism Prevention Branch. Its work has contributed to some 515 new ratifications (of the 16 international instruments) by assisted Member States and has enabled 67 countries to draft new or amended counter-terrorism legislation.

¹³ See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 37* (A/64/37).

21. However, much work remains to be done to reach universal ratification and full implementation of the international instruments. As at 1 December 2009:

(a) Only 3 of the 192 Member States had become parties to all 16 international legal instruments;

(b) Only 120 were parties to 12 or more of the instruments;

(c) The most recent instruments, namely, the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material, the Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, have not yet received sufficient ratifications/accessions to enter into force.

22. The legislative incorporation of the provisions into national legislation is a long-term and labour-intensive process, as it requires the review, drafting or amendment of a complex set of provisions, encompassing not just substantive law but also procedural aspects and provisions on international cooperation in criminal matters.

23. While the Branch has provided training to nearly 9,000 criminal justice officials, the enhancement and deepening of capacity-building assistance remains an urgent priority. The capacity of national criminal justice officials to apply the international provisions and related national legislation in their day-to-day work is often limited. They frequently lack the required procedures, policies and practices, as well as the substantive knowledge and skills, to apply national counter-terrorism legislation in accordance with the rule of law and human rights. They further lack the specialized knowledge needed for addressing highly technical issues such as those related to the financing of terrorism or to nuclear, chemical and biological terrorism. They rarely have the skills or enjoy the mutual trust needed to participate in related international cooperation in criminal matters, which is central to a well-functioning international legal regime against terrorism.

III. Addressing the challenges

A. Challenges in terms of content

24. Regular review and refinement of the content of technical assistance services is undertaken to ensure that they remain pertinent and fully in line with the actual and emerging needs and requirements of requesting countries.

25. Accordingly, during the initial phase (2003-2006) of UNODC terrorism prevention assistance delivery, the focus was on assistance for facilitating the ratification and legislative implementation of the international legal instruments. Recently, increased attention is being given to providing assistance to strengthen the capacity of national criminal justice systems to apply the provisions of the legal regime against terrorism in full conformity with the rule of law and human rights.

26. An important benchmark was the thematic evaluation of the Global Project on Strengthening the Legal Regime against Terrorism, covering the period from January 2003 to June 2007, in which the Independent Evaluation Unit of UNODC

assessed the relevance, effectiveness and efficiency of the Project, the efficiency of the overall management of the Project by the Branch and the sustainability of the benefits generated by the Project. The evaluation reached very positive conclusions on all these aspects. A number of recommendations were made with respect to future work, including a recommendation to develop a comprehensive strategy that lays out the vision, focus and approach regarding capacity development.

27. In response to the evolving needs of recipients and in line with those recommendations, special efforts are made to ensure that multiple factors are taken into account when designing interventions for a specific country, subregion or region. Critical factors include the political context, the level of counter-terrorism leadership, the perception of threat, the underlying causes of terrorism, the status of ratification and implementation of the international legal instruments, the particular characteristics of the legal system and the level of development.

1. Continuation of assistance for the ratification and legislative incorporation of the international instruments

28. The Branch continues to offer assistance for the ratification and legislative implementation of the international instruments. Assistance focuses on instruments with a lower ratification rate.

29. Increasing awareness and addressing deficits in political will remain key challenges. Special efforts are made to engage with executive-branch decision makers and with parliamentarians, whose support is needed in the ratification process or for the adoption of necessary domestic legislation.

2. Capacity-building for a functional domestic rule of law-based criminal justice system that can effectively counter terrorism

30. Developing the capacity of a State's criminal justice system to effectively counter terrorism requires a human rights-based, sector-wide, integrated and sustainable approach.

31. The Global Strategy acknowledges that effective counter-terrorism measures and the protection of human rights are complementary and mutually reinforcing goals. The Plan of Action component of the Strategy recognizes that States may require assistance in developing and maintaining an effective and rule of law-based criminal justice system and encourages them to resort to the technical assistance delivered, inter alia, by UNODC. Specialized training for criminal justice officials needs to address numerous human rights concerns, such as the need for clear definitions of terrorist acts, related offences and membership in a terrorist organization; principles governing the designation of illegal organizations in domestic procedural law; fair-trial-based procedures for the investigation, prosecution and adjudication of terrorism-related cases; and human rights compliance regarding the detention of suspected terrorists.

32. An effective response to terrorism requires a justice system capable of functioning in an integrated fashion and relying on the contribution of all of its components, encompassing the police, prosecution, defence bar, judiciary and correctional system. A comprehensive capacity-building approach involves law reform initiatives, increasing the capacity of justice institutions for the investigation, prosecution and adjudication of cases, increasing the public

credibility of those institutions and curbing corruption. Effective coordination across the system remains an essential precondition for the success of any such initiative.

33. International cooperation in criminal matters requires special attention, as it constitutes a cornerstone of a criminal justice response to international terrorism. Often the suspects, victims, evidence, witnesses, expertise or proceeds of crime are located outside the jurisdiction of the country concerned. This requires investigators and prosecutors to work closely with their counterparts abroad. To cooperate effectively, it is pivotal that Member States use legal mechanisms of international cooperation, through which the scope of assistance is sufficiently large, grounds for refusal are reduced or entirely eliminated and the process is expedited. It is also important that cooperation be undertaken in full compliance with human rights and that, particularly regarding extradition, attention be paid to the refoulement prohibition and to related asylum issues and procedures.

34. Particularly in such international cases, it becomes obvious that criminal justice practitioners need to be equipped to deal with terrorist crimes, as well as with a range of crimes potentially linked to terrorism, such as trafficking and smuggling of drugs, firearms and persons, money-laundering, corruption, cybercrime and identity-related crime. Terrorist groups frequently involved in various forms of crime and conspiracies can sometimes be thwarted and effectively disrupted by actions focused on related criminal activities. Many of the proven methods and strategies for combating organized crime are also relevant to the fight against terrorism. Member States should therefore consider availing themselves of the jurisdiction and international cooperation provisions of the Organized Crime Convention and the Convention against Corruption.

35. Special efforts are required to take care of the legal needs of victims of terrorism. UNODC needs to step up its efforts to provide, upon request, technical assistance for building the capacity of Member States with regard to criminal justice aspects of providing support for victims of terrorism, drawing on international legal frameworks and recognized standards and norms.

36. Since its foundation, the United Nations has been active in the development and promotion of a set of 59 standards and norms in crime prevention and criminal justice,¹⁴ which have contributed substantially to the promotion of more effective and fairer criminal justice systems worldwide. As demonstrated in the UNODC *Handbook on Criminal Justice Responses to Terrorism*,¹⁵ these standards and norms address many challenges encountered by the various criminal justice stakeholders. The standards and norms have the potential to serve as a blueprint for a rule of law-based criminal justice system that can effectively prevent and counter terrorism.

37. It is therefore essential that, within the context of UNODC counter-terrorism assistance delivery, the promotion and dissemination of the standards and norms be enhanced and their use and application be closely reviewed. It is also important that proposals to review, update and possibly supplement the standards and norms, where necessary and appropriate, be supported with a view to making the standards

¹⁴ United Nations Office on Drugs and Crime, *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice* (New York, 2006).

¹⁵ United Nations publication, Sales No. E.09.IV.2.

and norms components of a coherent corpus of guiding principles that provides Member States with a firm foundation to adequately respond to the special challenges faced in their efforts to counter terrorism.

3. Building expertise in specialized thematic areas of countering terrorism

38. The increasingly complex nature of terrorism requires specialized expertise in technical areas. Means of transportation have become particularly vulnerable, new channels for financing terrorist acts are being used, the Internet is viewed as a possible means for the planning of such attacks, and the risk that weapons of mass destruction will be used has become more real. In response, the Branch has increasingly been developing specialized tools and publications that provide the substantive basis for focused training courses, including in the following areas:

(a) Countering the financing of terrorism is a key objective of a preventive approach. Practitioners need to be familiarized with measures of criminalization and liability of legal persons; with measures related to investigation, prosecution and international cooperation in criminal matters; with preventive and detection measures; and with measures related to the freezing, seizure and confiscation of terrorist assets. Capacity-building efforts need to involve all key stakeholders at the domestic level, including supervisory and coordinating national bodies and financial intelligence units, as well as private sector institutions;

(b) Specialized expertise is also needed to address the growing threat of non-State actors developing an autonomous capacity to manufacture, possess and use weapons of mass destruction. Specific difficulties stem from the fact that the existing legal framework against nuclear, biological and chemical terrorism is scattered among partially overlapping instruments. In view of these complexities, there is a need to provide conceptual guidance to domestic implementation agencies so that they can harmonize the various elements of a fragmented regime and ensure coherent application;

(c) Because of the increasing threat of terrorist acts committed with and against means of transportation, the international community has placed emphasis on issues of maritime and civil aviation-related terrorism, which need to be situated in the broader context of threats against the security of ships and aircraft. Special attention is being given to how the counter-terrorism maritime instruments interact with the international law of the sea, particularly with regard to cases of piracy, and with legal instruments focusing on the proliferation of nuclear, chemical and biological weapons;

(d) Countering the use of the Internet for terrorist purposes encompasses both network-based terrorist attacks against critical infrastructure (cyberterrorism) and cases where the Internet is used for the commission of terrorist acts. In the absence of a global legal instrument, possible legal solutions and mechanisms are being identified on the basis of existing regional instruments, such as the Council of Europe's Convention on Cybercrime, guidelines produced by relevant international organizations and domestic best practices.

39. The development and transfer of technical legal knowledge in these areas is undertaken in close cooperation with other relevant organizations, particularly the International Criminal Police Organization (INTERPOL) and, with regard to nuclear

terrorism, IAEA, as well as IMO and ICAO regarding maritime and civil aviation issues, respectively.

B. Challenges in terms of delivery modalities

40. In its assistance delivery, the Branch has followed a three-pronged approach: (a) national-level direct assistance to requesting countries; (b) subregional and regional activities to support and supplement national activities; and (c) the elaboration of tools and substantive publications aimed at achieving a more sustained impact and global reach. These delivery modalities have been regularly reviewed, refined and updated with a view to reflecting the increased need for in-depth and continued national-level capacity-building assistance.

41. Efforts are ongoing to maximize possible synergies among the various UNODC programmes aimed at building national criminal justice systems for dealing with terrorism prevention, drug control, transnational organized crime, money-laundering and corruption, and to draw on UNODC operational capacity in regional and country offices.

42. One of the most critical elements is to ensure the sustainability of the assistance delivered. This is challenging for an entity such as the Terrorism Prevention Branch, which relies on year-to-year extrabudgetary funding to cover almost all of its delivery of assistance, more than 90 per cent in 2009.

1. Tailor-made national-level capacity-building assistance delivery

43. Activities are developed and implemented in close consultation with officials of recipient countries. A useful approach is the elaboration of a national action plan for assistance delivery. The establishment of an inter-ministerial committee for implementing a joint action plan on preventing and combating terrorism not only provides the Government and UNODC with the opportunity to negotiate the way forward, but also facilitates collaboration between the various ministries involved and sets goals to be met for both national actors and UNODC.

44. Capacity-building assistance needs to be tailored to the specific needs of judges and prosecutors in their day-to-day work. It is therefore paramount to draw on practical experience of judges and prosecutors who have conducted terrorism-related investigations or prosecutions or participated in related extradition proceedings. An important supporting tool under preparation is a digest of terrorism cases for practitioners, on which the Branch, together with counter-terrorism practitioners from various countries, has been working. Another effective way of providing practical training has been the organization of study tours for small groups of judges and prosecutors to meet with their counterparts in countries with advanced counter-terrorism structures and approaches as well as with representatives of specialized regional mechanisms, such as Eurojust and the European Judicial Network.

45. One of the challenges ahead is to extend tailor-made legal assistance to other professional groups of the criminal justice system, including defence lawyers, attorneys representing victims and correctional officers. To effectively do so, it is

important to develop partnerships with bar associations and associations of correctional personnel.

46. Overall, the Branch should work towards long-term capacity-building programmes,¹⁶ providing in-depth training to all relevant stakeholders and encompassing a steady dissemination of useful and accessible training tools and handbooks, backstopped by effective follow-up and reinforced by ongoing support services. In this regard, UNODC is increasingly pursuing a train-the-trainers approach, by involving national training institutions in the delivery and by strengthening the expertise of these institutions through the elaboration of counter-terrorism modules for integration in their national curricula.

47. A long-term sustained engagement is facilitated by a field-based delivery approach. The placement of terrorism prevention experts in UNODC field offices has enabled the Branch to work closely with local officials in designing and implementing activities. The Branch envisages further decentralizing its programming and delivery capacity in order to be able to more effectively respond to the evolving needs of the recipient countries.

48. A strengthened field-based approach also facilitates the Branch's counter-terrorism activities in becoming fully integrated into UNODC regional and country programmes. This approach responds to the increasing demand for more comprehensive packages of technical assistance that encompass assistance activities on terrorism prevention as well as on criminal justice, anti-corruption measures and transnational organized crime.

2. Regional and inter-regional activities fostering effective international cooperation in criminal matters to counter terrorism

49. Subregional and regional workshops have proved to be an effective forum for mobilizing policy-level support and for triggering national-level initiatives.

50. The annual regional ministerial-level conferences for Ministers of Justice, started for francophone African countries and also undertaken for countries of Latin America, the Caribbean and the Intergovernmental Authority on Development (IGAD), offer the opportunity to assess progress made in implementing national workplans (through peer review), to help sustain countries' commitment and identify areas where further assistance is needed.

51. Technical-level workshops, including subregional workshops, are key to strengthening international cooperation in criminal matters. UNODC assists countries in establishing the required legislative framework and in training practitioners involved in extradition and mutual legal assistance proceedings. Additionally, by bringing together criminal justice officials from countries within a particular region or subregion, UNODC fosters cross-border networking, exchange of information and trust-building.

52. The Indian Ocean Commission's justice platform is a notable network of practitioners involved in international cooperation in criminal matters. Created jointly by UNODC and the Indian Ocean Commission in 2008, the platform brings

¹⁶ See recommendation 5 of the report entitled "Thematic evaluation of the Global Project on Strengthening the Legal Regime against Terrorism", p. 39.

together the focal points in charge of extradition and mutual legal assistance in the Comoros, France (Reunion), Madagascar, Mauritius and Seychelles. The platform has led to the elaboration, jointly with UNODC, of a compendium of bilateral, regional and international agreements on extradition and mutual legal assistance, already distributed to 1,200 practitioners. The platform has provided a forum for the dissemination of the UNODC Mutual Legal Assistance Request Writer Tool and for the elaboration of a reference document on the legal systems and practices of the five Indian Ocean Commission member States regarding extradition and mutual legal assistance. The platform has also been instrumental in resolving specific cases of extradition and mutual legal assistance.

3. Elaboration of tools that facilitate innovative training delivery

53. Since 2003, the Branch has developed a large number of tools, most of which are available in all six official languages of the United Nations and posted online.¹⁷ Specific legislative tools include an updated legislative guide to the international anti-terrorism conventions and protocols; a guide for the legislative incorporation of the provisions of the international legal instruments against terrorism; and the so-called model legislative provisions against terrorism. The Branch has also conducted analytical studies on anti-terrorism legislative developments in various subregions.

54. A key tool is the Electronic Legal Resources on International Terrorism,¹⁸ which includes the full text of the international instruments against terrorism and the status of their ratification, searchable by region, country, treaty and time period. This database also contains legislation and case law from more than 145 countries.

55. Building on existing training tools, the Branch is developing a comprehensive legal training curriculum for criminal justice officials that should facilitate the transfer of specialized counter-terrorism legal knowledge and expertise in a more systematic manner. The curriculum consists of training modules on specific thematic issues, for which additional tools and substantive publications, including case studies, are developed. It integrates counter-terrorism legal training elements and training on related topics, such as money-laundering and organized crime, conducted by other parts of UNODC. The modules will be adjusted to the needs of a train-the-trainers approach and adapted for use in information technology-based delivery mechanisms.

56. The use of innovative information technology-based delivery mechanisms has proved to be efficient and cost-effective. Two intensive online training courses were developed, a generic one and a more specific one, undertaken jointly with INTERPOL, on international cooperation against terrorism.¹⁹ Five training sessions of six weeks each have been delivered so far, reaching 126 participants from 72 countries worldwide. The participants are assigned readings and engage in interactive discussions about them with lecturers and each other through hypertext entries. Participants have expressed great appreciation for this very collaborative and interactive format.

¹⁷ See www.unodc.org/unodc/en/terrorism/unodcs-taas.html?ref=menuaside.

¹⁸ Available from <https://www.unodc.org/tldb/index.html?ref=menuaside?lf=1&lng=en>.

¹⁹ Available from www.unodc.org/unodc/en/terrorism/online-training-course.html.

57. The online training initiatives were carried out in close cooperation with the DiploFoundation. The Branch is now setting up its own online platform, which will also be used as a permanent virtual training platform that will enable former participants in online training courses and national and regional training workshops to remain “connected” with the training facilitators at the Terrorism Prevention Branch and with each other. In this way they will remain abreast of new developments and benefit from continued networking and learning, which will enhance the sustainability of the capacity-building activities.

58. Furthering online training activities is supported by the positive feedback received from participants regarding the relevance of the training to their needs and its impact on their ability to successfully investigate and prosecute terrorism cases. This illustrates the usefulness of the qualitative review undertaken regarding services delivered, in addition to the collection of quantitative achievement indicators (such as number of ratifications, new laws adopted and officials trained). Strong results-based management and reporting tools have helped the Branch to show measurable results and are key for building and maintaining support from recipient and donor countries.

IV. Enhancing partnerships

59. Effective and efficient technical assistance delivery presupposes a well-functioning tripartite partnership among recipient country, assistance deliverer and donor country or countries. Successful delivery is also fostered through consultation, coordination and cooperation among the various entities, within and outside the United Nations system, that are active in the field of counter-terrorism.

A. Partnerships with recipient countries

60. Coordination among relevant departments and agencies of the recipient country is essential to ensure that priorities are identified and requests for assistance developed with an appreciation of the role of domestic stakeholders in building and sustaining capacity. It is critical that suitable judges and prosecutors be identified for capacity-building initiatives and that trained officials be kept in their jobs, so that they can serve as catalysts for the transfer of acquired knowledge.

61. Local ownership and good communication between the recipient country and the assistance provider are key. The Branch always asks that a national focal point be nominated to act as the direct interlocutor, to be fully involved in the design, preparation and organization of the planned activities and to ensure coordination with all domestic stakeholders.

62. The pivotal role of national focal points was underlined during an international workshop for national counter-terrorism focal points, hosted by UNODC in October 2009. Representatives of recipient countries emphasized that they had valuable experiences to share and that enhanced South-South cooperation should be encouraged and facilitated. In order to ensure that their needs were adequately addressed, it was important that they be involved in the drafting of the preliminary implementation assessments prepared by the Counter-Terrorism Committee Executive Directorate.

63. Further, national counter-terrorism focal points underlined the increased need for tailor-made country-based capacity-building assistance to help them to fully implement the international legal instruments against terrorism, and the important role played by the UNODC Terrorism Prevention Branch in this regard. They also stressed the value of linking national and regional efforts and of sharing best practices among criminal justice practitioners across regions and across legal systems.

B. Partnerships with donor countries

64. Most counter-terrorism technical assistance is provided bilaterally. The United Nations is a much smaller player in this regard, but is perceived by recipient and donor countries as a trusted assistance provider playing an important role in areas where specialized technical expertise is required, such as in the provision of assistance related to the ratification and implementation of the international counter-terrorism legal instruments.

65. With respect to assistance facilitation mechanisms of donor countries, reference must be made to the Counter-Terrorism Action Group of the Group of Eight, established in 2003 to enhance global counter-terrorism capacity-building assistance and coordination and to reduce duplication. One of the goals was to offer the Counter-Terrorism Committee a donor forum in which to share information regarding priority assistance needs related to the implementation of Security Council resolution 1373 (2001) and to identify the appropriate donors to address identified needs. The members of the Action Group are the Group of Eight countries, Australia, Spain, Switzerland, the European Commission, the Counter-Terrorism Committee Executive Directorate and UNODC. The Action Group is considering how it can strengthen its role as a forum for the facilitation of counter-terrorism technical assistance delivery. This could also help multilateral assistance providers, such as UNODC, to identify available funding for its work.

66. Thanks to the financial support provided by its 21 donor countries, the UNODC Terrorism Prevention Branch has been able to establish, both at headquarters and in selected field locations, a core specialized expertise and the basic secretariat capacity for the effective planning, delivery, coordination and management of counter-terrorism technical assistance and related partnerships. However, the Branch's reliance on voluntary contributions makes long-term planning, including maintenance of the necessary technical expertise, challenging. This is also due to the fact that most donor countries have so far not made available significantly increased, predictable and multi-year funding for the delivery of counter-terrorism technical assistance. The vulnerability of the programme became very apparent in 2009, when the Branch, owing to funding uncertainty, had to downsize its operations.

67. Dependence on extrabudgetary resources for core expertise and basic secretariat functions is not tenable. These capacities need to be provided through increased regular budget allocations. In addition, predictable, non-earmarked, voluntary funding is required to enable UNODC to continue to conduct key technical assistance activities with a view to implementing its global mandate.

68. Moreover, the ability of the Terrorism Prevention Branch to provide in-depth and long-term national-level capacity-building will also require multi-year funding. It is worth examining how the Branch's capacity-building assistance can be better linked to the broader development agenda. Counter-terrorism measures are necessary to provide a social milieu conducive to investment, business and tourism, and those measures should be an integral element of sustainable development efforts. Though reluctant to do so in the past, the development assistance community is increasingly acknowledging the importance of a properly functioning criminal justice system to counter terrorism and attain sustainable economic and social development.

C. Partnerships with entities inside and outside the United Nations system undertaking counter-terrorism work

69. The need for technical assistance to be embedded in a broad-based, long-term capacity-building programme in recipient countries necessitates close partnerships with other stakeholders inside and outside the United Nations system.

1. Cooperation with the Security Council bodies dealing with counter-terrorism

70. UNODC counter-terrorism work is carried out in close cooperation with the Counter-Terrorism Committee of the Security Council and its Executive Directorate. Their functions are complementary and mutually supportive. The Counter-Terrorism Committee and its Executive Directorate establish policies with regard to the implementation of Security Council resolutions 1373 (2001) and 1624 (2005) and monitor the implementation by Member States of their international obligations, including by identifying gaps in their capacity and by facilitating technical assistance delivery to requesting countries. In turn, the UNODC/Terrorism Prevention Branch's technical assistance work helps countries to address the identified legal and related gaps and needs.

71. Accordingly, effective working arrangements are in place: (a) pursuant to Security Council resolution 1535 (2004), UNODC has to date participated in Executive Directorate on-site visits to 32 countries; (b) Experts of the Committee and its Executive Directorate attend UNODC activities and provide briefings on the role of the Committee and priorities in terms of Security Council resolution 1373 (2001); (c) consultations with the Committee and its Executive Directorate take place in the planning of UNODC activities; mission reports and period matrices of ongoing and planned activities are shared; (d) the Committee and its Executive Directorate provide guidance on the countries in need of assistance; (e) UNODC provides technical assistance in the legal and related capacity-building areas to those countries, upon confirmation of a request; and (f) UNODC also assists requesting Member States (61 to date) in compiling the elements needed for the submission of their responses to the Counter-Terrorism Committee.

72. UNODC is also working closely with the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities and its Analytical Support and Sanctions Monitoring Team. UNODC seeks to reinforce States' capacity in the legislative and regulatory areas to implement the Al-Qaida/Taliban sanctions regime, as well as to

assist States in drafting relevant portions of their reports to the Committee. The Terrorism Prevention Branch and the UNODC Global Programme against Money-Laundering also assist in disseminating information on the Al-Qaida/Taliban sanctions regime and in explaining to national counterparts the scope of States' obligations with regard to the measures under that sanctions regime.

73. The Terrorism Prevention Branch is also closely cooperating with the Committee that monitors the implementation of Security Council resolution 1540 (2004), dealing with the non-proliferation of weapons of mass destruction to non-State actors, and its group of experts, including through the organization of joint technical assistance activities.

74. The Branch has been contributing to the cooperation among those three Security Council Committees through the organization of subregional workshops on the preparation of responses to the three Committees in pursuance of the common strategy on reporting. These workshops provide participants with the opportunity to raise specific problems and concerns in the implementation of their countries' obligations under the relevant Security Council resolutions.

2. Cooperation with other United Nations system entities within the Counter-Terrorism Implementation Task Force

75. The Counter-Terrorism Implementation Task Force was established by the Secretary-General in 2005 to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system.²⁰ It consists of 25 United Nations system entities and INTERPOL. Since the adoption of the Global Counter-Terrorism Strategy, the Task Force catalyses value-added initiatives to support Member State efforts to implement the Strategy in all its aspects. In June 2009, a senior United Nations official was appointed by the Secretary-General to chair the Task Force and a support office was established within the Department of Political Affairs.

76. UNODC actively participates in the Task Force, which ensures that its counter-terrorism work is carried out in the broader context of United Nations system-wide efforts. Together with the Executive Office of the Secretary-General and the Counter-Terrorism Committee and its Executive Directorate, UNODC is coordinating the Task Force's Integrated Assistance for Countering Terrorism (I-ACT) Initiative, which enables partnering Member States to address their requests to Task Force entities for Strategy-related assistance in a user-friendly way, through one entry point. The Initiative helps to avoid duplication of work, makes use of increased consultation and maximizes the impact of assistance delivery. Together with partnering Member States, the Task Force prepares a mapping of assistance activities by Task Force entities, identifies gaps and elaborates action plans for assistance to be delivered with regard to all aspects of the Strategy. UNODC has played an important role in the conceptualization and elaboration of the Initiative and has also been asked to take the operational lead for implementing some key elements, including the set-up of an Internet-based interactive information

²⁰ See www.un.org/terrorism/cttaskforce.shtml.

system, which serves as a key communication mechanism among the participating Task Force entities.²¹

77. Together with the World Bank and the International Monetary Fund (IMF), UNODC co-chairs the working group on tackling the financing of terrorism. The group has produced a report containing a set of recommendations aimed at contributing to the effectiveness of Member States' implementation of existing international standards on combating the financing of terrorism.²²

78. The Terrorism Prevention Branch is also actively involved in the Task Force working group on protecting human rights while countering terrorism, which elaborates a set of basic technical reference guides on specific thematic issues; the working group on countering the use of the Internet for terrorist purposes; and the working group on conflict prevention and resolution, which focuses on conditions conducive to the spread of terrorism in Central Asia and West Africa.

79. Besides the launching of thematic initiatives and the setting up of working groups, the Task Force has also been instrumental in enhancing consultation and cooperation among its member entities in their day-to-day assistance delivery.

3. Cooperation with international, regional and subregional organizations

80. At the international level, operational partnerships help to make the best use of resources, enhance complementarity of mandates and expertise, promote broad-based and holistic initiatives and avoid duplication of work.

81. Joint work focuses mostly on specific thematic areas, such as international cooperation in criminal matters (INTERPOL); nuclear, chemical and biological terrorism (IAEA, Organization for the Prohibition of Chemical Weapons), human rights aspects (Office of the United Nations High Commissioner for Human Rights), countering the financing of terrorism (World Bank, IMF), maritime issues (IMO) and civil aviation issues (ICAO). Joint activities are also regularly undertaken with the International Organization of la Francophonie, particularly in West and Central Africa, and with the Commonwealth Secretariat, mainly in East and Southern Africa and in the Caribbean.

82. It is worth exploring how these partnerships can be further deepened, including through joint programming, planning and conduct of activities, as well as how additional partnerships can be developed, particularly with development aid organizations. The joint project "Strengthening counter-terrorism capacity for a safer Kenya" constitutes a good example of how UNODC and the United Nations Development Programme can complement each other.²³

83. At the regional and subregional levels, partnerships help to ensure that political, economic and development dynamics and sensitivities are properly understood and effectively incorporated into technical assistance activities. Partnerships also add political legitimacy, local knowledge and expertise, as well as

²¹ The Integrated Assistance for Countering Terrorism Information System is based on technology developed by UNODC for the Automated Donor Assistance Mechanism in the context of the Paris Pact initiative (see <https://www.i-act-infosystem.org>).

²² Available from www.un.org/terrorism/pdfs/CTITF_financing_ENG_final.pdf.

²³ See the report entitled "Thematic evaluation of the Global Project on Strengthening the Legal Regime against Terrorism", p. 5.

valuable logistical support. They facilitate knowledge transfer and contribute to the development of sustainable local capacity.

84. Activities implemented in the Americas are jointly planned and carried out with the Inter-American Committee against Terrorism of the Organization of American States. A similar partnership exists with the Organization for Security and Cooperation in Europe for activities undertaken in the Eastern Europe and Central Asia regions. A close partnership with the Pacific Islands Forum Secretariat is pursued for assistance to the Pacific countries. Assistance work in Africa is undertaken in close cooperation with the Economic Community of Central African States, the Economic Community of West African States, the IGAD Capacity-Building Programme against Terrorism and the Southern African Development Community. The Council of Arab Ministers of the Interior, the Gulf Cooperation Council and the League of Arab States are partners in the North Africa and Middle East region.

85. While further strengthening cooperation at the regional level, avenues for fostering cross-regional cooperation should also be explored. Partners in this regard are the European Union/European Commission, in the context of the Euro-Mediterranean Partnership, the Asian-African Legal Consultative Organization and the Small Island Developing States Network.

4. Cooperation with civil society and the private sector

86. One of the issues raised at the workshop for counter-terrorism focal points was the need for States to ensure that civil society supports the measures taken to counter terrorism. Hence, it is important to work with law schools and other academic institutions, as well as professional associations, to promote a rule of law-based criminal justice response to terrorism.

87. In implementing the Global Counter-Terrorism Strategy, possible cooperation with the private sector should also be explored, particularly on legal issues in specialized technical areas, such as financing of terrorism; nuclear, chemical and biological terrorism; maritime and civil aviation transportation; and the use of the Internet for terrorist purposes.

V. Conclusions and recommendations

88. As underlined in the Global Counter-Terrorism Strategy, establishing a rule of law-based criminal justice response to terrorism is key to global counter-terrorism efforts and a prerequisite for other components.

89. In this endeavour, the international community is at a crossroads: impressive progress has been made in terms of ratification and implementation of the international conventions and protocols relating to terrorism. However, much work remains to be done to achieve universal ratification and full implementation of these international legal instruments.

90. UNODC, in particular its Terrorism Prevention Branch, is strongly committed to continuing to assist Member States in meeting their needs. However, to be able to do so, it relies on Member States to step up support, both political and financial, in order to fully capitalize on achievements and support Member States in

implementing a fully functional rule of law-based international legal regime against terrorism.

91. The Twelfth Congress may wish to:

(a) Urge Member States to:

(i) Become parties expeditiously to the international instruments against terrorism and to fully implement them, as well as all related United Nations resolutions, in particular the Global Counter-Terrorism Strategy;

(ii) Ensure that action taken in pursuance of the international legal framework against terrorism is in full compliance with international law, including international human rights, refugee and humanitarian law;

(iii) Take all necessary steps to establish an adequately functional national counter-terrorism legal regime and criminal justice system, as well as the associated implementation capacity;

(iv) Establish and maintain effective mechanisms for international cooperation in criminal matters related to terrorism to eliminate safe havens;

(v) Reinforce inter-agency cooperation and information exchange to effectively counter terrorism, including through dedicated coordination mechanisms at the domestic level;

(vi) Seek specialized technical assistance to strengthen their capacity to implement the international legal framework against terrorism;

(vii) Make sufficient resources available to make the counter-terrorism technical assistance work of the United Nations, in particular of the UNODC Terrorism Prevention Branch, sustainable, through an adequate increase in regular budget resources and through the provision of predictable, multi-year extrabudgetary resources;

(b) Urge the United Nations, in particular UNODC, subject to the availability of sufficient resources, to:

(i) Intensify the provision of assistance to countries, upon request, for the ratification and full implementation of the international legal instruments related to terrorism and strengthen efforts to engage with executive branch decision makers and parliamentarians in this regard;

(ii) Strengthen the provision, upon request, of sector-wide capacity-building assistance for establishing a functional domestic rule of law-based criminal justice system that can effectively counter terrorism, including capacity-building assistance related to the effective investigation, prosecution and adjudication of concrete cases;

(iii) Ensure that its capacity-building work is tailored to the specific national, subregional and regional circumstances of the requesting country and is delivered through modalities that provide a conducive response to the evolving needs; and that the necessary follow-up assistance can be offered to ensure sustainability, including through a train-the-trainers approach and the involvement of professional training institutions;

- (iv) Provide more unified training to criminal justice officials on how to implement the various terrorism instruments and, as appropriate, the transnational organized crime, money-laundering and corruption instruments, so as to maximize possible synergies and to offer more comprehensive packages of technical assistance;
- (v) Step up its efforts to provide assistance to build the capacity of Member States with regard to criminal justice aspects of providing support for victims of terrorism;
- (vi) Enhance, within the context of its counter-terrorism assistance delivery, the promotion and dissemination of the standards and norms in crime prevention and criminal justice, follow-up on their use and application and support proposals to review and, where necessary and appropriate, update and supplement the standards and norms;
- (vii) Continue to assist in reinforcing mechanisms for international cooperation in criminal matters to counter terrorism, including by providing support for the establishment of networks, platforms or other mechanisms that can foster international cooperation in criminal matters;
- (viii) Encourage Member States to consider availing themselves of the international cooperation mechanisms established by the States parties to the Organized Crime Convention and the Convention against Corruption;
- (ix) Strengthen the building of specialized substantive expertise and enhance the delivery of assistance in specialized technical areas, including the financing of terrorism, nuclear, biological and chemical terrorism, and maritime and civil aviation issues;
- (x) Strengthen the building of specialized substantive expertise and enhance the delivery of assistance regarding criminal justice aspects of countering the use of the Internet for terrorist purposes;
- (xi) Continue to foster the use of innovative and cost-effective technical assistance delivery mechanisms, particularly information technology-based modalities;
- (xii) Create synergies with other United Nations entities, including within the framework of the Counter-Terrorism Implementation Task Force, and continue to work with partner entities at the international, regional and subregional levels to develop joint work programmes to support countries in their efforts to counter terrorism;
- (xiii) Enhance efforts to further maximize the processes of consultation, coordination and cooperation with the various stakeholders involved in counter-terrorism assistance delivery.