



UNITED NATIONS SECURITY COUNCIL
COUNTER-TERRORISM COMMITTEE

Security Council Guiding Principles on Foreign Terrorist Fighters:

The 2015 Madrid Guiding Principles + 2018 Addendum



**A practical tool for Member States
to stem the flow of foreign terrorist fighters**



Security Council Guiding Principles on Foreign Terrorist Fighters:

The 2015 Madrid Guiding Principles + 2018 Addendum

S/2015/939 and S/2018/1177

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Preface

Intended as a practical tool to assist Member States in stemming the flow of foreign terrorist fighters, the guiding principles on foreign terrorist fighters (Madrid Guiding Principles) were identified at a special meeting of the Security Council Counter-Terrorism Committee held in Madrid in July 2015. The 35 guiding principles were subsequently adopted by the Security Council (S/2015/939) in December 2015. In light of important developments since, including the adoption by the Security Council of its resolution 2396 (2017) that focuses on returning and relocating foreign terrorist fighters, the Committee saw the need to update those principles and did so by adopting an addendum in December 2018.

The adoption of the addendum was prepared following extensive consultations with a broad range of stakeholders, exchanges with civil society representatives, a briefing by the Chair to the wider membership of the United Nations, input from the academic community and a special meeting of the Counter-Terrorism Committee that involved engagement with international and regional organizations, as well as with practitioners and experts, to better understand how to address the challenges from the constantly evolving phenomenon.

The addendum, containing 17 additional Guiding Principles, was subsequently adopted by the Security Council (S/2018/1177). Together with the original set of 35 Madrid Guiding Principles, the addendum brings the total number of guiding principles to 52.

It is my hope that this publication will enhance Member States' efforts to stem the flow of foreign terrorist fighters, including returning and relocating them.



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Chair of the Security Council Counter-Terrorism Committee

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Guiding principles on foreign terrorist fighters

Introduction

Foreign terrorist fighters pose an acute and growing threat to international peace and security. Their activities can increase the intensity, duration, intractability and unpredictability of conflicts and pose a serious threat to their States of origin, the States through which they transit and the States to which they travel, as well as to States neighbouring zones of armed conflict in which those fighters are active. Over the past decade, the regions in which foreign terrorist fighters are active have witnessed a significant increase in violence, insecurity and instability. These fighters may be engaged in terrorism, war crimes, crimes against humanity and gender-related crimes.

Another significant risk derives from the activities of foreign terrorist fighters upon their return to their own States or upon their arrival in third States. Many fighters leave their homes with no intention of returning, and instead do so with the intention of starting a new life, building a new “State” or dying as martyrs. Not all return as terrorists, and many return precisely because they have become disillusioned and no longer wish to participate in armed conflict.

However, those who do return may have been exposed to extreme violence, sophisticated training and battlefield experience. A small number of returning foreign terrorist fighters therefore pose a very significant threat to international peace and security.

Terrorist groups also increasingly exploit information and communications technology (ICT) for the purpose of incitement, recruitment and the facilitation of terrorist activities. They use ICT to recruit not only traditional combatants but also businessmen, engineers and other professionals. This growing ICT expertise is a significant element of the foreign terrorist fighter threat.

The Security Council, in its resolution [2178 \(2014\)](#), adopted on 24 September 2014 pursuant to Chapter VII of the Charter of the United Nations, acknowledges the increasing threat posed by foreign terrorist fighters and requires Member States to prevent and suppress, consistent with their obligations under international human rights law, international refugee law and international humanitarian law, the recruiting, organizing, transporting or equipping of foreign terrorist fighters, stop individuals believed to be foreign terrorist fighters from entering or transiting through their territory and ensure that their domestic laws and regulations establish serious criminal offences enabling them to prosecute and penalize prohibited conduct related to foreign terrorist fighters. The resolution represents a significant milestone in the international response to the foreign terrorist fighter phenomenon.

In the statement by the President of the Security Council of 19 November 2014 ([S/PRST/2014/23](#)), the Council encouraged the Committee to hold open meetings, with the participation of Member States and relevant international and regional organizations, and to share national and regional experiences in addressing the threat posed by foreign terrorist fighters and violent extremism. Furthermore, in the statement by the President of 29 May 2015 ([S/PRST/2015/11](#)), the Council “recognizes that addressing the threat posed by foreign terrorist fighters requires comprehensively addressing underlying factors, including by preventing radicalization to terrorism, stemming recruitment, inhibiting foreign terrorist fighter travel, disrupting financial support to foreign terrorist fighters, countering violent extremism, which can be conducive to terrorism, countering incitement to terrorist acts motivated by extremism or intolerance, promoting political and religious tolerance, economic development and social cohesion and inclusiveness, ending and resolving armed conflicts, and facilitating reintegration and rehabilitation”.

Accordingly, on 28 July 2015, the Committee held a special meeting on stemming the flow of foreign terrorist fighters, which was preceded by a series of technical sessions organized by the Counter-Terrorism Committee Executive Directorate. The meeting and technical sessions were hosted by the Government of Spain in Madrid and were attended by approximately 400 participants from Member States representing every region of the world, including those most affected by the threat of foreign terrorist fighters, relevant international and regional organizations, academia and civil society. In accordance with resolution 2178 (2014), the participants discussed the principal gaps in the capacities of Member States to implement resolutions 1373 (2001) and 1624 (2005) that may hinder the abilities of Member States to stem the flow of foreign terrorist fighters.

The participants also shared effective practices and approaches to stemming the flow of foreign terrorist fighters, focusing on: (a) the detection of, intervention against and prevention of the incitement, recruitment and facilitation of foreign terrorist fighters; (b) the prevention of travel by foreign terrorist fighters; and (c) criminalization, prosecution, including prosecution strategies for returnees, international cooperation and the rehabilitation and reintegration of returnees.

The main outcomes of the special meeting and technical sessions, including specific effective practices and approaches, have been incorporated into the present set of guiding principles in an effort to assist Member States in their efforts to stem the flow of foreign terrorist fighters. The principles are intended to complement the other materials prepared by the Executive Directorate to help States to strengthen their implementation of resolutions 1373 (2001), 1624 (2005) and 2178 (2014).¹

The participants reaffirmed the need for States to ensure that all measures taken to counter the threat of foreign terrorist fighters were fully compliant with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law, and noted that efforts to do so involved numerous and significant challenges.

In order to develop an effective global response to the constantly evolving threat of foreign terrorist fighters and to ensure the effective implementation of the relevant Security Council resolutions, in particular resolution 2178 (2014), Member States, international and regional organizations, academia and civil society organizations should continue to share experiences and good practices, conduct related research and analysis and assist one another with capacity-building. It will also be necessary to strengthen the resources of Member States to implement the resolution. The challenges in implementing it are complex, and the Committee and Executive Directorate will continue to work closely with all actors concerned to help States to meet the considerable challenges involved.

The following guiding principles for the implementation of resolution 2178 (2014) were identified by the participants in the special meeting and endorsed by the Committee. Many of the guiding principles set forth in this document build upon existing good practices and the work of the Global Counterterrorism Forum, in particular its adopted comprehensive set of good practices to address foreign terrorist fighter phenomenon, the Organization for Security and Cooperation in Europe (OSCE), the European Union, the African Centre for Studies and Research on Terrorism, and the Meeting of Heads of Special Services, Security Agencies and Law-Enforcement Organizations.

¹ See the website of the Counter-Terrorism Committee (<http://un.org/en/sc/ctc/resources/index.html>).

I. Detection of, intervention against and prevention of the incitement, recruitment and facilitation of foreign terrorist fighters

The discussions on this topic focused on preventing the travel of aspiring foreign terrorist fighters through the creation of strategic partnerships between governmental and non-governmental actors. The participants considered the origins and nature of the problem of foreign terrorist fighters, the threat posed by the incitement and recruitment of such fighters and effective and practical tactics at the community level for stemming their flow, including with the support of youth, families, women, religious, cultural and educational leaders and other civil society groups. The participants stressed the value of adopting a comprehensive approach that combined effective law-enforcement and intelligence strategies with cooperation between governmental and non-governmental actors. Local communities can provide valuable insights into the factors that make the individuals targets of incitement and recruitment commit terrorist acts and can play a key role in preventing their travel. It is also essential to respect the independent roles of the various actors concerned and to avoid using civil society for law-enforcement purposes. Member States must ensure compliance with their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law. Member States are urged to ensure the participation and leadership of women and women's organizations in developing strategies to counter terrorism and violent extremism that can lead to terrorism, including by countering incitement to commit terrorist acts, creating counternarratives and other appropriate interventions and building their capacity to do so effectively, and to address, including by the empowerment of women, youth, religious and cultural leaders, the conditions conducive to the spread of terrorism and violent extremism that can lead to terrorism.

A. Understanding the threat and creating strategic partnerships

An effective approach to stemming the flow of foreign terrorist fighters requires the involvement of many different stakeholders, all of which should strive to build a climate of trust and to understand the issues affecting different communities. Efforts to detect and prevent the activities of foreign terrorist fighters should involve not only law-enforcement agencies but also a wide variety of community stakeholders. It is essential to identify grievances and other social or personal factors that may lead individuals to consider travel for the purpose of engaging in terrorist acts.

Guiding Principle 1

Governments should recognize that terrorism and violent extremism are complex and context-specific. While religion is sometimes cited as a driving factor, other factors, including ideological, social or psychological factors, can also be decisive. States should devote greater resources to supporting social services and funding relevant research in order to strengthen their understanding of the reasons why individuals become aspiring foreign terrorist fighters. In many cases, individualized intervention may be the only effective way to address radicalization to violence.

Guiding Principle 2

Because local stakeholders often have the best understanding of the nature and sources of the foreign terrorist fighter phenomenon, States should create space for civil society and develop innovative mechanisms for dialogue between the Government and local communities, youth, families, women, religious, cultural and education leaders and all other concerned groups in civil society. Constructive dialogue between the Government and communities is a crucial factor in building community resilience, identifying and addressing grievances and identifying persons targeted for recruitment by terrorists. Possible forms of dialogue include community-awareness briefings, town halls, the creation of an independent ombudsman's office, platforms for communities to express grievances and other gatherings to discuss community concerns and the creation of policy committees to counter violent extremism involving governmental and non-governmental actors. It is important that such mechanisms be put in place at the local and national levels.

Guiding Principle 3

More focus should be placed on working with families, which will have a natural interest in preventing the departure of their relatives. States should strengthen communication with families, while ensuring that such interaction is voluntary and not imposed. The establishment of national or regional "hotlines" may also be an effective practice. Governments should provide support to services that engage with families; however, such services should be kept separate from security agencies. Efforts should be made to provide assistance and counselling in multiple disciplines, including psychological, social, religious and ideological counselling.

Guiding Principle 4

States should devote resources to educational programmes that develop critical thinking skills and build awareness and understanding of different cultures. Critical thinking and raised awareness can be crucial to reducing the susceptibility of young people to the messages of terrorist groups and violent extremists. One area in which education is especially crucial is refugee camps, where young people are vulnerable to violent extremist messaging and terrorist recruitment.

Guiding Principle 5

States should protect the right to freedom of religion or belief. Local communities are often best placed to engage with religious institutions in order to prevent their subversion by terrorists and their supporters. Consideration should also be given to promoting the greater engagement of women in this regard.

Guiding Principle 6

Maintaining the memory of victims of terrorism or amplifying survivors' voices can play an important role in countering the messages of terrorists and violent extremists. States should therefore make a special effort to establish partnerships with victims and victim associations as part of their overall strategies to stem the flow of foreign terrorist fighters. Victims should have the opportunity to play a decisive role in efforts to counter violent extremism by making their voices heard if they wish to do so.

B. Community engagement and empowerment of local communities and civil society

Terrorism will not be defeated by military force, law-enforcement measures and intelligence operations alone. There is also a need to address the conditions conducive to the spread of terrorism, in accordance with pillar I of the United Nations Global Counter-Terrorism Strategy. In this respect, participants in the special meeting welcomed the provisions of resolution 2178 (2014) encouraging Member States to engage with relevant local communities and non-governmental actors in developing strategies to counter the violent extremist narratives that can incite terrorist acts, including by empowering youth, families, women, religious, cultural and education leaders and all other concerned civil society groups. Greater efforts in this area can lead to increased success in stemming the flow of foreign terrorist fighters at the community level.

Guiding Principle 7

Effective community engagement to stem the flow of foreign terrorist fighters requires action in a number of different fields. States should consider developing comprehensive strategies to counter and prevent violent extremism that include significant roles for youth, families, women, religious, cultural and educational leaders and other concerned civil society groups. Independent actors give actions to counter violent extremism a level of credibility and effectiveness that Governments generally cannot achieve alone. However, care should be exercised in delineating the respective roles of Governments and civil society actors.

Guiding Principle 8

Women, especially mothers, can play a crucial role as community leaders and role models in preventing radicalization and the flow of foreign terrorist fighters. States should make greater efforts to involve women in programmes and strategies to stem the flow of foreign terrorist fighters because their participation can have a major impact, in particular where their family members are concerned. Such efforts could involve promoting the greater inclusion of women in policymaking and law-enforcement bodies to stem the flow of foreign terrorist fighters and increasing opportunities for women's civil society groups to participate in dialogue on effective approaches. States should pay close attention to the security risks encountered by women engaged in these efforts.

Guiding Principle 9

Youth are often best able to recognize trends by terrorists and violent extremists in their communities to identify individuals at risk and influence their cohorts. States should therefore create mechanisms enabling young people to play a role in policymaking discussions that may be relevant to stemming the flow of foreign terrorist fighters. The engagement of young people can be facilitated through youth mentorship and skills development programmes, community service projects and enhanced educational opportunities that increase their sense of belonging. In all cases in which young people are given the opportunity to become engaged, States must take full account of their security needs.

Guiding Principle 10

Engagement between government and non-governmental actors should be based on a foundation of trust and respect. There should be recognition of the leading role to be played by Governments in taking effective action to stem the flow of foreign terrorist fighters, as well as an acknowledgement of the risks faced by security forces. Governments also have an obligation to uphold their international legal obligations in all their counter-terrorism efforts. In the case of civil society and human rights defenders, this includes safeguarding the ability of non-governmental actors to operate in a secure environment and fully respecting human rights and fundamental freedoms, including the freedoms of thought, conscience, expression, religion, peaceful assembly and association.

C. Community-policing and Internet-related law-enforcement initiatives

Law-enforcement measures are essential to stemming the flow of foreign terrorist fighters. There is therefore a need to promote dialogue through methods that include engagement with communities and a commitment to transparency. One innovative approach adopted by an increasing number of States is the use of community-policing techniques. States should also pay close attention to communication related to foreign terrorist fighters, whether at public gatherings or through the Internet and other communications technologies, while ensuring respect for human rights, including freedom of expression, and recalling that any restrictions thereon shall only be such as are provided by law and are necessary on the grounds set out in article 19, paragraph 3, of the International Covenant on Civil and Political Rights, and for privacy.

Guiding Principle 11

States should consider promoting greater reliance on community-policing techniques as part of their overall approach to stemming the flow of foreign terrorist fighters. Community policing is based on the development of mutual trust between law-enforcement entities and the communities they serve. States need to reduce the corrosive effect of excessive force, arbitrary detention and impunity on community relations and legitimacy. The objective should not be simply the short-term acquisition of intelligence, but rather the creation of long-term relationships that can enhance the capacity to detect and prevent the possible departure of aspiring foreign terrorist fighters. Successful community policing should not focus exclusively on counter-terrorism and countering violent extremism, but should instead address the full range of community concerns, thereby building trust.

Guiding Principle 12

States should, as appropriate, include effective and swift measures to prevent and counter incitement to commit terrorist acts as part of a comprehensive strategy to stem the flow of foreign terrorist fighters, while upholding their international human rights obligations.

Guiding Principle 13

States, regional organizations, the private sector and civil society should establish effective partnerships, with a view to developing improved methods for monitoring and studying terrorist content transmitted over the Internet and other communications technologies and countering incitement to commit terrorist acts, utilizing it for intelligence work and referring it, where appropriate, to relevant law-enforcement agencies. Countermessaging can also be an effective measure. All actors should enhance dialogue concerning terrorist content transmitted over the Internet and other modern communications technologies in order to ensure that the most appropriate and useful action is taken with respect to such content.

Guiding Principle 14

The Internet and other modern communications technologies are a vital means to seek, receive and impart information and ideas. States must ensure that any measures, including enforcement actions taken to restrict freedom of expression, comply with their obligations under international human rights law.

II. Prevention of travel by foreign terrorist fighters, including through operational measures, the use of advance passenger information and measures to strengthen border security

In its resolution 2178 (2014), the Council reaffirmed that all States shall prevent the movement of terrorists or terrorist groups by effective border controls. The Council also encouraged States to employ evidence-based traveller risk-assessment and screening procedures in their existing authorities, including the collection and analysis of travel data, and to intensify and accelerate the exchange of operational information regarding actions or movements of terrorists or terrorist networks, including foreign terrorist fighters, and called upon States to require that airlines operating in their territories provide advance passenger information to the appropriate national authorities in order to detect the departure from their territories, or attempted entry into or transit through their territories, by means of civil aircraft, of individuals designated by the Committee established pursuant to resolutions 1267 (1999) and 1989 (2011). The discussions during the special meeting resulted in the identification of a number of elements that would strengthen operational and practical measures aimed at stemming the flow of foreign terrorist fighters.

A. Operational measures to stem the flow of foreign terrorist fighters

1. Collection of information related to foreign terrorist fighters from various sources

In order to effectively address the cross-border flow of foreign terrorist fighters, appropriate information about the identity of existing or potential fighters, upon which border authorities can make informed decisions, should be made available in a timely manner to border posts and other relevant agencies for further action. Information on foreign terrorist fighters may be either specific or general in nature. Specific information includes information obtained from sources such as law-enforcement and intelligence agencies; advance passenger information; biometrics; national and international watch lists; notices of the International Criminal Police Organization (INTERPOL); databases, including the one of foreign terrorist fighters; diffusion notices; and analytical products; and informants. General information includes, passenger name record data and the results of trends analysis and risk assessments.

Guiding Principle 15

In order to obtain information to help to identify existing or potential foreign terrorist fighters:

- (a) States should consult national, regional and international sources of information on foreign terrorist fighters
- (b) National law-enforcement and security agencies should actively transmit relevant information that may be of use in identifying existing or potential foreign terrorist fighters;
- (c) Relevant regional and international organizations should provide the tools and the means, such as a database of foreign terrorist fighters, for the collection and dissemination of specific and general forms of information related to foreign terrorist fighters, with a focus on utilizing already existing, widely used and proven mechanisms, such as I-24/7, the secure global police-to-police communication system of INTERPOL;
- (d) Information should be transmitted to officials at land, air and maritime ports of entry or to a centralized location for processing, prior to the arrival or departure of travellers, through established mechanisms;
- (e) The collection, storage and sharing of information should be conducted in a non-discriminatory manner.

2. Reliance on analysis to make general information on foreign terrorist fighters actionable

Information received must be processed and analysed in order to exploit its full potential to identify existing or potential foreign terrorist fighters through informed decisions. In many cases, the specific information received should be analysed for comparison against known profiles of foreign terrorist fighters and the development of new profiles to better inform future analyses, with the ultimate aim of facilitating their timely dissemination to front-line officials. A specific challenge associated with the analysis of the activities of foreign terrorist fighters is their use of evasive travel patterns, or “broken travel”, which is the deliberate use of techniques to break long-distance travel into multiple segments so that it becomes difficult to ascertain travel history and travel origin and prevent border authorities and counter-terrorism officials from accurately determining where they were prior to their arrival in a particular State. An associated challenge is distinguishing “broken travel” intended to evade counter-terrorism authorities from benign travel patterns that appear broken, but which have an innocuous purpose, such as cost savings or the redemption of frequent flyer miles.

Guiding Principle 16

In order to exploit the full potential of information on the identity of existing or potential foreign terrorist fighters, States should consider:

- (a) Establishing a dedicated analytical team and providing it with the tools and resources required to derive meaningful and actionable results;
- (b) Ensuring that information collected about existing or potential foreign terrorist fighters is made available to the analytical team in a timely manner in order to facilitate the necessary analysis;
- (c) Ensuring that risk analysis and indicator development are employed as tools to help to identify specific risks;
- (d) Developing risk indicators that are gender-sensitive;
- (e) Undertaking, with the assistance of relevant international organizations and other experts, specific measures to improve understanding of the use of broken travel patterns by foreign terrorist fighters.

3. Transmitting analysis and information on foreign terrorist fighters nationally and internationally

Information and related analyses on existing and potential foreign terrorist fighters should be shared across the security hierarchy nationally and with competent border authorities internationally through coordination and mechanisms for information exchange.

Guiding Principle 17

In order to ensure the availability of relevant information to front-line officers nationally and internationally, and thus enhance efforts to detect and prevent the cross-border movement of foreign terrorist fighters, States should consider:

- (a) Enacting legislation, if necessary, and implementing procedures to gather traveller information and use known traveller information, including advance passenger information, complemented by passenger name record data, if appropriate, to inform decisions about potential travel by foreign terrorist fighters;
- (b) Ensure that procedures are in place to make certain that information on known or suspected foreign terrorist fighters is transmitted to front-line border officials for their action prior to the departure or arrival of the traveller;
- (c) Establishing mechanisms for the provision of feedback on the validity and usability of the information, as well as on the results achieved;
- (d) Encouraging the bilateral and multilateral sharing of information and analysis related to foreign terrorist fighters;
- (e) Expanding access to, and the utilization of, the global information-sharing tools and resources of INTERPOL among the national law-enforcement, immigration and border security authorities of member countries.

4. Effective utilization of information related to foreign terrorist fighters at border points

It is essential to provide appropriate training and updated instructions to front-line officers on the risks posed by terrorism, in particular by foreign terrorist fighters, and the manner in which available information and tools can be fully and effectively utilized to identify existing or potential fighters at border entry and departure points. Appropriate training and instructions can ensure the effective utilization of information analysis related to foreign terrorist fighters at border points.

Guiding Principle 18

In order to effectively utilize information and analysis related to foreign terrorist fighters at border entry and departure points, States should consider:

- (a) Establishing at all border locations mechanisms, including technology such as I-24/7, to ensure the prompt receipt of potential travel information related to foreign terrorist fighters;
- (b) Providing at border locations the appropriate tools to produce risk assessments aimed at preventing the travel of foreign terrorist fighters;
- (c) Ensuring that relevant security and border-control officials are sufficiently trained in the practices and procedures of risk analysis and risk indicator development, and in their application, in the identification of existing or potential foreign terrorist fighters;
- (d) Facilitating greater working-level cooperation and coordination by all agencies, including those operating at the border;
- (e) Ensuring that border-control officials are adequately trained in counter-terrorism issues and that counter-terrorism agents are adequately trained in border security issues;
- (f) Raising awareness among border-control officials of the specific challenges associated with detecting female foreign terrorist fighters, including the fact that they are younger and less likely to be known to intelligence and law-enforcement officials;
- (g) Employing traveller risk assessment and screening procedures, including the collection and analysis of travel data, without resorting to profiling based on stereotypes founded on grounds of discrimination prohibited by international law.

5. Addressing gaps in the use of advance passenger information and expanding its use to stem the flow of foreign terrorist fighters

An advance passenger information system enables border authorities to determine passenger risk before flights arrive on their territories, before passengers are approved for boarding in order to detect the departure from their territories or before the attempted entry into or transit of suspected foreign terrorist fighters through their territories. The use of passenger name record systems, if permissible under national law, can complement advance passenger information data and help to inform decisions on potential foreign terrorist fighters. However, advance passenger information systems are complex and require a high degree of technical capacity and skill and adequate resources.

Guiding Principle 19

In order to facilitate the broader and more comprehensive use of advance passenger information, States should consider:

- (a) Implementing an advance passenger information system that complies with annex 9 to the Convention on International Civil Aviation and the guidelines on advance passenger information of the World Customs Organization, the International Air Transport Association and the International Civil Aviation Organization;
- (b) Implementing interactive advance passenger information, which analyses and responds to passenger data in real time and can prevent passengers from accessing aircraft or secure airport areas;
- (c) Using a “single window” that serves the needs of all agencies and appointing a single agency to be the primary receiver of advance passenger information data;
- (d) Ensuring the alignment and standardization of advance passenger information programme specifications and communication protocols with the standards and best practices agreed and adopted in the guidelines on advance passenger information;
- (e) Ensuring adherence to the prescribed set of data outlined in the guidelines;
- (f) Implementing a passenger name record system to complement advance passenger information in conducting risk assessment and respecting human rights in the collection, analysis, sharing, storage and use of passenger name record data;
- (g) Ensuring the availability of adequate resources to implement effective advance passenger information systems;
- (h) Integrating advance passenger information with the global indices and capabilities of INTERPOL, which include its Stolen and Lost Travel Documents database and Travel Documents Associated with Notices system.

B. Practical measures to strengthen the overall security of borders

1. Coordinated border management

Many States have turned to coordinated border management to effectively manage their borders. Participants in the special meeting noted the need for cooperation and coordination by all security institutions, where border security cannot be secured by one agency alone, as a means of strengthening the overall security of borders to stem the flow of foreign terrorist fighters. A coordinated border management approach can enable States to:

- (a) Strengthen the control and delivery of service;
- (b) Clarify responsibilities and lines of work;
- (c) Streamline operations;
- (d) Reduce redundancies;
- (e) Strengthen communication flows and information exchange;
- (f) Rationalize the use of human and financial resources;
- (g) Provide a more comprehensive and rapid response to emerging threats;
- (h) Respond more rapidly and effectively to emerging threats.

Guiding Principle 20

In order to strengthen coordination among the competent authorities at border locations and thereby enhance the overall security of their borders and stem the flow of foreign terrorist fighters, States should consider:

- (a) Incorporating coordinated border management principles, as appropriate, to enhance the effectiveness of border controls aimed at stemming the flow of foreign terrorist fighters;
- (b) Implementing a coordinated border management approach by establishing appropriate legal and regulatory frameworks and institutional structures, developing the required procedures and acquiring the necessary human resources, training, infrastructure and equipment.

2. Addressing spaces between official border crossings

Spaces between official border crossings are difficult to control because they often include long and porous borders, open spaces and difficult terrain. They therefore present risks and vulnerabilities for the potential crossing by foreign terrorist fighters.

Guiding Principle 21

In order to strengthen the overall security of their borders and thereby stem the flow of foreign terrorist fighters, States should consider:

- (a) Identifying the most vulnerable border stretches and implementing mitigation measures;
- (b) Establishing controls at vulnerable locations;
- (c) Establishing mobile border-processing units and/or roving patrols on the basis of risk assessment and assessed needs, and supporting them with transportable screening systems such as the Mobile INTERPOL Network Database;
- (d) Extending areas of control adjacent to official border checkpoints;
- (e) Establishing, strengthening and acting upon bilateral agreements on cross-border matters;
- (f) Increasing cooperation, coordination and information exchange with neighbouring and other States;
- (g) Introducing appropriate legal measures to deter the unauthorized crossing of borders that are compliant with all relevant obligations under international law;
- (h) Making available adequate and trained human resources to conduct border operations;
- (i) Developing and deploying cost-effective detection technologies and infrastructure, such as integrated fixed towers and mobile technologies, as appropriate;
- (j) Actively implementing bilateral and multilateral joint approaches to border-control operations;
- (k) Designating a lead coordinating and implementing agency to operationalize border-management measures related to foreign terrorist fighters.

III. Criminalization, prosecution, including prosecution strategies for returnees, international cooperation and the rehabilitation and reintegration of returnees

The five technical sessions held on this theme enabled Member States, international and regional organizations, civil society stakeholders and practitioners to share information on the analysis of gaps in all areas of the criminal justice process, as well as on effective strategies and techniques to overcome them. Many of the challenges involved in bringing foreign terrorist fighters to justice are addressed in the Counter-Terrorism Committee Executive Directorate report entitled “Bringing terrorists to justice: challenges in prosecution related to foreign terrorist fighters” (S/2015/123, annex).

A. Criminalization of acts aimed at stemming the flow of foreign terrorist fighters

Reliance on existing laws, including laws that do not deal directly with terrorist offences, has enabled many States to mount an immediate solution to the threat of foreign terrorist fighters. However, doing so also presents a number of risks and challenges, including the reluctance of courts to apply such legislation, the potential use of disproportionate penalties and difficulties in obtaining international cooperation.

Guiding Principle 22

Member States should actively review the compliance of their existing legislation with resolution 2178 (2014) and update national legislation frameworks, as needed, in order to criminalize the full range of conduct related to foreign terrorist fighters, including preparatory acts and preventive offences, required by resolutions 1373 (2001) and 2178 (2014). In criminalizing such conduct, States should ensure that these criminal offences are defined clearly in their legal systems and that such criminalization is in accordance with their obligations under the applicable international law. Member States should consider taking steps to encourage the engagement of parliamentarians, civil society, relevant international and regional organizations and policymakers in the legislative process, as appropriate.

Guiding Principle 23

Member States that have already begun the process of reviewing and updating their legislation should continue to share their experiences and good practices with other Member States and should seek guidance and advice from United Nations bodies and other relevant international and regional organizations. They should strive to compile and distribute new legislation in a way that is accessible to other Member States who may benefit from or require it.

Guiding Principle 24

Member States and international and regional organizations may wish to consider adopting a regional approach to addressing the criminalization of acts related to foreign terrorist fighters. The Council of Europe adopted such an approach in the form of the Additional Protocol to the Convention on the Prevention of Terrorism. A regional approach may enhance implementation, harmonization and international cooperation.

B. Investigation and prosecution of criminal offences to stem the flow of foreign terrorist fighters

Generating admissible evidence and converting intelligence into admissible evidence against foreign terrorist fighters are complex and multifaceted tasks. Specific challenges in the investigation and prosecution of cases involving foreign terrorist fighters include:

- (a) Collecting evidence from countries of destination or areas where the military may play a role;
- (b) Using intelligence or the products of special investigative techniques in court without exposing sources or methods;
- (c) Generating admissible evidence from or converting intelligence into admissible evidence information obtained through ICT, including social media;
- (d) Handling cases involving incitement to commit terrorist acts and terrorist recruitment, especially when those offences are committed through the Internet;
- (e) Proving the purpose of travel and the intent behind preparatory acts committed prior to travel.

Guiding Principle 25

Member States should consider reviewing national legislation to ensure that evidence collected through special investigative techniques or from countries of destination or evidence collected through ICT and social media, including through electronic surveillance, can be admitted as evidence in cases related to foreign terrorist fighters, while respecting international human rights law, including freedom of expression, and recalling that any restrictions thereon shall only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of article 19 of the International Covenant on Civil and Political Rights and should not be subjected to arbitrary or unlawful interference with privacy. Member States should take steps to ensure that lawfully gathered intelligence that may not be used in court can serve as a basis for a criminal investigation, including the use of special investigative techniques, which could, in turn, generate admissible evidence. Member States should consider implementing the relevant good practices and work of the Global Counterterrorism Forum, as well as other organizations that may develop similar products, such as OSCE, the European Union, the African Centre for Studies and Research on Terrorism and the Meeting of Heads of Special Services, Security Agencies and Law-Enforcement Agencies.²

² See the Rabat memorandum on good practices for effective counter-terrorism practice in the criminal justice sector of the Criminal Justice Sector and Rule of Law Working Group of the Global Counterterrorism Forum, available at www.thegctf.org/Portals/1/Documents/Framework%20Documents/A/GCTF-Rabat-Memorandum-ENG.pdf, and the recommendations of the Working Group for using and protecting intelligence information in rule of law-based, criminal justice sector-led investigations and prosecutions, available at www.thegctf.org/documents/10162/159887/14Sept19_GCTF+Rabat+GP+6+Recommendations.pdf.

Guiding Principle 26

Member States should build ICT and forensic capacities and expertise within national law-enforcement agencies and strengthen the capacity of law-enforcement agencies to monitor social media content related to terrorism in order to prevent the flow of foreign terrorist fighters in a manner that is compliant with the international human rights obligations of States. Member States should build and strengthen public-private partnerships, in particular with social media service providers, while respecting international obligations and commitments regarding human rights, including freedom of expression, and recalling that any restrictions thereon shall only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of article 19 of the International Covenant on Civil and Political Rights. In this regard, Member States should encourage the ICT industry to voluntarily develop terms of service that target content aimed at recruitment for terrorism and recruiting or inciting others to commit terrorist acts, while respecting international obligations and commitments regarding human rights.

Guiding Principle 27

Member States should consider taking steps to ensure effective inter-agency coordination, including by developing multi-agency task forces and liaison officers in order to ensure a collective response.

Guiding Principle 28

Member States should consider involving their financial authorities in investigations related to foreign terrorist fighters at the earliest opportunity. Financial investigations into transactions and financial crimes conducted and committed prior to departure can provide valuable information against foreign terrorist fighters and assist in proving the purpose of the travel.

Guiding Principle 29

Member States should consider developing a proactive approach to the investigation of offences related to foreign terrorist fighters and involving other officials, including prosecutors, in the early stages of investigation. Member States should consider developing, as early as possible, ways to collect evidence regarding the purpose of travel that is consistent with their obligations under international human rights law. Collecting and preserving evidence, such as evidence from friends, family members, social media and the communications of foreign terrorist fighters, prior to or during travel or while the fighter is in the country of destination, facilitates timely prosecutorial decisions upon the fighter's return.

C. Prosecution and rehabilitation strategies aimed at stemming the flow of foreign terrorist fighters

The employment of rigid prosecution policies and practices against foreign terrorist fighters can be counterproductive to the implementation of comprehensive strategies to combat such fighters and violent extremism. Member States should also consider alternatives to incarceration, as well as the reintegration and possible rehabilitation of returnees, prisoners and detainees. The adoption of a comprehensive, multidisciplinary approach that involves all branches of Government, as well as community and civil society stakeholders, can be a more effective way to bring terrorists to justice and can represent an effective long-term response to the risks posed by foreign terrorist fighters. Many Member States find it difficult to determine how to respond to the potential threat posed by specific categories of travellers, including minors, family members and other potentially vulnerable individuals, providers of medical services and other humanitarian needs and disillusioned returnees who have committed less serious offences. More research and sharing of experiences is needed in order to develop effective, context-specific criminal justice responses to foreign terrorist fighters and enable the effective assessment of the risks posed by various categories of returnees. In combating the threat of foreign terrorist fighters, it is important to address the full range of serious crimes committed during travel, in particular war crimes, crimes against humanity and gender-related crimes. Moreover, it is important to conduct an initial assessment of the foreign terrorist fighter to determine the level of culpability and thereby determine the appropriate way to handle each individual.

Guiding Principle 30

Member States should ensure that their competent authorities are able to apply a case-by-case approach to returnees, on the basis of risk assessment, the availability of evidence and related factors. Member States should develop and implement strategies for dealing with specific categories of returnees, in particular minors, women, family members and other potentially vulnerable individuals, providers of medical services and other humanitarian needs and disillusioned returnees who have committed less serious offences. Prosecution strategies should correspond to national counter-terrorism strategies, including effective strategies to counter violent extremism.

Guiding Principle 31

Member States should consider appropriate administrative measures and/or rehabilitation and reintegration programmes as alternatives to prosecution in appropriate cases. Such measures should be used in a manner compliant with applicable international human rights law and national legislation and should be subject to effective review.

Guiding Principle 32

Member States should ensure that their criminal justice systems are capable of dealing with all serious crimes committed by foreign terrorist fighters, in particular war crimes, crimes against humanity and crimes related to gender.

D. International judicial cooperation in stemming the flow of foreign terrorist fighters

There are numerous challenges associated with effective international cooperation in stemming the flow of foreign terrorist fighters, including delays in the provision of mutual legal assistance, the rigidity of procedures and lack of capacity.

Guiding Principle 33

Member States should consider reviewing national mutual legal assistance laws and mechanisms and updating them as necessary in order to strengthen their effectiveness, especially in the light of the substantial increase in the volume of requests for digital data. Member States, consistent with their national law and legal framework, should also consider establishing appropriate laws and mechanisms that allow for the broadest possible international cooperation, including effective joint investigations, the appointment of liaison officers, police-to-police cooperation, the establishment of 24/7 networks for cooperation, the transfer of criminal proceedings and the transfer of sentences.

Guiding Principle 34

Member States should consider designating mutual legal assistance central authorities and ensuring that such authorities have adequate resources, training and legal authority. Member States should also consider developing and participating in regional mutual legal assistance cooperation platforms, such as the Sahel Judicial Platform and the Regional Judicial Platform of the Sahel Countries.³ They should also consider developing and enhancing arrangements for expeditious cross-regional cooperation.

Guiding Principle 35

Member States should consider developing and implementing effective mechanisms for police-to-police cooperation and creative solutions to specific international cooperation challenges. Member States should consider increasing their use of electronic communication and universal templates, relying on police channels of communication or public information wherever possible. In doing so, they should ensure full respect for the fair trial rights of the accused.

³ See www.unodc.org/documents/terrorism/Leaflets/14-06860_A5_leaflet_E_ebook.pdf.

Addendum to the guiding principles on foreign terrorist fighters (2018)

I. Introduction

1. On 28 July 2015, the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism held a special meeting on stemming the flow of foreign terrorist fighters. Held in Madrid and hosted by the Government of Spain, the special meeting and the accompanying series of technical sessions organized by the Counter-Terrorism Committee Executive Directorate were attended by Member States of every region of the world, including those regions most affected by the threat of foreign terrorist fighters. Representatives of international and regional organizations, academia and civil society also attended. In accordance with resolution 2178 (2014), participants discussed principal gaps in the capacities of Member States to implement resolutions 1373 (2001) and 1624 (2005) that might hinder States' abilities to stem the flow of foreign terrorist fighters. Pursuant to their discussions, participants identified a set of 35 guiding principles on foreign terrorist fighters (Madrid Guiding Principles) (S/2015/939, annex II).
2. Although the application of the principles by Member States did help to slow the flow of foreign terrorist fighters (see S/2018/14/Rev.1 and S/2018/705), a significant number of individuals succeeded in reaching the conflict zones in Iraq and the Syrian Arab Republic. Since 2015, increasing numbers of foreign terrorist fighters who had joined such entities as Islamic State in Iraq and the Levant (ISIL, also known as Da'esh), the Levant Liberation Organization and other cells, affiliates, splinter groups or derivatives of ISIL, Al-Qaida or other terrorist groups have attempted to return to their countries of origin or nationality or to relocate to third countries.
3. Foreign terrorist fighters who have begun to return from conflict zones to their countries of origin or nationality or to relocate to third countries present an acute and growing threat. Some returning and relocating foreign terrorist fighters have attempted, organized, planned or participated in attacks in their countries of origin or nationality or in third countries, including against soft targets. Some foreign terrorist fighters may be travelling with family members brought with them to conflict zones, with families that they have formed in the conflict zones, or with family members born in the conflict zones (see resolution 2396 (2017)).
4. In paragraph 44 of its resolution 2396 (2017), the Security Council requested the Committee, with the support of the Executive Directorate, to review the Madrid Guiding Principles in the light of the evolving threat posed by foreign terrorist fighters, in particular returnees, relocators and their families, and other principal gaps that may hinder States' abilities to appropriately detect, interdict and, where possible, prosecute, rehabilitate and reintegrate foreign terrorist fighter returnees and relocators and their families, and to continue to identify new good practices.
5. At a special meeting of the Committee held at United Nations Headquarters on 13 December 2018, participants reaffirmed the relevance of the Madrid Guiding Principles and contributed to the development of the present addendum, which contains 17 additional guiding principles to assist Member States in their efforts to respond to the evolving foreign terrorist fighter phenomenon.
6. An effective response to the phenomenon requires that States strengthen international cooperation, including on information-sharing; border security; investigations; judicial processes; providing mutual legal assistance and extradition cooperation; improving prevention efforts and addressing the conditions conducive to the spread of terrorism; preventing and countering incitement to commit terrorist acts, consistent with international law; preventing radicalization to terrorism and the recruitment of foreign terrorist fighters; disrupting and preventing financial support to foreign terrorist

fighters; developing and implementing risk assessments on returning and relocating foreign terrorist fighters and their families; and prosecution, rehabilitation and reintegration efforts, consistent with applicable international law (ibid.).

7. The present addendum is intended to provide further guidance for an effective response to the evolving foreign terrorist fighter phenomenon, focusing on measures to be taken in the areas of border security and information-sharing; countering terrorist narratives; preventing and countering incitement and recruitment to commit terrorist acts, consistent with international law; countering violent extremism conducive to terrorism; risk assessments and intervention programmes; judicial measures, including prosecution, rehabilitation and reintegration strategies; addressing the risks of terrorist radicalization and recruitment in prisons and ensuring that prisons can instead serve to rehabilitate and reintegrate; international cooperation; protecting critical infrastructure, vulnerable or soft targets and tourism sites; and preventing and combating the illicit trafficking of small arms and light weapons.

8. Member States must ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law (ibid.). Comprehensive strategies should also take into account gender and age sensitivities (ibid., para. 31), the best interests of the child and the differential impact of terrorism and violent extremism conducive to terrorism on the human rights of women and girls (see resolution [2242 \(2015\)](#)). Respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures and form an essential part of a successful counter-terrorism effort. Failure to comply with these and other international obligations, including those set forth in the Charter of the United Nations, is one of the factors contributing to increased radicalization to violence and fosters a sense of impunity.

9. States are encouraged to ensure the effective participation and leadership of women in the design, implementation, monitoring and evaluation of counter-terrorism strategies (resolution [2396 \(2017\)](#), para. 39) and to enable and empower young people and other members of civil society to participate voluntarily in efforts to implement such strategies.¹

10. The present guiding principles draw upon the Committee's country assessments; ongoing dialogue with Member States; cooperation with the Analytical and Sanctions Monitoring Team; cooperation with international and regional organizations; engagement with civil society, including members of the Global Counter-Terrorism Research Network and other academic and research institutes; third-party intelligence; and engagement with the private sector.

11. Specific contributions were received from Member States, United Nations offices, other international and regional organizations and civil society, including members of the Global Research Network, prior to and during the special meeting of 13 December 2018.

12. As part of the review process, the Committee and the Executive Directorate also held a number of events to exchange views with and receive input from various stakeholders. Those events included: (a) a workshop conducted with members of the Global Research Network and other academics and analysts, during the World Summit on Counter-Terrorism: the Art of Counter-Terrorism hosted by the International Institute for Counter-Terrorism and held in Herzliya, Israel, from 3 to 6 September 2018; (b) an expert forum jointly organized by Qatar, the Soufan Center and the Executive Directorate and held in Doha on 30 and 31 October 2018; (c) an interactive briefing for Committee members, United Nations agencies, civil society organizations and other non-governmental actors, jointly organized by the Executive Directorate and the Global Center on Cooperative Security and held in New York on 19 November 2018; and (d) an interactive open briefing organized by the Chair of the Committee for the wider membership of the United Nations and held in New York on 20 November 2018.

¹ Guiding principles 8–10.

13. Many of the additional guiding principles set forth in the present document build upon existing good practices, which Member States should also consider implementing, in particular those of the Executive Directorate, the Office of the United Nations High Commissioner for Human Rights; the Office of Counter-Terrorism; the United Nations Office on Drugs and Crime (UNODC); United Nations University; the Financial Action Task Force and Task Force-style regional bodies; the International Air Transport Association; the International Association of Prosecutors; the International Civil Aviation Organization (ICAO); the International Criminal Police Organization (INTERPOL); the International Institute for Justice and the Rule of Law; the World Customs Organization; the African Centre for Studies and Research on Terrorism; the African Union; the Council of Europe; the European Union; the Global Counterterrorism Forum;² the Meeting of Heads of Special Services, Security Agencies and Law-Enforcement Organizations; the Organization for Security and Cooperation in Europe; and the International Centre for Counter-Terrorism.

14. In its *Technical Guide to the Implementation of Security Council Resolution 1373 (2001) and Other Relevant Resolutions*,³ the Executive Directorate provides references to specific international guidelines and good practices relevant to the implementation of the principles set forth in the present addendum. It should be noted that the Madrid Guiding Principles remain highly relevant and should be implemented in conjunction with the present addendum. States should implement these measures in a comprehensive manner, as part of their overall counter-terrorism approaches.

15. Some Member States may face capacity-building challenges and/or require technical assistance when applying the principles and practices set forth in the Madrid Guiding Principles and the present addendum. The Committee therefore encourages donor States to provide assistance to help to address such gaps. It also encourages relevant United Nations entities, including UNODC and the Office of Counter-Terrorism, to further enhance, in close consultation with the Committee and the Executive Directorate, the provision and delivery of technical assistance to States, upon request, to better support Member States' efforts to apply these principles and meet the requirements set forth in Security Council resolutions. Applying the principles that relate to border security and information-sharing may be especially resource-intensive. Many States have found that implementing their obligations with regard to advance passenger information, watch lists, databases and biometric systems requires legal frameworks, skills, capacity, expertise and equipment that they do not currently possess. The Executive Directorate has identified those as among the priority areas for capacity-building.

II. Border security and information-sharing

16. In its resolutions [1373 \(2001\)](#), [2178 \(2014\)](#) and [2396 \(2017\)](#), the Security Council stated that all Member States should prevent the movement of terrorists or terrorist groups, through effective border controls and controls on the issuance of identity papers and travel documents and through measures to prevent counterfeiting, forgery or the fraudulent use of identity papers and travel documents. All such measures must be taken in accordance with domestic law and international obligations and in full respect for human rights and fundamental freedoms.

² In its resolution [2396 \(2017\)](#), the Security Council noted the ongoing work of the Global Counterterrorism Forum, in particular the addendum to the Hague-Marrakech memorandum on good practices for a more effective response to the foreign-terrorist fighter phenomenon, with a focus on returning foreign terrorist fighters, and its comprehensive set of good practices to address the foreign terrorist fighter phenomenon.

³ Counter-Terrorism Committee Executive Directorate, *Technical Guide to the Implementation of Security Council Resolution 1373 (2001) and Other Relevant Resolutions* (2017).

17. Appropriate information concerning the identity of existing, suspected or potential foreign terrorist fighters, without resorting to profiling based on any discriminatory grounds prohibited by international law but upon which border authorities can make informed decisions, should be made available in a timely manner to ensure that foreign terrorist fighters are detected during routine border, immigration and police checks. Information on foreign terrorist fighters should be specific and could be supplemented by general information. Specific information includes information obtained from such sources as law-enforcement and intelligence agencies and the military; advance passenger information; passenger name records; biometrics; national and international watch lists; INTERPOL databases (including both the foreign terrorist fighter and the Stolen and Lost Travel Documents databases and the Travel Documents Associated with Notices system); analytical products; and informants. General information includes the results of trends analyses and risk assessments.

18. In order to maximize opportunities for the detection of foreign terrorist fighters and the prevention of their onward travel, information on foreign terrorist fighters should routinely be compared with information generated during all individual travel, including but not limited to advance passenger information, border-crossing information, biometrics, passenger name record data and visa applications, and should be appropriately shared with all States concerned.

A. Improving capabilities for detecting and interdicting terrorist travel, including effective use of advance passenger information and passenger name record data

19. The implementation of risk assessments and appropriate targeting measures by law-enforcement agencies and border-control authorities at international airports and at other entry points is essential to the identification, detection and interception of suspected foreign terrorist fighters and other high-risk passengers. The flow of passenger-related information from carriers to law-enforcement and border-control authorities can be divided into two streams: advance passenger information and passenger name record data. As noted in the Madrid Guiding Principles, an advance passenger information system enables border authorities to determine passenger risk before flights arrive on their territories, before passengers are approved for boarding to detect the departure from their territories or before the attempted entry into or transit of suspected foreign terrorist fighters through their territories. In its guidelines, ICAO has further noted that the use of passenger name record data can complement an advance passenger information system and help to inform decisions on potential foreign terrorist fighters. The introduction of advance passenger information, supplemented by passenger name record data, would greatly help States to detect foreign terrorist fighters attempting to cross their borders.⁴ Such measures are highly dependent on the validity of the travel data and other information provided to law-enforcement agencies and border-control authorities by carriers, shippers, freight forwarders and importers.

20. In its resolution [2396 \(2017\)](#), the Security Council decided that, in furtherance of resolution [2178 \(2014\)](#) and of the relevant standards established by ICAO,⁵ and for the purpose of preventing, detecting and investigating terrorist offences and travel in full respect for human rights and fundamental freedoms, Member States should establish advance passenger information systems and require air-

⁴ World Customs Organization, International Air Transport Association and International Civil Aviation Organization (ICAO), *Guidelines on Advance Passenger Information (API) (2014)*; ICAO, *Guidelines on Passenger Name Record (PNR) Data*, document 9944; and ICAO, "API guidelines and PNR reporting standards", available at www.icao.int/Security/FAL/SitePages/API%20Guidelines%20and%20PNR%20Reporting%20Standards.aspx.

⁵ The sharing of advance passenger information became mandatory on 23 October 2017, pursuant to the update of annex 9 to the Convention on International Civil Aviation. See ICAO, *Annex 9 to the Convention on International Civil Aviation: Facilitation*, 15th ed. International Standards and Recommended Practices, (October 2017).

lines operating in their territories to provide that information to the appropriate national authorities. The Council further called upon Member States to share such information with the State of residence or nationality of the passenger or the countries of return, transit or relocation and relevant international organizations, as appropriate, and ensure that the information is analysed by all relevant authorities.

21. In the same resolution, the Security Council decided that Member States should develop the capability to collect and process passenger name record data and ensure that such data was used by and shared with all their respective competent national authorities. The Council also encouraged States to share that data with relevant or concerned States to detect foreign terrorist fighters returning to their countries of origin or nationality or travelling or relocating to a third country, with particular regard to all individuals designated by the Security Council Committee pursuant to resolutions [1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#) concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities. The Council emphasized that all such measures must be taken in accordance with domestic law and international obligations and in full respect for human rights and fundamental freedoms.

22. The use of passenger name record systems in accordance with ICAO recommended practices⁶ can complement advance passenger information and help inform decisions concerning potential foreign terrorist fighters. However, passenger name record systems require considerable technical capacity, expertise and skill, as well as adequate resources. Passenger name record data are generated through the information provided by passengers as they book their airline tickets and check into their flights. This information is held in the carrier's reservation and departure control systems and may include a broad range of information, including the passenger's name, travel dates, ticket information, contact details, name of travel agent, means of payment, seat number and baggage information. Many States already use passenger name record data for law-enforcement purposes, whether on the basis of specific legislation or pursuant to general legal powers, including to combat cross-border crime. Since the use of passenger name record data involves the processing of personal data, it is important that States incorporate proper oversight on the collection and use of data and safeguards for personal information received and shared by Governments to address the privacy and protection of personal data, while also ensuring that precautions are taken against the misuse or abuse of the data by State authorities.

23. The utilization of advanced technologies to identify foreign terrorist fighters and other individuals linked to terrorism is increasing. However, efforts to ensure that border-management strategies are comprehensive, human rights-compliant, nondiscriminatory and gender- and age-sensitive continue to face significant challenges. The use of advance passenger information and passenger name record data involves the processing of personal data, which can pose human rights challenges, in particular with regard to the right to be free from arbitrary or unlawful interference with privacy. Few States possess the required resources, capacity and expertise to effectively implement highly technical advance passenger information and passenger name record systems. States, international and regional organizations and other relevant entities should therefore share their existing expertise and experiences and increase the level of technical assistance delivered to States in need.

⁶ In March 2005, the ICAO Council adopted the recommended practice on passenger name record data for inclusion in annex 9 to the Convention.

Guiding Principle 36^a

In implementing their advance passenger information and passenger name record obligations, Member States should:

- (a) Ensure that national legislation clearly regulates the way in which States can collect, use, retain and transfer advance passenger information and passenger name record data, in accordance with ICAO standards and recommended practices and with domestic law and international obligations and in full respect for human rights and fundamental freedoms, including by being consistent with article 17 of the International Covenant on Civil and Political Rights;
- (b) Ensure the availability of adequate resources and, if possible, support any capacity-building efforts, to effectively implement advance passenger information and passenger name record systems;
- (c) Obligate air carriers to transfer advance passenger information and passenger name record data to the relevant national authorities (single windows and passenger information units);
- (d) Establish and/or designate specific entities responsible for the collection, storage, processing and analysis of passenger name record data and advance passenger information received from air carriers (for example, through the establishment of passenger information units and capacity-building efforts). The passenger information units should compare passenger name record data and advance passenger information with data from relevant law enforcement databases and process them against predetermined criteria to identify persons that may be involved in a terrorist offence, without resorting to profiling based on any discriminatory grounds prohibited by international law. The units should also reply, on a case-by-case basis, to duly reasoned requests for passenger name record data and advance passenger information originating from the competent authorities;
- (e) Designate a data-protection officer to the unit responsible for monitoring the processing of passenger name record data and for implementing the relevant safeguards;
- (f) Consider sharing appropriate advance passenger information and passenger name record data with relevant or concerned Member States to detect foreign terrorist fighters returning to their countries of origin or nationality or travelling or relocating to a third country, with particular regard for all individuals designated by the Security Council Committee pursuant to resolutions [1267 \(1999\)](#), [1989 \(2011\)](#) and [2253 \(2015\)](#) concerning ISIL (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities, in full respect for human rights and fundamental freedoms, and ensure global interoperability in that regard;
- (g) Allow for such data to be compared, for instance, with data from INTERPOL databases and United Nations sanctions lists;
- (h) Ensure that passenger name record data-processing and retention frameworks incorporate oversight and privacy protections, while also ensuring that precautions are taken against the misuse or abuse of the data by State authorities;
- (i) Ensure respect for the rights of data subjects to freedom from arbitrary or unlawful interference with privacy under international law, as well as for relevant protections under national law, which may include access, rectification, restrictions on use and judicial redress.

^a See also guiding principle 19; Executive Directorate, Technical Guide, p. 63; United Nations Convention against Transnational Organized Crime; ICAO, Guidelines on Passenger Name Record (PNR) Data; World Customs Organization, International Air Transport Association and ICAO, Guidelines on Advance Passenger Information (API); International Organization for Migration, Passport Examination Procedure Manual: Second Edition – June 2016 (2017); Office of the United Nations High Commissioner for Refugees, "Addressing security concerns without undermining refugee protection", December 2015; Organization for Security and Cooperation in Europe, decision No. 6/06 on further measures to prevent the criminal use of lost/stolen passports and other travel documents; [S/2015/975](#), summary; and [S/2016/49](#), annex, para. 426.

B. Developing watch lists and databases and sharing information through bilateral and multilateral mechanisms

24. In its resolution 2396 (2017), the Security Council decided that States should develop watch lists or databases of known and suspected terrorists, including foreign terrorist fighters, for use by law enforcement, border security, customs, military and intelligence agencies, to screen travellers and conduct risk assessments and investigations, in compliance with domestic and international law, including human rights law. The Council encouraged States to share that information through bilateral and multilateral mechanisms, in compliance with domestic and international human rights law.

25. The development of watch lists or databases is critical to the processing and verification of traveller identity (biographic and biometric data) and passenger data (advance passenger information and passenger name record data) and to the detection of terrorists, including foreign terrorist fighters, returnees and relocators. Consisting of various types of data, watch lists and databases are national or regional alert systems that provide advance warnings and checking procedures to assist in the recognition and identification of suspected criminals, terrorists and suspicious goods or materials at border-crossing points or in the early detection of suspected or previously unknown criminals and terrorists. Such watch lists, and the outcomes of screenings carried out using watch lists and databases, can also be taken into consideration for the sharing of information with international organizations such as INTERPOL and relevant international competent authorities. All watch lists and databases should operate in accordance with the national laws and international obligations of States under international law. Further legislation may be required to permit searching and sharing between different databases, whether nationally or internationally. To facilitate international information-sharing, it is essential that States develop, establish and maintain appropriate national watch lists and databases and ensure that all competent national authorities have access to them. States are encouraged to ensure the interoperability of their national watch lists and databases and to establish connectivity with regional and international watch lists and databases and enable information-sharing, as appropriate, with relevant competent authorities, whether nationally or internationally.

26. The potential misuse or abuse of watch lists and databases can present human rights and rule of law challenges. There are no common international standards for developing and maintaining watch lists and databases, which are generally developed at the national level without clear, internationally recognized legal frameworks. Human rights mechanisms have noted that States do not apply universal standards and criteria for the inclusion of individuals' names in national terrorist watch lists and databases, the management and sharing of such databases or the development of possible grounds and procedures for the removal of names. As with other counter-terrorism measures, the development of effective oversight mechanisms is strongly encouraged. Member States are encouraged to share insights into legal standards or national operational practices in order to strengthen mutual understanding and possible good practices.

27. A number of international organizations have established control mechanisms. In the case of INTERPOL, for example, controls are imposed by an independent monitoring body, the Commission for the Control of INTERPOL's Files. The exchange of data between INTERPOL member States is carried out in accordance with strict guidelines to ensure the legality and quality of the information exchanged, as well as the protection of personal data.⁷

⁷ See International Criminal Police Organization (INTERPOL), *INTERPOL's Rules on the Processing of Data*, document III/IRPD/GA/2011 (2016); and INTERPOL, "Statute of the Commission for the Control of INTERPOL's Files", document II.E/RCIA/GA/2016.

Guiding Principle 37^a

In implementing their obligations to establish and maintain an integrated counter-terrorism watch list or database, Member States should:

- (a) Provide effective oversight of the entire watch list or database, paying particular attention to data-management functions and the purposes for which the data is to be used, to avoid any unauthorized extension of scope or access;
- (b) Verify that clear and appropriate criteria, including with respect to the definitions of terrorist acts, consistent with Security Council resolutions and their obligations under international counter-terrorism conventions, are developed and relied upon for the inclusion of persons' names in watch lists and databases;
- (c) Implement a regulatory framework for the enrolment, use, review, retention and deletion of data from the watch list or database;
- (d) Ensure that the communications network is secured and that appropriate security levels are in place to protect the operational environment, including the data, hardware, software and the communications network;
- (e) Ensure that the watch list or database includes input from authorized relevant law enforcement agencies, so as to ensure that the watch list or database is sufficiently comprehensive;
- (f) Ensure that the watch list or database is accessible to the relevant law enforcement agencies and border authorities;
- (g) Ensure that the actions and responses of all relevant law-enforcement agencies and border authorities, based on a match received from a watch list or database, are in compliance with domestic and international law, including human rights law;
- (h) Consider developing and implementing specific frameworks and safeguards to protect and promote the rights of the child in situations where children may be placed on watch lists or databases, including in situations where children are placed on databases for child-protection purposes. Information regarding missing children who may be victims of parental abductions, criminal abductions (kidnappings) or unexplained disappearances can also be shared through the INTERPOL Yellow Notice alert system,^b as well as through regional, bilateral and national watch lists and databases, in appropriate cases;
- (i) Contribute to and make use of INTERPOL databases and ensure that their law-enforcement, border security and customs agencies are connected to those databases through their INTERPOL National Central Bureaus and that the connection is extended to key frontline border posts, including land, air and maritime ports of entry;
- (j) Once access to the INTERPOL databases is achieved, make regular use of them in screening travellers at land, air and maritime ports of entry and for strengthening investigations and risk assessments of returning and relocating foreign terrorist fighters and their families.

^a See also S/PRST/2015/11; guiding principle 15; and Executive Directorate, *Technical Guide*, pp. 76–79.

^b See www.interpol.int/INTERPOL-expertise/Notices/Yellow-Notices.

C. Developing biometric systems and ensuring their responsible use

28. In its resolution 2396 (2017), the Security Council decided that States should develop and implement systems to collect biometric data, which could include fingerprints, photographs, facial recognition and other relevant identifying biometric data, in order to responsibly and properly identify terrorists, including foreign terrorist fighters, in compliance with domestic law and international human rights law. The Council also encouraged States to share that data responsibly among relevant Member States, as well as with INTERPOL and other relevant international bodies.

29. The ability to compare biometric data collected during the course of border and immigration vetting and investigations with data from broader national and international biometrics tools is critical for properly identifying terrorists, including when foreign terrorist fighters use falsified documents. In the context of a terrorism-related investigation, forensic science can assist investigators and prosecutors by linking an individual to a specific activity, event, place or material, or to another individual. It is therefore essential to strengthen Member States' capacities in this area.

30. States are increasingly incorporating the use of biometrics as an important counter-terrorism tool. Voice identification, iris scans, face recognition, fingerprints, DNA and body scans are just a few examples of the many digital technologies that are being developed and deployed for counter-terrorism purposes. These technologies present complex legal and policy challenges that are relevant both to States' efforts to counter terrorism and to their human rights obligations. Biometric systems are legitimate tools for the identification of terrorist suspects, but the expansive technical scope and rapid development of this technology deserves greater attention in terms of its relation to the protection of human rights, including, but not limited to, the right to be free from arbitrary or unlawful interference with privacy.

31. Any interference with privacy must comply with international human rights law, which prohibits arbitrary or unlawful interference with privacy.⁸ Biometric technology creates particular challenges because of the gap that exists between technological innovation and the introduction of legislation regulating such technology. Consequently, States should introduce effective privacy impact assessments or establish review or other types of oversight bodies, to anticipate and consider the potential impact of such new technologies or applications.

32. As Member States' use of biometric systems continues to expand, the parameters for their responsible use continue to evolve accordingly. It is imperative that such systems be implemented in compliance with domestic law and international human rights law. It is also essential to provide safeguards for the protection of data and human rights, focusing in particular on the need to ensure that all systems developed to collect and record information about children are used and shared in a responsible manner that is compliant with human rights.

⁸ International Covenant on Civil and Political Rights, article 17.

Guiding Principle 38

In implementing their obligations to collect, use and share biometric data in order to properly and responsibly identify terrorists, including foreign terrorist fighters, in compliance with domestic law and international human rights law, Member States should:

- (a) Counter the threat posed by the continual movement of suspected terrorists and foreign terrorist fighters across international borders by comparing the biometrics of individuals entering, departing or seeking residence in their country with data from other national and international biometric databases, including those of known and suspected foreign terrorist fighters;
- (b) Develop or increase their use of biometric systems in a responsible and proper manner in order to authenticate the identity of individuals and prevent them from presenting false particulars or attempting to impersonate other people;^a
- (c) Ensure effective maintenance of biometric databases and data-sharing protocols;
- (d) Adopt clear human rights-based frameworks for the use of biometric technology that include the use of procedural safeguards for and effective oversight of its application, including by establishing appropriate oversight bodies, or expanding the remit of existing ones, to supervise the implementation of relevant legislation and the provision of effective remedies in case of violations in this regard. Those efforts could be supplemented by a review process that informs all national policy and decision-making regarding the use of biometrics for counter-terrorism purposes;
- (e) Take into consideration specific issues that may arise with respect to protecting and promoting the rights of the child in the context of biometrics, including when children's biometric data is collected for child-protection purposes, and further considering putting in place specific and appropriate legal frameworks and safeguards;
- (f) Conduct regular risk assessments of the end-to-end processes of their biometric applications in order to mitigate current or emerging threats, such as identity theft, the deletion and replacement of data and deliberate damage;
- (g) Ensure that actions taken by the authorities as a result of biometric matches are considered in the context of international law, including international human rights obligations and the need for a fully informed and lawful response;
- (h) Ensure that the systems operating biometric data and the legal frameworks associated with their use allow for interoperability between other national and international biometric databases, including INTERPOL;
- (i) Maximize the use of the INTERPOL biometric databases (face, fingerprints and DNA).

^a Executive Directorate, *Technical Guide*, p. 64.

III. Preventing and countering incitement and recruitment to commit terrorist acts, consistent with international law; countering violent extremism conducive to terrorism and terrorist narratives; risk assessments and intervention programmes

33. A comprehensive approach to the threat posed by foreign terrorist fighters includes addressing the conditions conducive to the spread of terrorism; preventing radicalization to terrorism; stemming recruitment; countering incitement to commit terrorist acts; respecting human rights and fundamental freedoms; and promoting political and religious tolerance, good governance, economic development, social cohesion and inclusiveness.

34. Member States should also continue to strengthen international cooperation to address the threat posed by foreign terrorist fighters, including by improving prevention efforts and addressing conditions conducive to the spread of terrorism; preventing and countering incitement to commit terrorist acts, consistent with international law; and preventing radicalization to terrorism and the recruitment of foreign terrorist fighters. Member States should collaborate in the pursuit of effective counter-narrative strategies and initiatives, including those relating to foreign terrorist fighters and individuals radicalized to violence; act cooperatively when taking national measures to prevent terrorists from exploiting technology and communications for terrorist acts; and assist one another in this area, including by sharing their knowledge and experience and through technical assistance delivery and capacity-building.

35. All measures taken by States to counter terrorism must comply with their obligations under international law, including international human rights law, international refugee law and international humanitarian law. Counter-terrorism measures and respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing. Failure to comply with international human rights law, international refugee law, and international humanitarian law and other international obligations, including those set forth in the Charter of the United Nations, is a factor that contributes to increased radicalization to violence and fosters a sense of impunity.

A. Preventing and countering incitement and recruitment to commit terrorist acts, consistent with international law, and countering violent extremism conducive to terrorism and terrorist narratives

36. In its resolution [2396 \(2017\)](#), the Security Council expressed concern that terrorists may craft distorted narratives to polarize local communities, recruit supporters and foreign terrorist fighters, mobilize resources, and win support from sympathizers, including through the Internet and social media. In the same resolution, the Council stressed the need to effectively counter the ways that ISIL, Al-Qaida and associated individuals, groups, undertakings and entities used their narratives to incite and recruit others to commit terrorist acts, and in that regard, recalled its resolution [2354 \(2017\)](#) and the comprehensive international framework to counter terrorist narratives ([S/2017/375](#), annex) with recommended guidelines and good practices. It is also necessary, in that regard, to ensure the consistent implementation of resolutions [1624 \(2005\)](#) and [2178 \(2017\)](#).

37. In countering terrorist narratives, States should respect the right to freedom of expression reflected in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and ensure that any restrictions thereto be only such as are provided by law and are necessary on the grounds set out in paragraph 3 of article 19 of the Covenant. In addition, all measures taken in the

field of countering terrorist narratives should be based on the Charter of the United Nations, including with respect to the principles of sovereignty, territorial integrity and political independence of all States.

Guiding Principle 39^a

In undertaking efforts to effectively counter the ways that ISIL, Al-Qaida and associated individuals, groups, undertakings and entities use their narratives to incite and recruit others to commit terrorist acts, Member States should:

- (a) Collaborate in the pursuit of developing and implementing effective strategies to counter terrorist narratives, in particular in relation to foreign terrorist fighters, in a manner compliant with their obligations under international law, including international human rights law, international refugee law and international humanitarian law, as applicable, while safeguarding the rights to freedom of expression, peaceful assembly and association and the right to be free from arbitrary or unlawful interference with privacy;
- (b) Promote peaceful alternatives to the narratives espoused by foreign terrorist fighters, address underlying drivers and engage with a wide range of actors, including through the participation and leadership of young people and women, families, religious, cultural, education and local community leaders, other civil society actors, victims of terrorism, the media and private sector entities;
- (c) Tailor their counter-terrorism measures and programmes to the specific circumstances of different contexts at all levels in order to increase their effectiveness, aiming not only to rebut terrorists' messages, but also to amplify positive narratives, provide credible alternatives and address issues of concern to vulnerable audiences who are subject to terrorist narratives, both online and offline;
- (d) Take into account the gender dimension and age sensitivities and address specific concerns and vulnerabilities in their counter-narrative initiatives;
- (e) Consider facilitating counter-narrative measures and programmes, including by not only directing but "seeding" messaging efforts and by helping to identify sources of funding;
- (f) Consider collecting and sharing good practices in countering terrorist narratives;
- (g) Consider continuing, building on or fostering new strategic and voluntary partnerships with many different actors, such as private sector actors, in particular social media and other communications service providers, including for the purposes of blocking, filtering or removing terrorist content, and civil society actors who can play an important role in developing and implementing more effective means to counter the use of the Internet for terrorist purposes, to counter terrorist narratives and to develop innovative technological solutions;
- (h) Encourage information and communications technology service providers to voluntarily develop and enforce terms of service that target content aimed at recruitment for terrorism and recruiting or inciting others to commit terrorist acts, while respecting international human rights law, and publish regular transparency reports;
- (i) Support efforts aimed at raising public awareness of counter-terrorist narratives through education and media, including through dedicated educational programmes to pre-empt youth acceptance of terrorist narratives.

^a See also the comprehensive international framework to counter terrorist narratives (S/2017/375, annex); guiding principles 1–14; and Executive Directorate, *Technical Guide*, pp. 88–95.

B. Risk assessments and intervention programmes

38. In its resolution [2396 \(2017\)](#), the Security Council called upon States to develop and implement risk assessment tools to identify individuals who demonstrate signs of radicalization to violence and to develop intervention programmes, including with a gender perspective, in compliance with applicable international and domestic law and without resorting to profiling based on any discriminatory grounds prohibited by international law.

Guiding Principle 40

In developing risk assessment tools to identify individuals who demonstrate signs of radicalization to violence and intervention programmes, Member States should:

- (a) Ensure that risk assessments do not lead to profiling based on any discriminatory grounds prohibited by international law;
- (b) Develop intervention programmes, including with a gender perspective, as appropriate, to prevent such individuals from committing acts of terrorism, in compliance with applicable international and domestic law and without resorting to profiling based on any discriminatory grounds prohibited by international law;
- (c) Consider ways to ensure that professionals involved in risk assessments have relevant expertise and access to continuous training, development and reevaluation;
- (d) Put in place effective oversight mechanisms to ensure the accountability of professionals involved in risk assessments;
- (e) Consider developing or supporting mechanisms to evaluate risk assessment tools and intervention programmes;
- (f) Consider sharing relevant experiences and expertise with other States, regional organizations, multilateral forums and civil society organizations.

IV. Judicial measures and international cooperation

39. In its resolution [2396 \(2017\)](#), the Security Council reiterated that all Member States should ensure that any person who participated in the financing, planning, preparation or perpetration of terrorist acts or in support of terrorist acts was brought to justice; recalled its decision that all States should ensure that their domestic laws and regulations established serious criminal offences sufficient to provide the ability to prosecute and penalize the activities described in paragraph 6 of resolution [2178 \(2014\)](#) in a manner duly reflecting the seriousness of the offence; urged States, in accordance with domestic and applicable international human rights law and international humanitarian law, to develop and implement appropriate investigative and prosecutorial strategies regarding those suspected of the foreign terrorist fighter-related offences described in the same paragraph; and reaffirmed that those responsible for committing, or who were otherwise responsible for, terrorist acts and violations of international humanitarian law or violations or abuses of human rights in this context must be held accountable.

40. In accordance with the relevant resolutions, in particular resolutions [1267 \(1999\)](#), [1373 \(2001\)](#), [1624 \(2005\)](#), [2322 \(2016\)](#) and [2396 \(2017\)](#), and the applicable bilateral and multilateral treaties, all States should afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings. States were urged to act in

accordance with their obligations under international law, in order to find and bring to justice, extradite or prosecute any person who supported, facilitated, participated in or attempted to participate in the direct or indirect financing of activities conducted by terrorists or terrorist groups. Member States must fully comply with their obligations under international counter-terrorism conventions to which they are parties, in particular their obligations relating to the extradition and prosecution of terrorists.

41. The Security Council also called upon States to take measures to improve the collection, handling, preservation and sharing of relevant information and evidence, in accordance with domestic and international law, including information obtained from the Internet, or in conflict zones; encouraged the enhancement of Member States' capacity to cooperate with the private sector (especially with information and communications technology service providers), in accordance with applicable law, in gathering digital data and evidence in cases relating to terrorism and foreign terrorist fighters; and called upon States to improve international, regional and subregional cooperation, if appropriate, through multilateral and bilateral agreements, to prevent the undetected travel of foreign terrorist fighters (especially returning and relocating foreign terrorist fighters) from or through their territories.

42. Women and children associated with foreign terrorist fighters returning and relocating from conflict may require special focus and assistance, as they may have served in many different roles, including as supporters, facilitators or perpetrators of terrorist acts, and may be victims of terrorism. States should pay particular attention to ensuring that their domestic legislation respects international law with regard to women and children, while taking into account the best interests of the child as a primary consideration.

A. Legal frameworks and procedures

43. In order to ensure that they have in place the appropriate legal tools to address the evolving foreign terrorist fighter phenomenon, Member States may need to amend their existing laws or introduce new laws to meet the requirements of resolutions 1373 (2001), 1624 (2005), 2178 (2014) and 2396 (2017). In accordance with resolutions 1373 (2001), 2178 (2014) and 2396 (2017), States are required to criminalize preparatory and inchoate offences, including planning and preparing to travel as a foreign terrorist fighter; organizing, facilitating and financing travel of foreign terrorist fighters; and receiving of terrorist training, in compliance with international human rights law. In amending existing laws or adopting new laws, States are encouraged to include prosecution, rehabilitation and reintegration measures in accordance with resolutions 2178 (2014) and 2396 (2017).

Guiding Principle 41^a

In implementing their obligations to ensure the compliance of their existing laws and regulations with resolution 2396 (2017) and in updating their national legislation, as needed, Member States should:

- (a) Ensure that their national legislation criminalizes the full range of conduct relating to foreign terrorist fighters, including preparatory and inchoate acts and when such legislation is required under resolutions 1373 (2001), 2178 (2014) and 2396 (2017);
- (b) Ensure that those criminal offences are defined clearly in their legal systems, that penalties for terrorism-related crimes, including those of foreign terrorist fighters, are commensurate with their gravity and that such criminalization is in accordance with their obligations under international law.

^a See also guiding principles 22–24; and Executive Directorate, *Technical Guide*, pp. 40–41.

Guiding Principle 42

In undertaking efforts to ensure that appropriate action is taken in cases involving children,^a Member States should put in place special safeguards and legal protections, in full compliance with their obligations under international law, ensuring that the competent authorities:^b

- (a) Fully respect and promote the rights of the child, taking into account the best interests of the child as a primary consideration;
- (b) Take into consideration the age of the child and the many roles in which children associated with foreign terrorist fighters may have served, while recognizing that such children may be victims of terrorism;
- (c) Consider the impact of terrorism on children and children's rights, especially in regard to issues relating to the families of returning and relocating foreign terrorist fighters;
- (d) Assess each child individually and without prejudice and take his or her rights and needs into account, while also considering the circumstances relating to the case and proceeding with any further criminal or security-related actions;
- (e) Are provided with appropriate scope for discretion at all stages of proceedings and have at their disposal a variety of alternatives to judicial proceedings and sentencing, including, if appropriate, age-sensitive child-protection measures;
- (f) Are provided with clear guidelines with respect to whether, or under what conditions, they should keep a child in detention and in which cases diversion is possible, subject to regulation and review, in accordance with international law and national standards, and bearing in mind that, in cases involving children, detention should be used as measure of last resort;
- (g) Act in accordance with the guidelines regulating pretrial detention and the utilization of other measures of restraint, as provided for in their national criminal legislation and defined in compliance with international law.

^a In article 1 of the Convention on the Rights of the Child, a child is defined as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier".

^b Resolution 2396 (2017), para. 37.

B. Investigations and prosecutions

44. The prosecution of suspected foreign terrorist fighters continues, at times, to be significantly challenged by the difficulty of collecting sufficient admissible evidence to secure a conviction. Generating admissible evidence and converting intelligence into admissible evidence against foreign terrorist fighters are complex and multifaceted tasks. States should consider re-evaluating their methods and best practices, as appropriate, in particular those relating to specialized investigative techniques (including those involving electronic evidence). Improving the collection, handling, preservation and sharing of relevant information and evidence obtained from conflict zones, in accordance with domestic law and Member States' obligations under international law, is of paramount importance. The Working Group on Legal and Criminal Justice Responses to Terrorism of the United Nations Global Counter-Terrorism Coordination Compact Task Force is currently developing guidelines to facilitate the use of such information and its admissibility as evidence to prosecute terrorist offences before national courts.

Guiding Principle 43^a

In undertaking efforts to ensure that the responsible authorities have the capacity, expertise and authority to handle intelligence threat data on foreign terrorist fighters and other individual terrorists and information collected by investigative agencies, and in creating procedures to convert such data and information, where possible, into admissible evidence, where appropriate and subject to the arrangements of its legal system, Member States should:

- (a) Consider ensuring that the use of special investigative techniques by investigative agencies is effectively supervised by judiciary and prosecution systems;
- (b) Put in place, where needed, special investigation and prosecution approaches that are gender-sensitive and, for cases involving children, take into account their rights;
- (c) Use existing good practices and standard operating procedures, including those of INTERPOL, for forensic science procedures, in order to ensure the reliability of forensic evidence in court and promote public confidence;
- (d) Ensure effective protection of witnesses.

^a See also guiding principle 25.

Guiding Principle 44^a

In undertaking efforts to gather digital data and evidence in cases relating to terrorism and foreign terrorist fighters, Member States should:

- (a) Implement provisions on the expedited preservation of digital data as a stand-alone measure in their procedural legislation and establish a specific legal regime for the search and seizure of digital data;
- (b) Consider encouraging private companies to establish round-the-clock mechanisms for cooperation with law enforcement and clear rules for the preservation of digital evidence and for emergency disclosure requests in accordance with applicable law;
- (c) Develop information and communications technology (ICT) and forensic capacities and expertise within criminal justice and law-enforcement agencies;
- (d) Use social media content relating to terrorism as digital evidence for investigation and prosecution, while respecting human rights and fundamental freedoms, and consistent with their obligations under domestic and applicable international law;
- (e) Enhance cooperation between the relevant investigative agencies, including police-to-police and with the private sector, especially with ICT service providers, in gathering digital data and evidence in cases relating to terrorism and foreign terrorist fighters;
- (f) Request and gather electronic evidence from the relevant actors and across borders and consider making use of the *Practical Guide for Requesting Electronic Evidence across Borders* developed by the Executive Directorate, UNODC and the International Association of Prosecutors.

^a See also guiding principle 26.

Guiding Principle 45^a

In undertaking efforts to intensify and accelerate the timely exchange of relevant operational information and financial intelligence regarding actions, movements and patterns of movements of terrorists or terrorist networks, including foreign terrorist fighters, in accordance with domestic and international law, Member States should consider ways in which to:

- (a) Exchange relevant financial intelligence through national, bilateral and multilateral mechanisms, in accordance with domestic and international law;
- (b) Ensure that the competent authorities can use financial intelligence shared by financial intelligence units and can obtain relevant financial information from the private sector;
- (c) Conduct systematic financial investigations in all terrorism cases;
- (d) Enhance the integration and use of financial intelligence in terrorism cases, including through enhanced inter-agency coordination and through public and private partnerships for the collection of information;
- (e) Increase the use of financial intelligence and financial footprints as a tool to detect networks of terrorists, financiers and sympathizers;
- (f) Improve the quality of the information shared internationally between financial intelligence units on the financing of foreign terrorist fighters, returnees and relocators, the financing of small cells and the activities of terrorist fundraisers and facilitators, in all jurisdictions;
- (g) Enhance the traceability and transparency of financial transactions, including by ensuring that financial institutions can share information, nationally and internationally within the same financial group, for the purposes of managing money-laundering and terrorism-financing risks and supplying the competent authorities with comprehensive information on criminal schemes, and by identifying and registering unregulated money remitters, and assess and address the risks associated with the use of cash, unregulated remittance systems (including hawalas) and other financial products, including prepaid cards;
- (h) Address potential risks associated with the use of virtual assets and other anonymous means of monetary or financial transactions and anticipate and address, as appropriate, the risk of new financial instruments being abused for terrorism-financing purposes;
- (i) Continue to conduct research and collect information to enhance knowledge of and better understand the nature and scope of the links that may exist between terrorists and transnational organized criminals;
- (j) Support initiatives and national mechanisms to effectively identify and address the linkages between terrorism and transnational organized crime.

^a See also guiding principle 28.

C. Prosecution, rehabilitation and reintegration strategies

45. In the Madrid Guiding Principles, the Counter-Terrorism Committee noted that Member States should consider alternatives to incarceration, as well as the reintegration and possible rehabilitation of returnees, prisoners and detainees. In its resolution [2396 \(2017\)](#), the Security Council called upon Member States to assess and investigate individuals (including suspected foreign terrorist fighters and their accompanying family members, including spouses and children) whom they have reasonable grounds to believe are terrorists and who enter their territories; to develop and implement comprehensive risk assessments for such individuals; and to take appropriate action, including by considering appropriate prosecution, rehabilitation and reintegration measures, taking into account that some individuals may be victims of terrorism. The Council emphasized in that regard that Member States were obliged, in accordance with resolution [1373 \(2001\)](#), to ensure that any person who participated

in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts was brought to justice. The Council also emphasized that States should ensure that all such actions be taken in compliance with domestic and international law.

Guiding Principle 46^a

In undertaking efforts to develop and implement prosecution, rehabilitation and reintegration strategies and protocols, Member States should:

- (a) Implement their obligations to ensure that terrorists are brought to justice, as required under resolutions 1373 (2001), 2178 (2014) and 2396 (2017), and ensure that their criminal justice systems are capable of dealing with all serious crimes that may have been committed by foreign terrorist fighters;^b
- (b) Consider ways to ensure that prosecution, rehabilitation and reintegration strategies correspond to national counter-terrorism strategies, including effective methods to counter violent extremism conducive to terrorism;^c
- (c) Consider ways to ensure that prosecution, rehabilitation and reintegration strategies are timely, appropriate, comprehensive and tailored, taking into account gender and age sensitivities and related factors,^d comprehensive risk assessments,^e the severity of the crime(s) committed,^f available evidence, intent and individual culpability, the support network, the public interest and other relevant considerations or factors, as appropriate, and that they are in compliance with domestic and international law, including international human rights and humanitarian law;
- (d) Ensure that such strategies can be combined with other measures, such as monitoring and/or reporting, supervision, probation, fixed addresses, restraining orders, surrender of passport and/or identification and travel bans, all of which should be used in a manner compliant with applicable international human rights law and national legislation and should be subject to effective review;^g
- (e) Consider pursuing a whole-of-Government approach and, while recognizing the role that can be played by civil society organizations, including in the health, social welfare and education sectors and in local communities, as appropriate, consider ways to ensure, in developing such an approach, effective coordination and clear leadership, including by creating multidisciplinary teams,^h which may include law-enforcement agencies, the criminal justice sector, prison and probation services, social services and, as appropriate, civil society organizations;
- (f) Consider providing actors who assist them in implementing prosecution, rehabilitation and reintegration strategies with the resources, support, guidance and effective oversight required and the opportunity to consult with the competent authority, as appropriate;ⁱ
- (g) Engage proactively with civil society when developing rehabilitation and reintegration strategies for returning and relocating foreign terrorist fighters and their families, as civil society organizations may have relevant knowledge of, access to and engagement with local communities;
- (h) Consider encouraging the voluntary participation and leadership of women in the design, implementation, monitoring, and evaluation of strategies for addressing returning and relocating foreign terrorist fighters and their families;^j
- (i) Ensure that programmes aimed at addressing and countering terrorist narratives, including in prisons, respect international human rights law, including the right to freedom of opinion and expression, the right to freedom of religion or belief and the right to be free from arbitrary or unlawful interference with privacy;
- (j) Monitor, evaluate and review the effectiveness of prosecution, rehabilitation and reintegration strategies.

- ^a See also guiding principles 30–32; and Executive Directorate, *Technical Guide*, pp. 50–52.
- ^b Guiding principle 32.
- ^c Guiding principle 30.
- ^d Resolution 2396 (2017), para. 31.
- ^e *Ibid.*, para. 29.
- ^f Guiding principle 30.
- ^g Executive Directorate, *Technical Guide*, pp. 50–52.
- ^h *Ibid.*, in particular, issue for consideration No. 13.
- ⁱ *Ibid.*, in particular, issues for consideration No. 14.
- ^j Resolution 2396 (2017), para. 39.

Guiding Principle 47^a

In cases involving children, Member States should ensure that prosecution, rehabilitation and reintegration strategies:

- (a) Make the best interests of the child a primary consideration;
- (b) Are implemented in compliance with criminal legislation, taking into account the gravity of any crime that may have been committed, while considering the age of the child and recognizing that such child may also be a victim of terrorism;
- (c) Include access to health care, psychosocial support and education programmes that contribute to the well-being of children, and grant access to regular education whenever possible;^b
- (d) Are age- and gender-sensitive;
- (e) Enable the involvement of child-protection actors and the social sector, as well as their effective coordination with the justice sector.^c

^a See also guiding principles 30–32. See Executive Directorate, *Technical Guide*, p. 52, for a list of additional international instruments, standards and good practices that provide guidance in this area.

^b Resolution 2396 (2017), para. 36.

^c United Nations, “Guidance note of the Secretary-General: UN approach to justice for children”, September 2008.

D. Addressing the risks of terrorist radicalization and recruitment in prisons and ensuring that prisons can serve to rehabilitate and reintegrate

46. In its resolution 2396 (2017), the Security Council acknowledged that prisons could serve as potential incubators for radicalization to terrorism and terrorist recruitment and that proper assessment and monitoring of imprisoned foreign terrorist fighters, aimed at reducing opportunities for terrorists to attract new recruits, was therefore critical. In the same resolution, the Council recognized that prisons could also serve to rehabilitate and reintegrate prisoners, where appropriate, and that Member States might need to continue to engage with offenders after their release from prison in order to prevent recidivism, in accordance with relevant international law and taking into consideration, where appropriate, the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules). Member States were encouraged to take all appropriate actions to prevent inmates who have been convicted of terrorism-related offences from radicalizing to violence other prisoners with whom they may come into contact, in compliance with domestic and international law.

47. Stand-alone intervention programmes are less likely to be successful in the absence of broader efforts to ensure the effective management of all prisoners. Such efforts should include implementing

appropriate security measures, intelligence systems and control systems, as well as cooperation with other law-enforcement and criminal justice agencies, specialized staff, faith professionals, therapists, mentors and families, as appropriate. All efforts to address the risks of radicalization to terrorism and terrorist recruitment in prisons and to rehabilitate and reintegrate prisoners must be undertaken in full compliance with national legislation and relevant international law and ensure full respect for human rights and fundamental freedoms, including the right to freedom of opinion and expression, the right to freedom of religion or belief, the right to be free from arbitrary or unlawful interference with privacy and the absolute prohibition of torture. Such efforts should also include a gender perspective and take into consideration the needs and rights of the child.

Guiding Principle 48

In their efforts to prevent prisons from serving as potential incubators for radicalization to terrorism and terrorist recruitment and ensure that prisons can serve to rehabilitate and reintegrate prisoners, where appropriate, States should:

- (a) Separate prisoners according to their legal status (pretrial from convicted), age (children from adults) and gender;
- (b) Conduct proper intake and regular risk and needs assessment, which inform the classification and allocation of prisoners;
- (c) Ensure that conditions of detention respect the dignity of all prisoners, including protection from torture and other cruel, inhuman or degrading treatment or punishment; provide adequate material conditions and personal safety; and establish mechanisms to ensure that arrests of suspects and all forms of deprivation of liberty are in accordance with national legislation, as well as relevant obligations under international law;
- (d) Consider establishing a structured prison-intelligence system, consistent with national legislation;
- (e) Consider ensuring a sufficient number of qualified and well-trained staff, including appropriate specialized staff and other experts, such as faith professionals, therapists and mentors, and establish mechanisms and protocols to ensure that all prison staff meet high standards of professional and personal conduct at all times;
- (f) Ensure that there is a clear and consistent understanding of the process of terrorist radicalization and disengagement and, where appropriate, define clear, well-defined and, ideally, measurable goals and objectives in disengagement processes;
- (g) Consider putting in place a variety of programmes, including gender- and age-appropriate programmes, that can be targeted to address the specific needs of each individual, combined with access to vocational training and education programmes, as well as religious, creative, cultural and recreational activities, as appropriate;
- (h) Consider establishing mechanisms for collaboration between prison staff, local community-based service providers, civil society and families, as appropriate;
- (i) Consider offering pre-release programmes that provide opportunities for qualified inmates to access local community resources, including release for work, education and/or vocational training purposes, temporary home furlough and/or local community corrections, as appropriate;
- (j) Consider establishing appropriate post-release administrative measures, monitoring and reporting obligations, intervention and support programmes and protective measures upon release, as appropriate and in accordance with international law, including international human rights law;
- (k) Establish effective oversight mechanisms, taking into consideration, as appropriate, rules 83 to 85 of the Nelson Mandela Rules.

E. International cooperation

48. International judicial cooperation on cases relating to foreign terrorist fighters, including returnees, relocators and their families, remains a challenge. Recognizing the persisting challenges common to such cases, the Security Council underlined, in its resolutions 2322 (2016) and 2396 (2017), the importance of strengthening international cooperation in order to prevent, investigate and prosecute terrorist acts.

Guiding Principle 49^a

In order to strengthen international cooperation to prevent, investigate and prosecute terrorist acts, Member States should:

- (a) Enact and, where appropriate, review and update extradition and mutual legal assistance laws in connection with terrorism-related offences, consistent with their international obligations, including their obligations under international human rights law, and consider reviewing national mutual legal assistance laws and mechanisms relating to terrorism and updating them as necessary, in order to strengthen their effectiveness, especially in the light of the substantial increase in the volume of requests for digital data;
- (b) Designate and adequately staff central authorities for mutual legal assistance, and competent authorities for extradition, and put in place clearly defined processes, roles and responsibilities for stakeholders involved in extradition and mutual legal assistance;
- (c) Consider providing UNODC with information for its repository database of existing networks of central authorities responsible for counter-terrorism matters, including contact information for and other relevant details pertaining to designated authorities;
- (d) Consider ratifying and using applicable international and regional instruments to which they are parties, as a basis for mutual legal assistance and, as appropriate, for extradition in terrorism cases, consistent with international human rights law, humanitarian law and refugee law, including the principle of nonrefoulement;
- (e) Cooperate, where possible, on the basis of reciprocity or on a case-by-case basis, in the absence of applicable conventions or provisions;
- (f) Act in accordance with their obligations under international law in order to find and bring to justice, extradite or prosecute terrorist suspects;
- (g) Establish, where possible, mechanisms and legal frameworks for joint investigations and develop the capacity to enhance the coordination of such investigations, ensuring that national mechanisms are in place to allow for international cooperation in special investigative techniques, including, as appropriate, the creation and/or use of joint investigation mechanisms, and bilateral and multilateral arrangements for international cooperation in special investigative techniques (especially with neighbouring States);
- (h) Consider developing and participating in international and regional mutual legal assistance cooperation platforms and informal networks and developing and enhancing arrangements for expeditious cross-regional cooperation for terrorism-related offences;
- (i) Consider ways, within the framework of the implementation of existing applicable international legal instruments, to simplify extradition and mutual legal assistance requests.

^a See also guiding principles 33–35.

V. Protecting critical infrastructure, vulnerable or soft targets and tourism sites

49. In its resolution [2341 \(2017\)](#), the Security Council called upon States to consider developing or further improving their strategies for reducing risks to critical infrastructure from terrorist attacks, including by, inter alia, assessing and raising awareness of the relevant risks; taking preparedness measures, including implementing effective responses to such attacks and promoting better interoperability in security and consequence management; and facilitating effective interaction among all stakeholders involved.

50. In its resolution [2396 \(2017\)](#), the Security Council stressed the need for States to develop, review or amend national risk and threat assessments to take into account soft targets, in order to develop appropriate contingency and emergency-response plans for terrorist attacks. It also called upon States to establish or strengthen national, regional and international partnerships with public and private stakeholders on the sharing of information and experience, in order to prevent, protect, mitigate, investigate, respond to and recover from damage from terrorist attacks against soft targets.

51. Critical infrastructure and soft targets are especially vulnerable and appealing as targets of terrorism. Vulnerabilities may be increased by the interconnectivity, interlinkage and interdependence of critical infrastructure. The appeal of soft targets to terrorists derives not only from their open format and limited security to facilitate access, but also from the potential to generate civilian casualties, chaos, publicity and economic impact.

52. Member States bear the primary responsibility for the protection of critical infrastructure and soft targets. Each State defines critical infrastructure and soft targets in accordance with its specific national context. There is a growing need, however, to increase cooperation between States and with private companies that own, operate and manage critical infrastructure and soft targets in order to address security needs, reduce vulnerabilities and share information on threats, vulnerabilities and measures, with a view to mitigating the risk of attack. Joint training sessions, communications networks, information-sharing (for example, on methodologies, best practices and exercises) and early warning mechanisms should be utilized and improved.

53. In order to maximize the potential to protect soft targets, public-private partnerships should be developed or strengthened at all levels of Government, including State, local and provincial. Member States should encourage and support such partnerships with companies that can contribute to all aspects of preparedness, namely protection from, mitigation of, response to and recovery from terrorist attacks, as well as the investigation of such incidents.

54. Protection efforts entail multiple streams of effort, such as planning; public information and warning; operational coordination; intelligence and information-sharing; interdiction and disruption; screening, search and detection; access control and identity verification; cybersecurity; physical protective measures; risk management for protection programmes and activities; and supply-chain integrity and security.

Guiding Principle 50^a

In their efforts to develop and implement measures to protect critical infrastructure and soft targets from terrorist attacks, Member States, acting in cooperation with local authorities, should:

- (a) Identify, assess and raise awareness of the relevant risks and threats of terrorist attacks on critical infrastructure and soft targets;
- (b) Determine what constitutes critical infrastructure and soft targets in the national context, on the basis of ongoing analysis of terrorist capabilities, intentions and past attacks, and regularly conduct risk assessments to keep pace with the evolving nature of the threat and the adversary, including by utilizing existing tools and guidance developed by international and regional organizations;^b
- (c) Develop, implement and practice strategies and action plans for reducing the risks of terrorist attacks on critical infrastructure and soft targets that integrate and leverage the capabilities of relevant public and private stakeholders;
- (d) Take preparedness measures, including to ensure effective protection of and responses to such attacks, that are informed by comprehensive risk assessments;
- (e) Promote better interoperability in security and crisis management;
- (f) Promote risk-based and mutually reinforcing efforts to protect critical infrastructure and soft targets;
- (g) Establish or strengthen mechanisms to share information, expertise (such as tools and guidance) and experience among public and private stakeholders to investigate and respond to terrorist attacks on such targets.^c

^a The issue of protecting critical infrastructure, vulnerable or soft targets and tourism sites is not specifically addressed in the Madrid Guiding Principles. The guidance provided in guiding principles 50 and 51 are aimed at supporting the implementation of resolution 2341 (2017) on the protection of critical infrastructure, complemented by resolution 2396 (2017) and its provisions on protecting soft targets. They also build on the guidance provided in the following documents: Executive Directorate, Technical Guide; and Executive Directorate and Office of Counter-Terrorism, *The Protection of Critical Infrastructure against Terrorist Attacks: Compendium of Good Practices* (2018).

^b In its *Aviation Security Manual*, ICAO provides guidance on how to apply the standards and recommended practices covered in annex 17 to the Convention on International Civil Aviation. Published in 2017, the tenth edition of the Manual features new and updated guidance material. Of particular interest with respect to critical-infrastructure protection are the materials relating to the security of landside areas of airports, staff and vehicle screenings and cyber threats to critical aviation systems. See ICAO, *Aviation Security Manual*, 10th ed., document 8973; and ICAO, *Annex 17 to the Convention on International Civil Aviation: Security – Safeguarding International Civil Aviation against Acts of Unlawful Interference*, 10th ed., International Standards and Recommended Practices (April 2017).

^c Resolution 2396 (2017), paras. 27 and 28.

Guiding Principle 51^a

In their further efforts to protect critical infrastructure and soft targets from terrorist attacks, Member States, acting in cooperation with local authorities, should also consider:

- (a) Updating contingency planning, such as guidance, exercises and training for law enforcement, other relevant ministries and industry actors, in order to keep pace with actual threats, refine strategies and ensure that stakeholders adapt to evolving threats;
- (b) Putting in place national frameworks and mechanisms to support risk-based decision-making, information-sharing and public-private partnering for both Government and industry, including with a view to working together to determine priorities, and jointly developing relevant products and tools, such as general guidelines on surveillance or specific protective measures suggested for different types of facilities (for example, stadiums, hotels, malls or schools);
- (c) Establishing processes for the exchange of risk assessments between Government, industry and the private sector, to promote and increase situational awareness and strengthen soft target security and resilience;
- (d) Establishing processes for sharing relevant information with industry and private sector partners by, for example, issuing security clearances and increasing awareness;
- (e) Promoting public-private partnerships by developing cooperation mechanisms, supporting business owners and operators and infrastructure managers and by sharing plans, policies and procedures, as appropriate;
- (f) Assisting in the delivery of effective and targeted capacity development, training and other necessary resources, as well as technical assistance, where such delivery is needed to enable all States to develop appropriate capacity to implement contingency and response plans with regard to attacks against soft targets.

^a The issue of protecting critical infrastructure, vulnerable or soft targets and tourism sites is not specifically addressed in the Madrid Guiding Principles. The guidance provided in guiding principles 50 and 51 are aimed at supporting the implementation of resolution [2341 \(2017\)](#) on the protection of critical infrastructure, complemented by resolution [2396 \(2017\)](#) and its provisions on protecting soft targets. They also build on the guidance provided in the following documents: Executive Directorate, *Technical Guide*; and Executive Directorate and Office of Counter-Terrorism, *The Protection of Critical Infrastructure against Terrorist Attacks*. See also resolution [2396 \(2017\)](#), paras. 27 and 28.

VI. Preventing and combating the illicit trafficking of small arms and light weapons

55. In May 2017, the Committee held an open briefing on the theme “Preventing Terrorists from Acquiring Weapons”, which enabled participants to analyse and discuss, among other things, the involvement of foreign terrorist fighters in the illicit trafficking of weapons. The outcomes of that event paved the way for the unanimous adoption by the Security Council of its resolution 2370 (2017), in which it recognized the need for Member States to take appropriate measures, consistent with international law, to address the illicit trafficking in small arms and light weapons, in particular to terrorists, including by enhancing, where appropriate and consistent with their domestic legal frameworks, national systems for the collection and analysis of detailed data on the illicit trafficking of such weapons to terrorists, and by putting in place, where they did not yet exist, adequate laws, regulations and administrative procedures to exercise effective control over the production, export, import, brokering, transit or retransfer of small arms and light weapons within their areas of jurisdiction, taking into consideration the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, in order to prevent the illicit trafficking to terrorists of such weapons. In its resolution 2395 (2017), the Council urged States to fully implement the measures contained in resolution 2370 (2017).

56. In the Programme of Action, Member States also recognized that the illicit trade in small arms and light weapons in all its aspects sustained conflicts, exacerbated violence, contributed to the displacement of civilians, undermined respect for international humanitarian law, impeded the provision of humanitarian assistance to victims of armed conflict and fuelled crime and terrorism. Member States therefore undertook, inter alia, to adopt and implement the necessary legislative or other measures to establish as criminal offences in their domestic laws the illegal manufacture, possession and stockpiling of and illicit trade in small arms and light weapons within their areas of jurisdiction, in order to ensure that those engaged in such activities could be prosecuted under appropriate national penal codes.

57. In the outcome document to the third United Nations Conference to Review Progress Made in the Implementation of the Programme of Action (A/CONF.192/2018/RC/3, annex), Member States declared their particular concern about the use of small arms and light weapons in terrorist attacks throughout the world in recent years and underlined the essential contribution made through the full and effective implementation of the Programme of Action and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons to the global fight against all forms of violence and crime, including terrorism, and in that regard resolved to strengthen their implementation and coordination efforts.

58. Member States also recognized that Governments bear the primary responsibility for solving the problems associated with the illicit trade in small arms and light weapons in all its aspects (ibid.).

59. In its resolution 2370 (2017), the Security Council urged States to fully implement the Programme of Action and the International Tracing Instrument in order to assist in preventing terrorists from acquiring small arms and light weapons, in particular in conflict and post-conflict areas. Whereas a number of provisions covered in the outcome document of the third Review Conference that were of direct relevance to countering the acquisition of small arms and light weapons by foreign terrorist fighters are addressed in guiding principle 52, nothing in the present addendum shall affect the integrity and consistency of the Programme of Action or the outcome document.

Guiding Principle 52^a

In undertaking appropriate measures consistent with international law to address the illicit trafficking in small arms and light weapons, in particular to terrorists, Member States should:

- (a) Maintain, develop or establish, and effectively implement, national laws, regulations and administrative procedures to ensure effective control over the production, export, import and transit of small arms and light weapons, including by establishing as a criminal offence their illicit manufacture, online trade or diversion to the illicit market through corruption;
- (b) Take all appropriate measures to prevent the diversion of small arms and light weapons when authorizing their international transfer, taking into consideration that, in accordance with the International Tracing Instrument, small arms and light weapons are considered illicit if they are transferred without a licence or authorization issued by a competent national authority;
- (c) Put in place and, as needed, strengthen certification processes and/or end user certificates, as well as effective legal and enforcement measures, and make every effort, in accordance with national laws and practices and without prejudice to the right of States to re-export small arms and light weapons that they had previously imported, to notify the original exporting State in accordance with their bilateral agreements before the retransfer of those weapons;
- (d) Provide national law-enforcement authorities with mandates and resources to assist them in preventing and combating the illicit import, export or transit of small arms and light weapons into, from or through their territories;
- (e) Redouble national efforts to provide for the safe, secure and effective management of stockpiles of small arms and light weapons held by government armed and security forces, in particular in conflict and post-conflict situations, in accordance with the provisions of the Programme of Action;
- (f) Take effective measures to prevent and combat the illicit brokering of small arms and light weapons, making use of the recommendations contained in the report of the Group of Governmental Experts established pursuant to General Assembly resolution 60/81 to consider further steps to enhance international cooperation in preventing, combating and eradicating illicit brokering in small arms and light weapons;^b
- (g) Exchange and, in accordance with national legal frameworks and security requirements, apply experiences, lessons learned and best practices relating to the control of the export, import and transit of small arms and light weapons, including certification processes and/or end user certificates.

^a See also A/CONF.192/2018/RC/3, annex.

^b A/62/163 and A/62/163/Corr.1.



UNITED NATIONS SECURITY COUNCIL
COUNTER-TERRORISM COMMITTEE

A practical tool to assist Member States in stemming the flow of foreign terrorist fighters, the Madrid Guiding Principles were identified at a Special meeting of the Security Council Counter-Terrorism Committee held in Madrid in July 2015. In light of important developments since, including the adoption by the Security Council of its resolution 2396 (2017) that focuses on returning and relocating foreign terrorist fighters, the Committee saw the need to update those principles. The addendum (S/2018/1177) to the Madrid Guiding Principles was adopted by the Committee and the Security Council in December 2018. Together with the original set of 35 guiding principles, the 17 additional guiding principles brings the total number of guiding principles on foreign terrorist fighters to 52.