

Open briefing of the Counter-Terrorism Committee

“Denying safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens, and preventing terrorists from abusing the asylum system, in conformity with international law”

Session I: Denying safe haven to those who finance, plan, support or commit terrorist acts, or provide safe havens

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Denying terrorists safe havens is key for undermining their capacity to operate and should be an important component of any counter-terrorism strategy.

Eliminating safe havens and, what is more important, preventing their establishment require a comprehensive cross-sectoral approach and tailored strategies with strong legal and operational elements.

Security Council Resolution 1373 of 2001 is a milestone document in strengthening the legal framework against terrorism, including in “denying safe havens to those who finance, plan, support, or commit terrorist acts, or provide safe havens”, quoting para 2 (c), S/RES/1373. Other resolutions and the United Nations Global Counter-Terrorism Strategy echo resolution 1373. In the Strategy, Member States express the international community’s resolve to cooperate fully, including in order to deny safe havens to terrorists and their supports and bring them to justice. But many are still facing challenges that prevent Member States from fully implementing the principle of denying safe havens to terrorists. Allow me to focus on the three main challenges.

First, the lack of criminalization of terrorist offences.

Terrorists, in particular their leaders, remain focused on finding legal loopholes. It is necessary to establish criminal offences providing a legal ground for the investigation, prosecution and adjudication of a wide range of terrorist offences as early as possible.

Resolution 1373 (2001) requires Member States to take a number of steps, including enacting effective counter-terrorism criminal legislation to criminalize all terrorist acts, including those specified in the universal legal instruments against terrorism.

National laws should also criminalize harbouring, concealing, or preventing the arrest of any person who has carried out or is planning to carry out a terrorist act or is a member of a terrorist group.

It is worth noting that support offences are also distinct from the attempt to commit offences and shall be criminalized regardless of whether or not they lead to the actual commission of a terrorist act. Also, the perpetrator of the support offences should be distinguished from the accomplice.

States may also choose to penalize the conspiracy between persons intending to carry out a terrorist act, also providing a useful tool in prosecuting, when applicable, participation in an organized criminal group set forth in the United Nations Convention against Transnational Organized Crime.

Throughout the years, States have been progressively shifting from reactive to preventative approaches to counter terrorism. National laws have been adopted to prevent support and preparations

for the commission of terrorist offences within or outside their borders, making terrorists subject to prosecution without a geographical connection to the charging jurisdiction or the presence of the accused in the charging jurisdiction.

Criminals' international mobility and knowledge of technology are two factors which more than ever impose a need for cooperation between law enforcement and judicial authorities and for assistance to the States that have established jurisdiction in the matter.

The ability of States to assist one another quickly and successfully is an absolute necessity also for

required by the international counter-terrorism instruments. The existence of a central authority or a network of focal points also facilitates inter-agency cooperation at the national level by clarifying the roles and responsibilities of the various national authorities involved in the requests for cooperation.

Conclusion

In concluding, Mr. Chair, allow me to reiterate that for more than a decade, the United Nations Office on Drugs and Crime has been providing technical assistance and robust capacity building to Member States to more effectively counter terrorism, to foster international cooperation in criminal matters and