

[Concept note]

Informal open briefing of the Counter-Terrorism Committee on

“Legal issues and challenges relating to the treatment and prosecution of returning foreign terrorist fighters, including emerging issues”

United Nations Headquarters, New York, 8 November 2017

I. Introduction

1. Security Council resolution 2322 (2016) directs the Counter-Terrorism Committee, with the support of the Counter-Terrorism Committee Executive Directorate (CTED), to identify gaps and trends in international cooperation in counter-terrorism matters. Within the framework of Council resolution 2322 (2016) and the of mandates of the Committee and CTED pursuant to Council resolutions 2309 (2016), 2341 (2017) and 2370 (2017), the proposed informal open briefing will address specific emerging issues, including the collection of evidence by military actors on the battlefield, threats to critical-infrastructure and maritime security, and the global trend towards the “weaponization of things” (including vehicles).

2. In order to respond to the evolving global terrorist threat, it is vital to understand the nature and scope of the related challenges. One major development is the evolving nature of the threat posed by the Islamic State in Iraq and the Levant (ISIL, also known as Da’esh) and by Al-Qaida-affiliated terrorist groups. As ISIL continues to lose territory in the Syrian Arab Republic and Iraq, ISIL and other terrorist groups have moved into a new phase, marked by the geographical dispersal of foreign terrorist fighters (FTFs) and by an increase in well-prepared and centrally directed attacks carried out against critical infrastructure and civilian (“soft”) targets, often perpetrated by terrorists inspired by ISIL and / or coordinated by returning or relocating FTFs.

3. This development creates additional challenges for law enforcement and judicial officers. The investigation and prosecution of FTFs poses specific challenges relating to the collection, preservation and sharing of evidence that is admissible in a criminal court. In such cases, the evidence may be located in States in (post-) conflict situations and it may be difficult or impossible for practitioners to travel to the States concerned to conduct investigations on site. There may also be difficulties posed by the volume of information that needs to be processed in order to ascertain whether evidence, including evidence collected from the battlefield, is usable in Member States’ court system, noting that each State has their own rules of admissibility of evidence no matter where it is found. Additional difficulties may also include determining what is envisaged by battlefield evidence and support for local criminal justice systems, as appropriate.

II. Objective of proposed briefing

4. The purpose of the proposed informal open briefing is to raise Member States' awareness of the related legal issues. Member States may also wish to discuss ways to strengthen implementation of the current international counterterrorism legal framework.

III. Format of discussions and topics for discussion

5. The briefing will consist of two sessions. The first session will focus on the collection of evidence from the battlefield. CTED will present an overview of the related challenges within the framework of its own mandate and that of the Committee. An international expert will describe his experience with and challenges facing, the military in the collection, preservation and sharing of evidence aimed at bringing terrorists to justice within a rule-of-law framework, in order to raise awareness around the issue.

6. The second session will focus on an overview of law enforcement related initiatives in addressing emerging threats. CTED will present an overview of the efforts of the Committee and CTED to address the emerging threats identified in Council resolutions 2322 (2016), 2309 (2016), 2341 (2017) and 2370 (2017). Those threats include the acquisition of weapons by terrorists; 3D file printing; control of "new borders"; the vulnerability of critical infrastructure, civilian ("soft") targets, civil aviation, and the maritime environment; and the global trend towards the "weaponization of things" (including vehicles).

7. The Committee Chair and Vice-Chairs will act as meeting Chairs and/or moderators.

8. CTED will circulate an annotated agenda and meeting documentation, which will also be posted on the Committee's website.

IV. Date and venue

9. The informal open briefing will be held at United Nations Headquarters, New York, on Wednesday, 8 November 2017, in Conference Room 12, from 2.00 p.m. to 4.00 p.m.

V. Expected outcomes

10. Member States will be informed of the legal and administrative issues associated with the selected emerging threats and of the proposed work to be done in this area by the Committee and CTED.

VI. Communications

11. CTED will promote the informal open briefing through the appropriate channels. A press release will be issued following the meeting.