



Meeting of G8 Justice and Home Affairs Ministers

Washington – May 11, 2004

RECOMMENDATIONS FOR ENHANCING THE LEGAL FRAMEWORK TO PREVENT TERRORIST ATTACKS

Introduction

Given the potential catastrophic implications of terrorism on the safety of people and property, as demonstrated by recent attacks that have been carried out around the world, it has become imperative that the G8 urgently examine the ability to carry out law enforcement actions for the purpose of preventing attacks. The G8 believes it critical that States have sufficient ability to take law enforcement action with respect to situations in which the terrorist objective is not yet well defined and an attack may not take place for some time to come, both for domestic enforcement and international cooperation purposes. In this sense, prevention, investigation and prosecution are complementary in nature and must be part of a single strategy that protects our societies.

With respect to developing a domestic strategy to enhance legal frameworks in prevention of terrorism, no organizations or individuals engaging in conduct facilitative of terrorism should be beyond the reach of the law. Criminal offenses and investigative techniques should be available to enable effective law enforcement action against such persons and organizations prior to terrorist attacks being carried out. With respect to developing a strategy for effective concerted international cooperation by law enforcement authorities in preventing terrorism, international law enforcement agreements must encompass cooperation in this area.

Accordingly, we commit ourselves and urge other States to implement a strategy for law enforcement action in preventing terrorism that includes the following standards:

I. Domestic Legal and Law Enforcement Standards for Prevention of Terrorism

A. Criminal law measures

1. States should ensure that a broad range of terrorist support activities are considered to be criminal offenses, whether or not the terrorist attack has been carried out, including:
 - a. recruiting persons to commit terrorist acts and the providing, directly or indirectly, of financial or other material support to terrorism; for example, training, providing of supplies, facilities, skills or expertise to terrorists, and providing monetary or other inducements to commit terrorist acts. A person who engages in such conduct should be criminally liable not only where he or she knows or intends that

the conduct will facilitate the commission of a specific attack, but also where he or she knows or intends that the conduct will facilitate the commission of future unspecified attacks; and

- b. inciting persons to commit terrorist acts, having due regard to legitimate application of principles of freedom of speech and association.
2. In order to enhance global capacities for combating terrorism, we renew our call upon all States that have not yet done so to immediately ratify and implement the United Nations counter- terrorism conventions, in particular the UN Convention on Terrorist Bombings (1997), the UN International Convention for the Suppression of the Financing of Terrorism (1999), and to implement the Financial Action Task Force's Forty Recommendations (2003), and the Eight Special Recommendations on Financing of Terrorism (2001) to enhance global capacities for combating terrorism.
 3. Legal frameworks must enable effective action to be taken in respect of all entities, whether social, religious or charitable in nature, involved in terrorist activities, as well as persons in a position of leadership in such entities, while also respecting legitimate application of principles of freedom of speech, association and religious belief. The fact of involvement of such entities or leaders should not *per se* bar application of criminal law powers and sanctions.

B. Investigative measures

4. Criminal authorities should have the ability to use a broad array of special investigative techniques in investigating offenses described in paragraph 1 and in this regard should take into account the G8 Recommendations on Special Investigative Techniques and other Critical Measures for Combating Organized Crime and Terrorism. In particular, while duly respecting established legal privileges recognized under domestic law, such as attorney-client or clergyman-penitent confidentiality and respect for diplomatic status, the fact of involvement of entities whether social, religious or charitable in nature, or of their leaders should not *per se* bar use of special investigative techniques.

C. Other measures

5. States should not *per se* prohibit the offering by private persons or entities of incentives to the public for information that may legitimately assist authorities in responding to terrorist acts.
6. States should consider the use by the government of incentive programs in certain carefully defined circumstances in which they may be of significant aid to law enforcement efforts.

II. International Cooperation Standards for Prevention of Terrorism

7. States should enhance their international cooperation capabilities by full implementation of the international cooperation provisions of the instruments described in paragraph 2. We call on all States to rapidly take such measures if they have not already done so.
8. Strong action in facilitating cooperation with respect to freezing and confiscation of assets supporting terrorists is a key preventative measure. We call on all States to implement the principles set forth in the Recommendations on the Tracing, Freezing and Confiscation of Assets adopted at the 2003 G8 Justice and Home Affairs Ministers Meeting in Paris.
9. The ability to successfully extradite a terrorist who has not yet carried out the object attack is dependent, *inter alia*, on the requesting State being able to charge an anticipatory or preparatory offense and the requested State also being able to punish such conduct. States should ensure, under their applicable treaties and laws, a broad ability to extradite persons who have committed the conduct described in paragraph 1.
10. UNSC Resolution 1373 calls on States to reject claims that conduct is politically motivated as a basis for refusal with respect to the extradition of terrorists. States should ensure that the forms of conduct described in paragraph 1 that are criminal offenses under their law shall not be considered to be political offenses as to which extradition may be denied.
11. States should ensure a sufficient ability to provide assistance aimed at preventing terrorist attacks. States should ensure that their mutual legal assistance treaties and laws, at a minimum, provide for assistance for the investigation and prosecution of a broad range of anticipatory or preparatory offenses of the type described in paragraph 1.
12. States should also provide for the ability to conduct a broad array of special investigative techniques referred to in paragraph 4 to assist another country.
13. States should also enhance international cooperation in other critical areas already identified in the G8 2001 Action Plan on Enhancing International Cooperation against Terrorism, including: eliminating delay in providing mutual legal assistance, ensuring sufficient expertise in cooperation authorities, ensuring cooperation in multi-jurisdictional cases, and ensuring that their nationals who commit terrorist offenses in other countries are brought to justice.

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