



# Security Council

Provisional

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## Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

### Provisional summary record of the 218th meeting (closed)

Held at Headquarters, New York, on Thursday, 7 May 2009, at 3 p.m.

*Acting Chairman:* Mr. Deruffe ..... (France)

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*The meeting was called to order at 3.25 p.m.*

1. **The Acting Chairman** said that the Chairman, Mr. Jurica (Croatia), had requested him to take the Chair in his absence. If there was no objection, he would take it that the Committee agreed.

2. *It was so decided.*

### **Adoption of the agenda**

3. The agenda was adopted.

### **Visits to Member States**

*Preliminary conclusions on the visits to Burkina Faso and Senegal*

4. **The Acting Chairman** recalled that the focused visit to Burkina Faso had been conducted from 23 to 25 February 2009, followed by the focused visit to Senegal on 2 and 3 March 2009. The preliminary conclusions on the visits (S/AC.40/2009/NOTE.67) had been circulated to delegations on 25 April 2009.

5. **Mr. Seif El-Dawla** (Counter-Terrorism Committee Executive Directorate), introducing the preliminary conclusions, said that the visit delegation to both countries had consisted of Counter-Terrorism Committee Executive Directorate (CTED) experts and representatives of the International Criminal Police Organization (INTERPOL), the African Centre for the Study and Research on Terrorism (ACSRT) and the Economic Community of West African States (ECOWAS).

6. During both visits, the delegation had examined law enforcement matters related to the implementation of Security Council resolution 1373 (2001) and had gathered information for the two States' preliminary implementation assessments (PIAs). The constructive dialogue held at various levels during the visits had greatly enhanced the amount of information available to CTED, which was therefore in a better position to identify problem areas and to direct technical assistance where it was most needed. The full cooperation provided by the national authorities of both countries had been a major factor in the success of the visits.

7. The law enforcement matters discussed related to interdepartmental coordination in the two States. The main challenges identified in Burkina Faso had been the need for more centralized units to coordinate

national counter-terrorism efforts and for more widespread information technology. A similar challenge had been noted in Senegal, where the lack of relevant information technology and databases undermined the effectiveness of both national and international counter-terrorism efforts. The Governments of Burkina Faso and Senegal had acknowledged the need to address the shortcomings identified.

8. The focused visits had proven particularly useful in identifying the technical assistance needs of both countries. The delegation had noted that technical assistance would be needed to build capacity at the border posts of both countries, which lacked the equipment and infrastructure necessary to maintain and secure their data. In addition, the customs administration of Burkina Faso cooperated effectively, both with the Central Customs Service in Ouagadougou and with foreign customs services. Burkina Faso benefited from being connected to the Regional Intelligence Liaison Office and the Customs Enforcement Network of the World Customs Organization (WCO). Senegal was also connected to that system and had access to the same data. However, while its relevant departments had modern resources and equipment, the delegation had noted a need for enhanced cooperation among States of the region and, in particular, for staff training in the use of information technology at border posts.

9. The delegation had noted the assurances provided by the authorities of both Burkina Faso and Senegal that they adhered to the principle of respect for human rights in the context of terrorism. The two States' PIAs would be updated to reflect related measures on the rule of law.

10. In the area of legislation, the delegation had advised Burkina Faso to include the criminalization of incitement to commit terrorist acts in its draft law on combating terrorism and transnational organized crime. Senegalese legislation also failed to criminalize incitement to terrorism; however, a draft amending the Penal Code included a provision for the criminalization of that offence.

11. **Mr. Koné** (Burkina Faso) welcomed the preliminary conclusions, which accurately reflected the situation on the ground in his country, commended the members of the delegation for their professionalism and noted that the preliminary draft law on combating

terrorism, which provided for the criminalization of incitement to commit terrorist acts, had recently been approved by the Council of Ministers.

*Preliminary conclusions on the visit to Panama*

12. **The Acting Chairman** recalled that the focused visit to Panama had been conducted on 2 and 3 March 2009. The preliminary conclusions on the visit (S/AC.40/2009/NOTE.68) had been circulated to delegations on 25 April 2009.

13. **Mr. Martínez** (Counter-Terrorism Committee Executive Directorate) said that the focused visit to Panama was the first visit of its kind to an American State and had provided a strong foundation for future such visits in the region. The visit delegation had included representatives of the United Nations Office on Drugs and Crime (UNODC) and the Inter-American Committee against Terrorism (CICTE) of the Organization of American States (OAS).

14. During the visit, the Panamanian authorities had emphasized the country's geostrategic importance to the region and the associated risks from various types of criminal activities, notably money-laundering and terrorist financing. The delegation had focused on three areas: national efforts to prevent terrorist financing, information in support of good maritime security practices, and areas where Panama might be in a position to provide technical assistance to other States.

15. Panama had significantly improved its legal framework through the introduction in 2008 of a new Penal Code, which classified terrorism and the financing thereof as independent offences and made the financing of terrorism a predicate offence to money-laundering. However, notable shortfalls remained with respect to criminalization of the provision of funds or assets with the intent that they should be used to commit a terrorist act and the establishment of the obligation for all relevant entities to report suspicious transactions. The Panamanian authorities were aware of those issues and were taking steps to address them.

16. Panama had ratified 13 of the 16 international counter-terrorism instruments: the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material had been submitted to Congress for approval and the remaining two instruments were being evaluated by the relevant Government agencies. Pursuant to the 2008 Penal Code, some of the provisions of the international counter-terrorism

instruments had been implemented in Panama. However, there was still scope for certain aspects of domestic law to be improved.

17. Maritime security in Panama was the responsibility of three institutions: the Panama Canal Authority, the Panama Maritime Authority and the Air-Naval Forces Service. Panama had made a significant investment in maritime security, particularly that of the Panama Canal; the visit delegation had identified a number of good practices, which were summarized in the preliminary conclusions. Panama's Financial Analysis Unit had expressed its willingness to provide technical assistance to requesting States. The expertise of the Panama Maritime Authority and the Panama Canal Authority also made them well placed to provide such assistance.

18. The national authorities had assured the delegation that Panama's report on its implementation of Security Council resolution 1624 (2005) was under preparation.

19. **Mr. Donovan** (United States of America) said that the final sentence in paragraph 17 of the preliminary conclusions on the visit to Panama gave the impression that at present, there was not good coordination among the three main maritime security institutions. If that was the case, he wondered why the current arrangement could be regarded as "good practice", as the paragraph seemed to indicate.

20. **Mr. Martínez** (Counter-Terrorism Committee Executive Directorate) said that coordination among the three institutions was actually very good and might even be seen as a best practice. Tentative language had been used to describe that level of coordination since the new system was not yet fully operational and its effectiveness could not be measured.

21. **Mr. Smith** (Executive Director, Counter-Terrorism Committee Executive Directorate) pointed out that focused visits gave CTED an opportunity to gain useful insight into current working practices on the ground and to offer suggestions for improvement based on its own areas of expertise. For example, while the delegation had identified the Panama Maritime Authority's new seafarer identification system as a best practice, it had noted Panama's limited capacity under that system to verify the authenticity of supporting documents issued by other countries. The delegation had therefore recommended that, at the very least, such documents should be checked against INTERPOL

databases. It had also recommended that the Panama Maritime Authority should work alongside other interested international organizations, such as the International Maritime Organization (IMO), the International Labour Organization (ILO), the International Organization for Migration (IOM) and CICTE, to identify any additional measures that might further improve the security of the system.

22. **Mr. Alday González** (Mexico) wished to know the immediate needs of the Panamanian authorities, particularly with a view to implementation of the relevant international counter-terrorism instruments.

23. **Mr. Gouider** (Libyan Arab Jamahiriya) asked why the preliminary conclusions on the visits to Senegal and Burkina Faso did not contain a separate heading entitled “Ratification and implementation of the international counter-terrorism instruments”, which had been included in the preliminary conclusions on the visit to Panama.

24. **Mr. Martínez** (Counter-Terrorism Committee Executive Directorate) said that during the two-day focused visit to Panama, it had been possible only to examine specific areas and to follow up on implementation of the international counter-terrorism instruments. The preliminary conclusions on that visit included a separate section on their ratification and implementation because Panama was now a party to 13 of the 16 instruments, which was more than some of the other countries visited. The final report would examine any shortfalls in more depth and would reflect any gaps in implementation of the remaining international counter-terrorism instruments.

25. **Mr. Morange** (Counter-Terrorism Committee Executive Directorate) said that recommendations on international instruments had been included in the section on maritime security. As the recommendations concerned only two instruments, a decision had been taken not to have a separate section for them.

26. **Mr. Koné** (Burkina Faso) noted that his country was party to 12 of the 16 relevant instruments.

27. **Mr. Donovan** (United States of America) said that he had heard that it was at times difficult for the International Maritime Organization to send representatives on trips due to its small staff. Any ideas on how to persuade the organization to participate would be appreciated.

28. **Mr. Smith** (Executive Director, Counter-Terrorism Committee Executive Directorate) said that each organization made its own determination as to whether to participate in a given trip. Benefits of participation for organizations included access and opportunities to promote their institutional interests at a higher level than they could do on their own. If an organization had recently visited a country on its own, it was not likely to accept an invitation to go there again. Money was also a factor. Recently, the Counter-Terrorism Committee Executive Directorate had found funds to cover participation in visits by the World Customs Organization, as it deemed that organization’s role extremely important.

29. **Mr. Martínez** (Counter-Terrorism Committee Executive Directorate) said that the International Maritime Organization had conducted an assessment of the maritime security of Panama in late 2008. That might explain why the country had not accepted an invitation to join the team.

*Preliminary conclusions on the visit to Singapore*

30. **The Acting Chairman** recalled that the focused visit to Singapore had been conducted on 30 and 31 March 2009. The preliminary conclusions on the visit (S/AC.40/2009/NOTE.88) had been circulated to delegations on 29 April 2009.

31. **Ms. Takasu** (Counter-Terrorism Committee Executive Directorate), introducing the preliminary conclusions, said that the visit delegation, consisting of CTED experts and a representative of the Asian Development Bank (ADB), had concentrated on three areas: Singapore’s ratification of international terrorist instruments, its use of good practices in countering terrorism and its potential as a technical assistance provider.

32. In comparison with other countries of the region, Singapore had ratified relatively few (nine) of the international counter-terrorism conventions and protocols; it would accede to another of those instruments by the end of 2009. The slowness of that process had been attributed to the Government’s policy of incorporating all elements of each instrument into domestic law prior to accession. In the area of good practices, the delegation had concentrated on measures taken in order to combat money-laundering and the financing of terrorism, border controls at the airport and the rehabilitation of terrorist suspects; it had

visited the airport and rehabilitation centre and had met with the relevant authorities.

33. The Government had been encouraged to consider expanding its provision of technical assistance; the delegation had explained the procedures for such cooperation and had been informed that the Ministry of Foreign Affairs was the only contact point for assistance requests and that Singapore stood ready to cooperate with the Committee and CTED in that regard.

*Draft report on the visit to Saudi Arabia*

34. **Mr. Seif El-Dalwa** (Counter-Terrorism Committee Executive Directorate) said that Saudi Arabia had responded in great detail to the draft report on the Committee's visit to Saudi Arabia, conducted in March 2008. In bringing to justice the perpetrators of terrorist acts, the Saudi authorities relied on sharia law and fatwas but were mindful of the need for domestic provisions that corresponded to the offences established in the international counter-terrorism instruments. The draft counter-terrorism act would fill that gap and the delegation had stressed the importance of its adoption.

35. Saudi Arabia had an advanced banking system, an anti-money-laundering act and a well-equipped financial intelligence unit (FIU). However, criminalization of the financing of terrorism must take into account all the elements of article 2 of the International Convention for the Suppression of the Financing of Terrorism, especially the need to criminalize the collection of funds with the intent or in the knowledge that they should be used to commit a terrorist act. Measures to ensure the freezing of funds of persons not on the consolidated list maintained by the Security Council Committee established pursuant to resolution 1267 (1999) should be taken. Saudi Arabia's charities were prohibited from working abroad pending the establishment of the Saudi Higher Authority for Relief and Charity Work. The Government should work actively to introduce that new regime for governing charities at the international and domestic levels.

36. The Ministry of the Interior had advanced law enforcement capacity and might be able to provide assistance with the protection of industrial and petroleum facilities to other countries of the subregion.

37. The delegation had visited a rehabilitation centre for terrorists and had stressed that the facility should be managed in accordance with the rule of law and monitored at the international level to ensure that detainees were not held indefinitely and that, once released, they did not subsequently become involved in terrorist acts.

38. The Government had complained that large numbers of people crossed the border from Yemen into Saudi Arabia illegally in search of income. The Committee had recommended fine-tuning existing border control measures in accordance with the international best practices set by the other organizations represented on the visit team: WCO, INTERPOL and IMO.

39. With regard to Security Council resolution 1624 (2005), incitement to commit terrorist acts was criminalized as a money-laundering offence. The Ministry of Islamic Affairs, Endowments, Da`wah and Guidance played a key role in involving the nation's Islamic preachers in the counter-terrorism campaign; it also organized lectures and other forms of study to combat terrorism and denounced terrorism in print and through the media.

40. Lastly, the visit team had identified a few areas in which technical assistance might be needed, primarily with regard to training for the judiciary and to issues addressed by IMO and WCO.

41. **Mr. Shepherd** (United Kingdom) asked about the status of Annex 4 of the draft report, which contained the Government's comments. Some of those comments provided clarifications, but others were akin to value judgments. He wondered whether there was a precedent for integrating such material into visit reports.

42. **Mr. Gouider** (Libyan Arab Jamahiriya) noted that Annex 4 was longer than the report itself and asked whether the comments had resulted in changes in the Executive Directorate's recommendations.

43. **The Acting Chairman** said he had assumed that Annex 4 was intended for the Committee's use and had been included in order to provide transparency.

44. **Mr. Seif El-Dalwa** (Counter-Terrorism Committee Executive Directorate) said that factual comments by the Government had been incorporated into the report. Where the Saudi authorities had stated that certain implementation measures had been implemented, CTED

had taken note of the statement, but had maintained its recommendations. The majority of the comments were clarifications; the Saudi authorities had provided additional details and had wanted them to be incorporated into the report. They had been informed that that was not possible as the report had to follow a common format. As a compromise, the clarifications had been mentioned in footnotes referencing the Annex, which had been placed at the end of the report.

45. **The Acting Chairman** said that the past practice had been not to include such comments by States in the visit reports.

46. **Mr. Smith** (Executive Director, Counter-Terrorism Committee Executive Directorate) said it seemed clear that in adopting the draft report, the Committee would not be adopting the comments made by the Government of Saudi Arabia. If, however, there appeared to be an implication that Annex 4 was an integral part of the document, the Annex could be separated from the draft report.

47. **Mr. Karev** (Counter-Terrorism Committee Executive Directorate) said that the final draft of the report was based on long discussions with representatives of Saudi Arabia. That process was the same for every State visited, and the goal was to have the best report possible.

48. In the past, the State's comments had never been annexed to the visit report. Their inclusion in the present case was the result of a compromise between CTED and the Government. That did not mean that the Committee had to approve the Government's comments. In order to make it clear that the Annex was not an official part of the report, perhaps it could be included as an "attachment."

49. **Mr. Shepherd** (United Kingdom) proposed that the Committee should adopt the report and Annexes 1 to 3 and simply take note of Annex 4, while ensuring that the views expressed by delegations were reflected in the summary record for the meeting.

50. **Mr. Salov** (Russian Federation) supported the proposal made by the representative of the United Kingdom. He feared that to do otherwise might set a precedent and, in effect, result in the creation of two alternative reports. Annex 4 should serve as reference material only.

51. **The Acting Chairman** suggested that the Committee should adopt the draft report on the visit,

subject to the deletion of Annex IV and of all footnote references thereto, and that CTED should convey that decision to the Saudi Arabian authorities, explaining that inclusion of the Annex might lead to problems of interpretation in the future but that the Committee had taken note of the comments contained therein. If there was no objection, he would take it that the Committee wished to proceed accordingly.

52. *It was so decided.*

*Draft report on the visit to the Lao People's Democratic Republic*

53. **The Acting Chairman** recalled that the "traditional" visit to the Lao People's Democratic Republic had been conducted from 12 to 15 May 2008. The draft report on the visit (S/AC.40/2009/NOTE.66), which incorporated comments and suggestions by the Government, had been circulated to delegations on 16 April 2009.

54. **Ms. Takasu** (Counter-Terrorism Committee Executive Directorate), introducing the draft report, said that the visit delegation had included representatives of CTED, ADB, INTERPOL, the IOM and UNODC. Although the draft report had been sent to the Permanent Mission of the Lao People's Democratic Republic on 14 August 2008, there had been a considerable delay in transmission of the Government's comments, of a primarily technical nature, which had been received through formal and informal channels in January and February 2009 and discussed with the Permanent Mission of the visited State on several occasions. Information received from the International Civil Aviation Organization (ICAO) on the outcome of its latest security audit of the country had also been incorporated into the report (paras. 57-61).

55. The State was a party to eight of the international counter-terrorism instruments. However, its Penal Code did not allow it to prosecute terrorist acts that had not been committed in or against the Lao People's Democratic Republic. The Code did not criminalize the financing of terrorism or recruitment to terrorist groups and the State had no asset freezing mechanisms. Its practices, coordination and information exchange in the field of law enforcement were poor and it could not afford modern counter-terrorism databases and inspection equipment. The delegation had concluded

that the State lacked capacities and that technical assistance from donors would be useful in many areas.

56. The visit had raised the national authorities' awareness of counter-terrorism issues and had helped the delegation identify areas in which improvement and assistance were needed. The Government had demonstrated its willingness to cooperate with the Committee and CTED in follow-up to the visit, and the Executive Directorate had already approached potential donors with a view to the provision of capacity-building assistance.

57. **Ms. Nguyen Thi Thanh Ha** (Viet Nam) said she was certain that the gaps noted in the State's implementation of the international counter-terrorism instruments to which it was a party (paragraphs 17-21 of the draft report) were a sign of its need for capacity-building, not of a lack of willingness to meet its obligations in that regard. In many developing countries, including her own, the process of promulgating new laws and amending existing ones was long and difficult; many of those countries had therefore adopted a "direct implementation" approach that allowed them to apply the instruments to which they were parties while awaiting their incorporation into domestic law.

58. **The Acting Chairman** said that if there was no objection, he would take it that the Committee wished to approve the draft report on the visit to the Lao People's Democratic Republic.

59. *It was so decided.*

#### **Consideration of draft preliminary implementation assessments, cover letters and cover notes**

60. **The Acting Chairman** drew attention to the draft preliminary implementation assessment (PIA), cover letter and cover note for the Bahamas, which Subcommittee A had discussed at a meeting held on 1 April 2009 and approved under the no-objection procedure on 13 April 2009; and to the draft PIAs, cover letters and cover notes for Germany, Hungary, Iceland, Latvia, the Maldives, Mongolia and the Republic of Moldova, which Subcommittee B had discussed at a meeting held on 2 April 2009 and approved under the no-objection procedure on 24 April 2009. If there was no objection, he would take it that the Committee wished to adopt those documents.

61. *It was so decided.*

#### **Other matters**

62. **Mr. Shepherd** (United Kingdom) proposed that in order to provide policy guidance to the Executive Directorate, the Committee should devote more time to the consideration of political and thematic issues, such as border controls and human rights, on the basis of presentations by relevant organizations or short discussion papers prepared by CTED. In order to make time for such discussions, the Committee should consider approving more documents under the no-objection procedure.

63. **Mr. Donovan** (United States of America) said that the briefing provided at the previous meeting by the Chief of the Terrorism Prevention Branch of UNODC had been extremely useful; to the extent possible, such presentations should be scheduled more frequently.

64. **Ms. Huber** (Austria) said that she agreed with the previous speakers and suggested that in the interest of time, the Committee might adopt the draft PIAs, cover notes and cover letters under the no-objection procedure. She also wondered whether the Committee could find a way of circulating those documents that would not overload the electronic mailboxes of delegations, perhaps by sending them in electronically compressed format or posting them on an internal website.

65. **The Acting Chairman** said that the problems created by the volume of documents circulated electronically to delegations had often been mentioned, but no solution had been found. He suggested that CTED and the Secretariat should discuss the matter and propose solutions; they should also consider the proposal made by the representative of the United Kingdom.

66. **Mr. Škrabalo** (Croatia) said that while he agreed that thematic discussions were valuable, the Executive Directorate's working groups had given presentations on most of the areas covered by resolution 1373 (2001) in 2008. Any future discussions might therefore be based on the work that CTED had already done on those issues.

67. He would welcome any reduction in the volume of documents circulated electronically; however, it was important to protect the confidentiality of sensitive documents and, in light of the limited technical

capacities of some permanent missions, to ensure that documents could be accessed in more than one way.

68. **Mr. Smith** (Executive Director, Counter-Terrorism Committee Executive Directorate) said that while options such as the use of electronically compressed files could certainly be considered, he was not certain that much could be done to reduce the file size of the PIA tables. By adopting the PIAs, cover notes and cover letters prepared by CTED, the Committee gave greater authority to those documents. To do so was part of its mandate and he did not see how it could approve them without reading them, at least at the subcommittee level. The adoption process could, however, be handled under the no-objection procedure if the Committee wished. The Executive Directorate had recently begun to enforce the 20-page limit on the documents that it prepared; however, as in the case of the draft report on the visit to Saudi Arabia, it could not predict the length of the comments that a visited State might submit.

69. The discussions following the presentations made by the working groups in 2008 had been extremely useful and the Executive Directorate would welcome more general thematic guidance from the Committee; perhaps such presentations should be held at least once a month, in addition to the briefings provided by the Committee's partner agencies, and a schedule for the next few months could be drawn up.

*The meeting rose at 5.05 p.m.*