

Report of the Counter-Terrorism Committee Executive Directorate on the practitioners' seminar on "The use of intelligence in counter-terrorism prosecutions" (Ankara, Turkey 18-20 July 2011)

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Report of the Counter-Terrorism Committee Executive Directorate on the practitioners' seminar on "The use of intelligence in counter-terrorism prosecutions" (Ankara, 18-20 July 2011)

I. Introduction

1. The Security Council, in its resolution 1373 (2001), adopted on 28 September 2001 pursuant to Chapter VII of the Charter of the United Nations, decides that Member States shall "ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice". By the same resolution, the Council decides that all States shall "afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings". Member States are called upon, in particular, to cooperate "through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and to take action against perpetrators of such acts".

2. Since its establishment, the Counter-Terrorism Committee of the Security Council has worked to assist Member States in their efforts to meet the many challenges involved in implementing the provisions of the resolution.

3. In December 2010, the Committee convened a seminar for practitioners, at United Nations Headquarters, on the theme "Bringing Terrorists to Justice". The Committee subsequently issued a report on the seminar, which was adopted as a document of the Security Council (S/2011/240).

4. The seminar had two main objectives:

(i) To build upon States' successes in order to show the broader international community that different legal systems, dealing with different kinds of terrorism, have been able to meet the related challenges and find solutions that enable them to bring terrorists to justice effectively while respecting the rule of law and human rights;

(ii) To enable the Committee and its Executive Directorate (CTED) to build upon the experience and good practices developed and employed by counter-terrorism prosecutors, by sharing and promoting them in its dialogue with international, regional and subregional organizations and Member States.

5. The seminar was attended by a number of prominent national counter-terrorism prosecutors who had handled highly visible cases within their national jurisdictions. Their experiences showed that, despite the many challenges involved, it is possible to bring terrorists to justice while also adhering to rule-of-law principles.

6. Among the main challenges identified by seminar participants was the use of intelligence and information obtained through special investigative techniques (e.g. interception, electronic

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surveillance, covert computer searches, observation, tailing, filming, handling of informers and undercover agents) as evidence in terrorism cases.

7. In its report on the seminar, the Committee recommended that CTED continue its discussions with prosecutors with a view to identifying further challenges faced by prosecutors in bringing terrorists to justice. Accordingly, CTED organized a follow-up seminar on the use of intelligence and information obtained through special investigative techniques. Held in Ankara from 18 to 20 July 2011, the follow-up seminar was attended by prominent national prosecutors, who discussed their experiences and the good practices developed by their respective jurisdictions. Many of the participants had attended the first seminar. Representatives of several entities, including the African Centre for the Study and Research on Terrorism (ACSRT), the Council of Europe, the European Union, the Organization of American States (OAS) and the United Nations Office on Drugs and Crime (UNODC), also attended the seminar, which was held in accordance with the Chatham House rule.

8. The three-day seminar was divided into several thematic sessions, each addressing a specific aspect of the topic. CTED has consolidated the views expressed into the present document, for the use of the international community, academics and practitioners.

II. Principles for conducting lawful covert investigations

9. During the first session, representatives of international and regional organizations presented the good practices identified and developed by their respective organizations in the use of covert investigations in counter-terrorism cases. Participants agreed that the use of appropriate covert investigations was broadly recognized as a vital part of an effective strategy against serious crimes, including acts of terrorism. Such investigations are used in the context of criminal investigations in order to detect and investigate serious crimes and suspects. The aim is to gather information in such a way as not to alert the subjects of the investigation.

10. It became clear from the discussions that law enforcement agencies were no longer the sole source of probative intelligence and that counter-terrorism prosecutions relied increasingly on the work of intelligence agencies. Confidential information that could be of use in criminal trials can be gathered by the intelligence community as part of their own investigation. As noted by some participants, the more States tended to focus their attention on preventing terrorism, the more they would need to rely on intelligence agencies in prosecuting preventive offences. Participants noted, both in this and in several subsequent sessions, the need for prosecutors to rely more and more on cooperation with the military and on evidence gathered by the military or by military intelligence. Such information could serve both to trigger an investigation and, once the investigation was under way, to provide useful evidence.

11. Participants noted that cooperation with intelligence agencies, including military intelligence, presented its own challenges. Law enforcement agencies were trained and equipped to investigate crimes and collect evidence, even when using special investigative techniques, in accordance with criminal procedural codes and laws. They organized their work so that the evidence gathered could be used in court and challenged by defence counsel, and essentially measured their success in terms of the number of convictions achieved. Intelligence agencies, in

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contrast, focused their efforts on identifying national security threats, and military intelligence was concerned with the gathering of operational intelligence for military use. Such agencies did not draw their legal authority from the same sources as law enforcement agencies. They worked in accordance with different standards and did not seek to meet the requirements of the courts. That situation posed a number of challenges with respect both to prosecutors' performance of their duties and to the good practices developed by Member States. Several participants expressed the desire to devote a separate meeting to this theme.

12. Reference was made to several international instruments that provided rules for the collection and use of evidence gathered by law enforcement agencies through covert investigations. Those instruments, which referred to "special investigative techniques", included the United Nations Convention against Transnational Organized Crime, the United Nations Convention against Corruption, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and Recommendation 27 of the Financial Action Task Force on Money Laundering (FATF). Some participants noted that although those instruments referred to such techniques, they did not define them and did not foresee some of the challenges associated with the gathering and sharing of information (especially information gathered by intelligence agencies in criminal proceedings).

13. The representative of the Council of Europe briefed participants on the good practices developed by the Council of Europe in using special investigative techniques, notably Council of Europe Recommendation 10 of 2005, which defined such techniques, outlined the fundamental principles for using them lawfully, and called for greater international cooperation, both in using such techniques and in ensuring that the outcomes of such investigations was admissible in different jurisdictions. The use of special investigative techniques did not preclude maintaining a fair balance between ensuring public safety through law enforcement measures and securing the rights of individuals, but should adhere to the principles of legality, necessity and proportionality. He dedicated a large part of his presentation to the extensive jurisprudence of the European Court of Human Rights and the principles outlined in its jurisprudence regarding the lawful conduct of covert investigations. Particular mention was given to the principles of legality, necessity and proportionality in the use of special investigative techniques.

14. The representative of the Terrorism Prevention Branch (TPB) of UNODC shared certain good practices developed by the TPB for the use of special investigative techniques, including the UNODC Digest of Terrorist Cases (*pp. 2-6*); the UNODC Handbook on Criminal Justice Response to Terrorism (*pp. 7-11*) and the UNODC Criminal Justice Strategy Integrating Rule of Law Standards in Implementation of United Nations Anti-Terrorism Instruments (*pp. 12-17*).

15. Noting that covert investigations should be used with great care, the TPB representative briefed participants on related oversight and control mechanisms, evidentiary issues, international cooperation, ensuring protection and upholding of rule-of-law and human rights issues, legal and procedural aspects, operational and technological issues, and several related technical assistance activities of TPB.

16. One participant stated that one of the main challenges encountered by his office was the lack of enabling legislation to conduct such investigations lawfully in certain regions of the

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world. As a result, the products of such investigations often could not be shared with other States and could not become admissible in court. The international community should therefore provide technical assistance activities on this topic in such regions.

III. Relationship between prosecution services and the investigative and intelligence communities

17. The discussions held during the first session led to a deeper discussion, in the second session, on the relationship between the prosecution, on the one hand, and the law enforcement and intelligence communities, on the other. Many participants stressed the importance of building close working relationships, and shared several good practices aimed at preventing misuse or abuse of authority occurred. It was important to develop a relationship of trust with all agencies involved in an investigation.

18. Participants also discussed how efforts to prosecute terrorists had blurred the jurisdictional “firewall” that had traditionally divided law enforcement agencies (including prosecutors) from intelligence services. One participant noted that his State had traditionally maintained a “firewall” between the intelligence agencies, whose role was to collect intelligence to protect national security, and law enforcement agencies, whose role was to collect evidence for criminal investigations. However, in response to the heightened terrorist threat, his State had moved towards more proactive counter-terrorism prosecutions; centralized its national security investigations and prosecutions, and begun to foster cooperation between the prosecution service and the intelligence sector. Prosecutors were able to work more closely with the intelligence community, thereby increasing the efficiency of investigations and prosecutions. Moreover, prosecutors tended to become engaged in counter-terrorism investigations at an earlier stage. Cooperation within the framework of coordination mechanisms and joint task forces allowed them to help intelligence agencies collect admissible intelligence and avoid steps that might hamper the criminal process.

19. The newly established relationship between his State’s intelligence community and prosecution services thus resembled a “partnership”, based on achieving results by turning operational intelligence into evidence, disrupting the terrorist threat and using plea-bargains as a tool to prevent intelligence from being disclosed and to gather further intelligence on the modus operandi of terrorist networks. The key to establishing such cooperation was the exercise of political will at the highest levels within both the prosecution and the intelligence agencies.

20. Another prosecutor described how his State’s legislator had established a set of arrangements defining the relationship between the prosecution service and intelligence agencies with a view to ensuring that they maintained and developed their cooperation within the framework of certain checks and balances. The legislator had also enacted a law obligating the prosecution service and intelligence agencies to meet on a quarterly basis. A third participant noted that in her State the relationship between the prosecution service and intelligence agencies, having been formerly completely unregulated, had become over-regulated.

21. The discussions showed that States held different views as to how closely such

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relationships should be regulated. Enacting comprehensive legislation held clear advantages, but could also tend to over-formalize and even stifle such relationships. Several participants felt that, although close regulation might provide a solid foundation for cooperation, the most important factors were confidence and political will.

22. One participant described how his State had introduced the practice of holding formal debriefings, in counter-terrorism cases, at which prosecutors provided feedback to investigators and intelligence agencies in a setting that also encouraged the sharing of good practices and lessons learned. It was also useful to conduct joint training exercises at which prosecutors and intelligence agents could discuss specific areas for improvement.

23. Several practitioners stressed that maintaining an “open-door” policy among the relevant agencies was an effective way to promote cooperation and coordination. Others noted their respective States’ efforts to change the “culture” of the intelligence community. One participant described the advantages of establishing a joint task force, and another stressed the usefulness of developing guidelines and operational protocols both for the prosecution service and for the intelligence community. Another participant stressed the importance of involving the prosecution service in counter-terrorism investigations at a very early stage; another advocated the designation of “on-call” prosecutors who could advise the intelligence community, as appropriate; and another described how his State’s prosecution service maintained a close working relationship with legal advisers of the intelligence community.

24. Several participants noted the need to educate intelligence agencies in order to help them understand the complexity of evidentiary standards and due-process guarantees and to make them aware that the information they gathered and the materials they captured might be used at some point in criminal proceedings.

25. Some participants noted that the relationship between their respective States’ intelligence and prosecution services could no longer be considered bilateral. Many States had established several intelligence agencies with a counter-terrorism mandate. Efforts to coordinate inquiries and prosecutions in a manner that ensured protection of legally recognized rights were often hampered by the geographical and functional division of counter-terrorism intelligence collection among several ministries, by the desire to protect sensitive sources and methods, and by the concern to protect civil liberties. In one jurisdiction, for example, the collection of foreign intelligence was the responsibility of the foreign intelligence service and the intelligence directorate of the armed forces, while federal security was responsible for internal security intelligence collection and enforcement. This division of labour had posed significant challenges for the prosecution service, which had been obliged to develop new working methods and protocols for cooperation.

26. The European Union, through its Counter-Terrorism Coordinator, had recently conducted a series of workshops on the relationship between the prosecution and intelligence agencies. Workshop participants had concluded that the lines between intelligence and law enforcement agencies had become increasingly blurred and that there was therefore a need to improve the interface between intelligence work, police investigations, prosecution and sentencing, in a manner that safeguarded individual rights and rights of defence.

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27. Participants also discussed the need to adapt laws and procedures to take account of new technologies, noting the evidentiary challenges associated with the use of sophisticated technical equipment in covert investigations, the need to protect the methods and sources employed by intelligence agencies, and their reliance on cooperation with the private sector.

IV. Protection of sensitive information during trial proceedings

28. During this session, participants focused on procedures to prevent information gathered by intelligence agencies from being seen or accessed by anybody other than those authorized. The primary techniques used were classification and physical protection, and the main challenge posed by terrorism cases was to ensure that the intelligence community provided access to all relevant information and disclosed information needed for the proceedings.

29. Participants shared several good practices developed to mitigate the risks associated with such disclosure, including the use of security clearances for defence attorneys to prevent misuse of information, and the appointment of “cleared counsel” who were given access to classified information and also participated in disclosure proceedings, but who were obliged to refrain from sharing such information with the defendant. Other such practices included protection of court files, closing hearings to the public and providing guidance to staff, judges and juries. One participant noted the need to be aware of the implications of such measures for the public’s confidence in the criminal justice system, as the practice of excluding the public and the media could convey a negative impression.

30. Participants also shared their experience of discussing “declassification” issues with the intelligence services. Several participants noted a tendency in their respective jurisdictions to “over-classify” documents. One participant described the difficulties involved in handling the declassification of information required in the proceedings, and another noted shortcomings in the process of classification and declassification in his State: sometimes decisions to classify information were influenced by agency rivalries, concern at media exposure, and even the need to raise the visibility of the collecting agency or individual concerned. States should establish clear procedures and guidelines on classification and declassification in order to facilitate the preparation of trials by the prosecution services and to prevent unnecessary “bargaining” between the prosecution and the intelligence community.

31. Another challenge noted in this regard was the need for prosecutors to screen intelligence information before the trial. As such information was often quite voluminous, it might be necessary to develop specific case-management tools. Reference was made to a terrorism case in which one prosecutor had been obliged to work for two years to screen the intelligence gathered as part of the investigation, before the case could be brought to court.

V. Transforming into evidence information gathered in covert investigations

32. During this session, participants shared challenges and good practices in transforming into admissible evidence information gathered in covert investigations. It was noted that this was

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more of an issue in common-law States than in civil law States, where the prosecutor could submit to the security services a “procès-verbal” summarizing the main findings of the intelligence-led investigation. This system presented the advantage of permitting pertinent facts emerging from intelligence activities to be admitted in criminal judicial proceedings, under certain conditions. The elements collected could be summarized and included in the judicial investigative file without the need to specify sources or collection methods. It was the task of the magistrate to decide whether or not to consider the intelligence information as admissible evidence and to decide on the investigative steps to be taken on the basis of the intelligence. In common-law systems, it was necessary to establish and implement more complex disclosure procedures.

33. Using case studies, prosecutors discussed good practices in, and obstacles to the use of intelligence in criminal cases, and shared their respective States’ procedures for transforming into evidence intelligence gathered domestically or obtained from another State. Many participants agreed that in common-law jurisdictions this was among the biggest challenges faced by counter-terrorism prosecutors, because the use of intelligence material in criminal proceedings presented an apparently irreconcilable dilemma: how to balance the objective of protecting information and source, on the one hand, with the need to ensure defence rights and equality, on the other. It was sometimes difficult for counter-terrorism prosecutors to ensure the quality of the supporting information while simultaneously respecting international cooperation requirements such as the protection of a source obtained from abroad, especially if prosecutors were unable to access the supporting material gathered by the intelligence services.

34. Participants also shared the procedures used in their jurisdictions to invoke the national security privilege, as well as the safeguards developed to ensure that all information supporting the defence was disclosed or - in the event that such information was not disclosed - that no criminal charges were brought.

35. Several participants described how their States handle discovery proceedings. The prosecutor played an important role in screening intelligence so as to ensure that all evidence in support of the defence was disclosed, and a number of techniques had been developed to accomplish this. It was important to submit full and complete information to the judge, as this would enable the judge to make the right decision regarding disclosure. Participants also discussed the usefulness and associated challenges of providing substitutes to full disclosure, such as redactions; statements of agreed facts; withdrawal of proceedings; and editing, obscuring or redacting certain pieces of information. This process was generally described as laborious, time-consuming and sensitive.

36. Participants also shared the procedures available to the defence to challenge a decision not to disclose information, as well as their experiences in handling legitimate options available to the prosecution following a decision to disclose. They also described how their respective jurisdictions balanced national security concerns against the rights of the defendant to a fair trial, and several participants shared their experiences in bringing intelligence experts to the witness stand. Expert witnesses could help the court and jury better understand the working methods of terrorist organizations, their codes and symbols, and their ideology. Experience had shown, however, that the use of such witnesses created several challenges. Intelligence experts had

limited ability to share with court or jury the information on which they had based their analysis, since sensitive sources and methods would need to be disclosed on cross-examination or in pre-trial discovery procedures if those sources and methods contributed to the expert's testimony. Although courts generally accepted such expert witnesses, they were generally less willing to rely on the information or the analysis provided by such experts as the basis for conviction.

37. Several prosecutors expressed a preference for the use of independent experts (generally drawn from academia or from the private sector) and shared examples of this practice. The advantage of using such experts was that they relied solely on open-source information that could readily be disclosed. However, since many also participated privately in open forums or shared their personal views with the public via the Internet, they were often exposed to cross-examination concerning potential conflicts between their personal and their expert views. In counter-terrorism cases, it was not always easy to draw a clear distinction between the two.

VI. Protection of witnesses

38. Participants noted that counter-terrorism cases often involved specific categories of witnesses and specific types of evidence that might require special attention and/or specific procedural rules. Such witnesses (often law-enforcement officials) might need to be protected, and it might also be necessary to conceal their identities.

39. The discussion of this topic focused in part on the experiences of prosecution services in their use of anonymous witnesses - especially informants, undercover agents and representatives of the intelligence community - who might need to be brought to the witness stand; ways to protect such witnesses and provide guarantees to the defence; determining which witnesses (e.g. justice collaborators; victims, undercover agents and/or informants) qualified for protection; the procedural protections in place; the use of witnesses' pre-trial statements; the use of technology (e.g. image and voice distortion, video conferencing); and particular challenges, gaps, and areas in which common practices might be developed or shared. Several participants felt that the issue of the protection of prosecutors and judges handling counter-terrorism cases should be handled with greater care by the international community. In many States, law enforcement officials, prosecutors and judges were often obliged to work under threat, and not all States had developed the necessary legal and operational framework to protect them. It was only in exceptional circumstances that judges, prosecutors, undercover agents and expert witnesses were included in witness-protection programmes.¹

VII. International cooperation in conducting covert investigations

40. The final two sessions were devoted to international cooperation in conducting covert investigations. Participants were requested to share their experiences, challenges and good practices in cooperating internationally in conducting covert counter-terrorism investigations and in producing evidence derived from such investigations in terrorist trials. One of the main challenges noted in this context was that, as counter-terrorism investigations increasingly crossed national boundaries, there was a growing need for evidence gathered in covert investigation in

¹ UNODC, Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Crimes, p. 22

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one State to be used by another State. It was often difficult to guarantee that the intelligence gathered by the requested State was developed in a manner that did not infringe human rights.

41. Participants also shared their experiences in using technologies that allowed witnesses to testify from remote locations and sometimes provided physical and social protection to witnesses and collaborators of justice and to those close to them (whether before, during or after the giving of testimony). Another focus of their discussions were the obstacles most commonly encountered by prosecutors in obtaining assistance in counter-terrorism investigations and possible remedies and instruments in that regard. Of particular note in that context were the differences among different legal systems and between the working methods employed by the intelligence and prosecution, and the issue of whether it might be possible to achieve more standardization and harmony in the collection of probative intelligence and in transforming such intelligence into evidence. Events such as the present seminar enabled prosecutors to build networks and to explore ways to resolve differences among legal systems.

42. A European Union case study provided an effective way to explore the challenges associated with efforts to harmonize national legislation and strengthen cooperation in this context. The European Union had developed several tools for cooperation among its member States in covert investigations, including through the Schengen Agreement and through the European Evidence Warrant, which allowed the introduction of evidence gathered in one State to be admissible evidence in another. Although the advantages of the European Evidence Warrant were clear, the warrant was limited to the transfer of existing evidence. The European Union had therefore discussed the possibility of developing a “European Investigation Order”, which could offer a more comprehensive mechanism for obtaining evidence and would facilitate almost all investigative measures, including the gathering of evidence in real time, controlled deliveries and information related to bank accounts/transactions. Because of the associated challenges and the differences of view among its member States, the European Union had decided to exclude from the Investigation Order the interception of certain telecommunications. Other forms of cooperation, including existing structures for the use of joint investigation teams and cross-border surveillance, would continue.

43. Representatives of international organizations shared their experiences in supporting national prosecutors and in coordinating investigations. Some regions had introduced a regional agreement to foster cooperation, including through the use of joint investigation teams. One such experience was the coordination of covert investigations and prosecutions (conducted within the European Union by the Eurojust judicial network), which allowed European Union member States to coordinate their activities in this regard. In one such terrorism case, 16 States (European and non-European) had been able to cooperate and coordinate their covert investigations and allow the products of those investigations to be used in several different jurisdictions. Eurojust attached great importance to coordination and cooperation among prosecutorial agencies within the framework of large, complex counter-terrorism prosecutions.

44. Participants agreed that more such coordination mechanisms should be established and supported by the international community. Even though the Eurojust “model” was not applicable outside the European Union, many good practices developed by other regional organizations, such as the Organization of American States (OAS) could and should be used in other parts of

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the world. In many cases, a joint investigation team had been established, whether bilaterally or on an ad hoc basis. The extent to which foreign investigators were able to engage in covert investigations and collect intelligence information might also pose a challenge. More time should be dedicated to discussing good practices and challenges in joint investigations, and technical assistance should be provided to States, as appropriate, so that they could join such teams.

45. One particular challenge raised in this context was the extent to which requested States could, and should conduct covert investigations (ensuring that the evidence obtained was admissible in court by foreign jurisdictions). Participants discussed how a State subject to strict rules on the collection, storage and use of personal data could share evidence for use in court proceedings with foreign States having different standards of data protection. Other challenges were how to ensure that the information was gathered in a way that did not violate human rights and how a State that limited the use of evidence obtained through covert investigations for investigative purposes, but did not allow the use of such evidence in its own court proceedings, could share such evidence with a foreign State and allow its use in the courts of the foreign State.

46. Participants also discussed the use of evidence obtained through mutual legal assistance requests; possible limits and conditions; the non-disclosure and physical protection of sensitive information; and differences between States with an exclusionary principle and those with a free principle of admission. One participant stressed the importance of gaining the confidence of other jurisdictions in the procedures of one's own State and also of providing other jurisdictions with assurances as to how their sensitive information would be handled and protected. Outlining the guarantees provided by her State to ensure that confidential information would not be disclosed without the consent of the requested State, she shared her experiences in relying on other States to conduct the disclosure proceedings on her State's behalf, and noted how her State guided other States as to how to satisfy its disclosure requirements and worked closely with foreign prosecution services to ensure that all disclosure requirements were met.

VIII. Conclusions

47. Participants agreed that such seminars provided important opportunities for prosecutors to conduct high-level discussions on good practices and common challenges faced in terrorism cases. Several participants proposed elements for future seminars. The United Nations played a significant role, by virtue of its ability to bring together practitioners from different States and legal traditions and help them address related technical assistance needs. It was important to provide such forums, whose outcomes could provide policymakers with ideas and solutions for confronting the challenges involved in bringing terrorists to justice.

48. CTED will continue to follow-up on this seminar at relevant international and regional forums in which good practices and challenges are shared. CTED will also continue to develop an informal network of practitioners able to enhance effective prosecutorial cooperation, as well as provide the Committee and CTED with examples of good practices, common challenges and feedback with respect to the effective prosecution of counter-terrorism cases.

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Annex I List of participants

Opening remarks

Government of Turkey	Mr. Abdullah Cebeci	(Judge, Deputy Director General, Ministry of Justice)
CTED	Mr. Mike Smith	Assistant Secretary-General, Executive Director, CTED

Seminar speakers

(i) Member States

<i>Member State</i>	<i>Name of prosecutor</i>	<i>Title, Department</i>
Argentina	Mr. Eduardo Ezequiel Casal	Public Prosecutor, Supreme Court of Argentina
Australia	Mr. Scott Bruckard	Senior Assistant Director, Commonwealth Director of Public Prosecutions (CDPP) Melbourne Office
Canada	Mr. Jacques Lemire	Counsellor, International criminal operations, Canadian Embassy, Paris
China	Mr. Weihua LV	Prosecutor from Supreme People's Procuratorate of the People's Republic of China
Colombia	Mr. Hermes Ardila Quintana	Chief, Counter-Terrorism Unit, Colombia
France	Mr. Olivier Christen	Deputy Prosecutor, Chief of Section on Counter-Terrorism and Attacks against State Security, Paris, France
Indonesia	Ms. Mahayu Dian Suryandari	Prosecutor, Task Force for Combating Terrorism and Transnational Crime, Attorney-General's Office, Indonesia
Israel	Ms. Rachel Matar assisted by Ms. Hadas Rozenberg-Shainert	Deputy Director, Criminal Division at State Attorney's Office in the Ministry of Justice and Deputy director, Criminal Division, at the State Attorney's Office (District of Haifa), Israel
Italy	Mr. Stefano Dambruoso	Prosecutor, Head, Office for the Coordination of International Affairs, Ministry of Justice, Italy
Kenya	Ms. Lilian Akinyi Okumu	Senior State Counsel - in the Office of the Director of Public Prosecutions- Kenya
Mali	Mr. Fodié Touré	Public Prosecutor, II Commune, Bamako, Mali
Nigeria	Mrs. Habitat Eluameh	Senior State Council, Federal Ministry of Justice, Nigeria
Philippines	Mr. Celestino Gerald Cabrera	Assistant Secretary and Head of the Anti-Terrorism Council-Program Management Center (ATC-PMC) Office of Special Concerns
Russian Federation	Mr. I. Suchilin	Senior Prosecutor, Principal Department for International and Legal Cooperation, the General Prosecutor's Office
	Mr. V. Kalugin	Senior Prosecutor, Department for the Supervision over

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		Investigations of Special Cases, the General Prosecutor's Office
Saudi Arabia	Advisor Dr. Ali Fayez Al-Shehri	Advisor, Ministry of Justice
	Mr. Mohammed Abdurazag Alghadyan	Bureau of Investigation and Prosecution
Spain	Mrs. Dolores Delgado García	Terrorism Coordinator; Prosecutor of the General State Prosecutor's Office
Turkey	Mr. Mustafa Dönen	Judge GD of International Law and Foreign Affairs
	Mr. Yuksel Erdogan	Deputy of GD, Ministry of Justice General Directorate of Laws, Turkey
	Mr. Tayar Ögmen	Judge MoJ GD of International Law and Foreign Affairs.
	Mr. Hasan Sahin	Judge MoJ DG Of Criminal Affairs
	Mr. Abdullah Cebeci	Judge/Deputy, Ministry of Justice GD of International Law and Foreign Affairs.
	Mr. Timur Demir	Judge MoJ DG of International Law and Foreign Affairs
	Mr. Nursal Erdem	Judge MoJ DG of International Law and Foreign Affairs
	Mr. Nurullah Tekin	Judge MoJ DG of European Union Affairs
United Kingdom	Ms. Karen Jones	Crown Prosecution Service
United States of America	Mr. Michael Lang	Resident Legal Advisor Office of Prosecutorial Development, Assistance, and Training
	Mr. Ranganath Manthripragada	Trial Attorney, Counter-Terrorism Section, National Security Division, Department of Justice

(ii) International and regional organizations

Organization	Name of representative	Title, Department
ACSRT	Mr. Mounir Idriss Lallali	Head of the Alert and Prevention Unit
CICTE	Mr. Ignacio Ibañez	Manager, Legislative Assistance and Terrorism Financing Program
Council of Europe	Mr. Aaron M. Bugeja	Senior Lawyer, Prosecution Service, Office of the Attorney, The Palace, Valletta
CTED	Mr. Mike Smith	Assistant Secretary-General, Executive Director
CTED	Mr. Trevor Michael Rajah	Senior Legal Officer; Coordinator, Legal and Law Enforcement Working Group
CTED	Mr. David Scharia	Legal Officer
CTED	Mr. Syed Haider Shah	Legal Officer
CTED	Ms. Veronica Troya	Administration
EUROJUST	Ms. Michele Coninx	Vice-President
EU CT Coordinator	Ms. Christiane Höhn	Adviser to EU Counter-Terrorism Coordinator
UNODC	Mr. Mauro Miedico	Coordinator, Specialized Terrorism Prevention Unit

Annex II Agenda

**Follow-up seminar on bringing terrorists to justice:
“The prosecution and counter-terrorism investigations”
Ankara, 18-20 July 2011**

Pre-registration

Sunday, 17 July 2011

17:30-20:00	Pre-registration at Hilton Hotel, Ankara
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Day 1

Monday, 18 July 2011

9:30-10:00	Opening remarks: - Mr. Abdullah Cebeci (Judge, Deputy Director General, Ministry of Justice, Turkey) - Mr. Mike Smith (Assistant Secretary-General, United Nations; Executive Director, Counter-Terrorism Committee Executive Directorate (CTED))
10:00-10:30	Briefing on the report of the Security Council Committee established pursuant to resolution 1373 (2001) on the Practitioners’ Seminar on “Bringing Terrorists to Justice”, held at United Nations Headquarters from 1 to 3 December 2010 (S/2011/240) - Mr. Trevor Rajah (Senior Legal Officer, CTED, United Nations) - Mr. David Scharia (Legal Officer, CTED, United Nations) - Mr. Syed Haider Shah (Legal Officer, CTED, United Nations)
10:30-11:30	“Principles for conducting lawful covert investigations” <i>Moderator:</i> - Mr. Mauro Miedico (Coordinator, Specialized Terrorism Prevention Unit, Terrorism Prevention Branch, UNODC) <i>Lead speakers:</i> - Mr. Aaron M. Bugeja (Senior Prosecutor, Prosecution Service, Office of the Attorney General; Vice-Chair, Committee of experts on Terrorism, Council of Europe) - Ms. Dolores Delgado Garcia (Terrorism Coordinator, Prosecutor of the General State Prosecutor's Office, Spain)
11:30-11:45	Coffee break
11:45-13:00	“Relations between the prosecution and investigative and intelligence communities” <i>Moderator:</i> - Mr. Mounir Idriss Lallali (African Centre for the Study and Research on Terrorism)

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	<p>(ACSRT))</p> <p><i>Lead speakers:</i></p> <ul style="list-style-type: none"> - Mr. Eduardo Casal (Public Prosecutor, Supreme Court of Argentina) - Ms. Mahayu Dian Suryandari (Prosecutor, Task Force for Combating Terrorism and Transnational Crime, Attorney-General’s Office, Indonesia)
13:00-14:45	Lunch break
14:45-16:15	<p>“Protection of sensitive law-enforcement and intelligence information”</p> <p><i>Moderator:</i></p> <ul style="list-style-type: none"> - Dr. Ali Fayez Al-Shehri (Ministry of Justice and Bureau of Investigation and Prosecution, Saudi Arabia) <p><i>Lead speakers:</i></p> <ul style="list-style-type: none"> - Ms. Karen Jones (Crown Advocate, Crown Prosecution Service, United Kingdom) - Mr. Celestino Gerald Cabrera (Assistant Secretary and Head of Anti-Terrorism Council, Program Management Center, Office of Special Concerns, Philippines)
16:15-16:30	Coffee break
16: 30-18:00	<p>“Transforming into evidence information gathered in covert investigations”</p> <p><i>Moderators:</i></p> <ul style="list-style-type: none"> - Mr. Scott Bruckard (Senior Assistant Director, Commonwealth Director of Public Prosecutions, Melbourne Office, Australia) <p><i>Lead speakers:</i></p> <ul style="list-style-type: none"> - Mr. Hermes Ardila Quintana (Chief, Counter-Terrorism Unit, Colombia) - Mr. Weihua LV (Prosecutor, Supreme People's Procuratorate, China)
19:00	Reception hosted by the Government of Turkey

Day 2
19 July 2011

10:00-11:30	<p>“Invoking the national security privilege and discovery proceedings”</p> <p><i>Moderator:</i></p> <ul style="list-style-type: none"> - Mr. David Scharia (Legal Officer, CTED, United Nations) <p><i>Lead speakers:</i></p> <ul style="list-style-type: none"> - Mr. Olivier Christen (Deputy Prosecutor, Chief of Section on Counter-Terrorism and Attacks against State Security, Paris, France) - Mr. Michael Lang (Resident Legal Advisor, Office of Prosecutorial Development, Assistance, and Training, United States of America)
11:30-11:45	Coffee break
11:45–13:00	<p>“Invoking the national security privilege and discovery proceedings”</p> <p><i>Moderator:</i></p>

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	<p>Mr. Syed Haider Shah (Legal Officer, CTED, United Nations)</p> <p><i>Lead speakers:</i></p> <ul style="list-style-type: none"> - Ms. Rachel Matar (Deputy Director, Criminal Division at State Attorney’s Office, Ministry of Justice, Israel) - Mr. Fodié Touré (Public Prosecutor, II Commune, Bamako, Mali)
13:00–15:00	Lunch break
15:00–18:00	<p>Open discussion</p> <p><i>Moderator:</i></p> <ul style="list-style-type: none"> - Mr. Mike Smith (Assistant Secretary-General, United Nations; Executive Director, Counter-Terrorism Committee Executive Directorate (CTED))
18:30-20:00	<p>“French cocktail” Embassy of France in Turkey 70 Paris Caddesi KAVAKLIDERE, 06690 ANKARA Turkey</p>

Day 3
20 July 2011

10:00-11:30	<p>“Use of anonymous witnesses and protection of witnesses during prosecution”</p> <p><i>Moderator:</i></p> <ul style="list-style-type: none"> - Mr. Trevor Rajah (Senior Legal Officer, CTED, United Nations) <p><i>Lead speakers:</i></p> <ul style="list-style-type: none"> - Mr. Stefano Dambruoso (Prosecutor; Head, Office for the Coordination of International Affairs, Ministry of Justice, Italy) - Ms. Lilian Akinyi Okumu (Senior State Counsel, Director of Public Prosecutions, Kenya) - Ms. Habibat Eluameh (Senior State Council, Federal Ministry of Justice, Nigeria) - Mr. Yuksel Erdogan (Deputy, Ministry of Justice General Directorate of Laws, Turkey)
11:45 – 13:00	<p>“International cooperation in conducting covert investigations and in prosecutions” (I)</p> <p><i>Moderator:</i></p> <ul style="list-style-type: none"> - Mr. Ignacio Ibañez (Manager, Legislative Assistance and Terrorism Financing Programme, CICTE) <p><i>Lead speakers:</i></p> <ul style="list-style-type: none"> - Ms. Michele Coninx (Vice President, EUROJUST) - Mr. Ranganath Manthripragada (Counter-Terrorism Section Trial Attorney, National Security Division, Department of Justice, United States of America)
13:00-14:30	Lunch break
14:30-16:30	“International cooperation in conducting covert investigations and in prosecutions”

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	<p>(II)</p> <p><i>Moderator:</i></p> <ul style="list-style-type: none">- Ms. Karen Jones (Crown Advocate, Crown Prosecution Service, United Kingdom) <p><i>Lead speakers:</i></p> <ul style="list-style-type: none">- Mr. I. Suchilin (Senior Prosecutor, Principal Department for International and Legal Cooperation, the General Prosecutor's Office, Russian Federation)- Mr. Timur Demir (Judge, Ministry of Justice, Director-General of International Law and Foreign Affairs, Turkey)- Ms. Christiane Höhn (Adviser to European Union Counter-Terrorism Coordinator, Council of the European Union)- Mr. Jacques Lemire (Counsellor, International Criminal Operations, Embassy of Canada, Paris, France)
16:45-17:30	<p>“The way forward”: open discussion and conclusion of seminar</p> <p><i>Moderator:</i></p> <ul style="list-style-type: none">- Mr. Mike Smith (Assistant Secretary-General, United Nations; Executive Director, Counter-Terrorism Committee Executive Directorate (CTED))
17:30-18:00	<p>Closing remarks:</p> <ul style="list-style-type: none">- Government of the United States of America- Government of Turkey