

(Letterhead of the Security Bureau)

(Translation)

電話 Telephone: 2810 2329

圖文傳真 Facsimile: 2524 3762

27 November 2017

Miss Betty MA
Clerk to Bills Committee on
United Nations (Anti-Terrorism Measures)
(Amendment) Bill 2017
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss MA,

**Re: Third Meeting of the Bills Committee on
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2017 (“the Bill”)**

At the captioned meeting on 17 November 2017, members and the Assistant Legal Adviser (“ALA”) of the Legislative Council (“LegCo”) requested the Administration to provide supplementary information on some relevant issues. Our reply is set out below.

Long title of the Bill

2. Some members were concerned about adopting “terrorist training” instead of “training for terrorist act” in the long title of the Bill. As the primary aim of the Bill is to implement paragraph 6 of the United Nations Security Council Resolution (“UNSCR”) 2178 (full text of the resolution is at **Appendix**) in which “terrorist training” is adopted, we consider it appropriate to follow the resolution and adopt the same expression in the long title without amendment.

3. Besides, it is proposed in clause 6 of the Bill that a new section 11J be added in the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (“UNATMO”), in which “specified purpose” has been clearly defined. “Specified purpose” means:

- (a) the perpetration, planning or preparation of, or participation in, one or more terrorist acts (even if no terrorist act actually occurs); or
- (b) the provision or receiving of training that is in connection with the perpetration, planning or preparation of, or participation in, one or more terrorist acts (even if no terrorist act actually occurs as a result of the training).

4. It can be seen from the proposed section 11J(b) that the training concerned has to be in connection with “terrorist act”. “Terrorist act” has been clearly defined in section 2 of UNATMO. The Administration will not amend this definition through the Bill.

5. Moreover, some members were concerned about the phrase “in connection with” in the expression “training that is in connection with...terrorist acts”. As stated in our response dated 1 November 2017¹, when drafting the provision, reference was made to the expression in section 101.2 of the Australian Criminal Code Act 1995². In fact, training for terrorist acts evolves constantly with the ever-changing modus operandi of terrorist acts. Adopting the expression “training that is in connection with...terrorist acts” would provide appropriate coverage to include any training related to “terrorist act” under the amended UNATMO.

¹ See LC Paper CB(2)165/17-18(02).

² Section 101.2 of the Australian Criminal Code Act 1995 is extracted below:

“Providing or receiving training connected with terrorist acts

(1) A person commits an offence if:

- (a) the person provides or receives training; and
- (b) the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
- (c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).”

Prohibition on travelling for “specified purpose”

Travel destinations covered

6. Some members were concerned about whether the new section 11K proposed in clause 6 of the Bill applies to travels from Hong Kong to Taiwan for “specified purpose”. The proposed section 11K is as follows:

“11K. Prohibition on travelling for specified purpose

- (1) A Hong Kong permanent resident must not go on board a conveyance with the intention to leave the HKSAR, or a place outside the HKSAR, for a foreign state for a specified purpose.
- (2) A Hong Kong permanent resident must not leave the HKSAR, or a place outside the HKSAR, for a foreign state for a specified purpose.”

7. According to the definition in the Interpretation and General Clauses Ordinance (Cap. 1), “a foreign state” adopted in section 11K should be construed as any state other than “the People’s Republic of China” (“PRC”). As defined under Cap. 1, PRC “includes Taiwan, the Hong Kong Special Administrative Region and Macau”. Travels from Hong Kong to Taiwan will therefore not be covered by the new section. The Administration’s consideration is that as the spirit of UNSCR 2178 is to require all member states to build a worldwide counter-terrorism network against travels of terrorists between different states, it does not cover travels within a state. Regarding travels within PRC involving terrorist activities, Hong Kong law enforcement officers may, through the established police co-operation mechanism, pass the intelligence to their counterparts in the local administrations of the relevant places, so that appropriate enforcement actions may be taken.

Proposed section 11K applicable to Hong Kong permanent residents (“HKPRs”) only

8. Regarding to whom section 11K applies, as explained in our letter to ALA of LegCo dated 15 November 2017³, the legislative proposals have been prepared by the HKSAR Government with reference to the objectives of UNSCR 2178 and

³ See LC Paper CB(2)333/17-18(01).

in response to the actual circumstances of Hong Kong. Paragraph 8 of UNSCR 2178 states that “without prejudice to entry or transit necessary in the furtherance of a judicial process, including in furtherance of such a process related to arrest or detention of a foreign terrorist fighter, Member States shall prevent the entry into or transit through their territories of any individual about whom that State has credible information that provides reasonable grounds to believe that he or she is seeking entry into or transit through their territory for the purpose of participating in the acts described in paragraph 6 ... provided that nothing in this paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals or permanent residents”. It is noteworthy that the expressions “nationals” and “permanent residents” are adopted in UNSCR 2178 and these refer to persons who have close relation or connection with a state. For Hong Kong, we consider that the expression “Hong Kong permanent residents” can serve such purpose, and is in line with the spirit and representation of paragraph 6(a) of UNSCR 2178 on the prohibition of “their nationals” from travelling for specified purpose. It is also easy to understand and can facilitate enforcement.

9. Regarding the part targeting “other individuals” in paragraph 6(a) and the part targeting “any individual” in paragraph 8 of UNSCR 2178 (such as non-HKPRs or visitors), the HKSAR Government will stop the entry or transit of such suspected persons as the first line of defence. According to section 4(1)(a) of the Immigration Ordinance (Cap. 115), officers of the Immigration Department (“ImmD”) may examine any visitor on his landing in Hong Kong. During the examination, ImmD officers will consider whether the visitor meets normal immigration requirements. Based on the information so obtained and the visitor’s individual circumstances and according to the law and established policies, ImmD will consider whether or not to allow his entry into Hong Kong. Suspected persons who are physically in Hong Kong and have committed criminal offences will be apprehended by the HKSAR law enforcement agencies. As for suspected persons who have not committed criminal offences but plan to leave Hong Kong, the HKSAR Government will notify the states of their destination in accordance with established international collaboration mechanisms for appropriate enforcement actions to be taken. If relevant conditions are met, the states to which such suspected persons belong may make a request to Hong Kong for surrender of fugitive offenders.

Compliance with the Basic Law

10. As explained in our letter to ALA of LegCo dated 15 November 2017, the Administration has ensured that the proposed amendments comply with the Basic

Law (“BL”) when drafting the Bill. Article 24 of BL⁴ specifies the criteria for obtaining HKPR status and granting HKPRs the right of abode in Hong Kong. It does not impose any requirement regarding to whom a particular statutory provision apply. We believe that as compared with non-HKPRs, HKPRs are more closely related to Hong Kong and will pose a higher risk to the security of Hong Kong if they travel to foreign states for specified purpose (such as committing a terrorist act upon return to Hong Kong after receiving training in connection with terrorist act in a foreign state). Given the above policy consideration, the proposed section 11K of the Bill restricts HKPRs from leaving Hong Kong for specified purpose, which strikes a reasonable balance between the protection of public security and public order on the one hand and freedom to leave Hong Kong on the other. Besides, as mentioned above, there are established international collaboration mechanisms to effectively deal with non-HKPRs travelling to foreign states or leaving Hong Kong for specified purpose.

11. In response to the requests raised by members and ALA of LegCo, we have made reference to relevant court cases and the laws of Hong Kong in providing the following further analysis from a legal perspective. Article 25 of BL provides that all Hong Kong residents shall be equal before the law. Article 22 of the Hong Kong Bill of Rights (“HKBOR”) (corresponding to Article 26 of the International Covenant on Civil and Political Rights) also provides that all persons are equal before the law and are entitled without any discrimination to the equal

⁴ Article 24 of BL: “Residents of the Hong Kong Special Administrative Region (‘Hong Kong residents’) shall include permanent residents and non-permanent residents.

The permanent residents of the Hong Kong Special Administrative Region shall be:

- (1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region;
- (2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region;
- (3) Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2);
- (4) Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence before or after the establishment of the Hong Kong Special Administrative Region;
- (5) Persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the Hong Kong Special Administrative Region; and
- (6) Persons other than those residents listed in categories (1) to (5), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.

The above-mentioned residents shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode. The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.”

protection of the law. However, this guarantee does not invariably require exact equality in all cases. If justified, there can be a difference in legal treatment. A difference in legal treatment is acceptable if the measure satisfies the proportionality test laid down by the Court of Final Appeal in *Secretary for Justice v Yau Yuk Lung*⁵ which has since been expounded by the Court in *Hysan Development Co. Ltd v Town Planning Board*⁶.

12. In general, any difference in treatment is justifiable if it pursues a legitimate aim, is rationally connected to the legitimate aim, and is no more than necessary to accomplish the legitimate aim, and has struck a reasonable balance between the societal benefits brought about by the measure and the burden imposed on the persons affected. Moreover, the proportionality test sets in only if there is a difference in treatment between two cases which are in comparable situations. If the cases are not comparable, it is unnecessary to treat them alike the proportionality test for comparing the two cases is not applicable.

13. For the purpose of the offence under section 11K, a Hong Kong resident who is a permanent resident and a Hong Kong resident who is not a permanent resident are not in comparable situations. A permanent resident enjoys the right of abode in Hong Kong which includes a right to land in Hong Kong free from any condition of stay (including a limit of stay) and is not liable to removal or deportation. Non-permanent residents and other non-Hong Kong residents, on the other hand, do not enjoy this right. A non-permanent resident may be deported if he has been found guilty of an offence punishable with imprisonment for not less than two years or the Chief Executive deems it to be conducive to the public good (see section 20(1) of the Immigration Ordinance). As such, there are substantial differences between the two, and their treatment need not be the same under this situation.

14. Nevertheless, any differential treatment between a permanent resident and a non-permanent resident is justified for a good reason. By focusing the prohibition under section 11K on permanent residents who have the right of abode in Hong Kong, the offence will serve the legitimate aim of preventing terrorist activities in Hong Kong. Such targeted prohibition is rationally connected with the legitimate aim because any permanent resident who travels abroad for the purpose of conducting terrorist acts or receiving training in connection with terrorist acts poses a threat to the security of Hong Kong. As for other individuals (including non-permanent residents) who travel abroad for such purpose, they pose relatively

⁵ FACC 12/2006, 17 July 2007.

⁶ FACV 21/2015, 26 September 2016.

lower threat to the security of Hong Kong because they may be removed or deported where necessary. The HKSAR Government may, under the applicable provisions of the Fugitive Offenders Ordinance (Cap. 503) and if relevant requirements are met, surrender them to other countries if they are wanted for prosecution, or for imposition or enforcement of a sentence, in respect of an offence against the relevant laws of those countries.

15. Furthermore, the above differential treatment is not based on grounds such as gender, race or birth origin of a person but on his residence status. As mentioned in our previous responses, the proposed prohibition only targets persons who travel for specified purpose but not for other lawful purposes. The proposed prohibition is proportionate to the above legitimate aim and has struck a reasonable balance between protecting the public safety and public security of Hong Kong and safeguarding an individual's freedom to travel and to leave Hong Kong. It is therefore in conformity with Article 25 of BL and Article 22 of HKBOR.

Prohibition on financing or organizing/facilitating travels for specified purpose (the new sections 11L and 11M proposed by clause 6 of the Bill)

16. As stated in our response dated 1 November 2017, terrorist acts are very serious public hazards. The preamble of UNSCR 2178 also reaffirms that terrorism in all forms and manifestations constitutes one of the most serious threats to international peace and security, and that any acts of terrorism are criminal and unjustifiable regardless of their motives, whenever and by whomsoever committed. The policy as articulated in the Bill focuses on the prevention of the preparation prior to travels related to terrorist acts or training. Prohibitions on offences of financing, organizing or facilitating these travels as stipulated in the legislative proposals aim at nipping such travels in the bud. Therefore, we propose that sections 11L and 11M be applicable to any person within Hong Kong and any person outside Hong Kong who is a HKPR or a body incorporated or constituted under the law of Hong Kong. Those subject to these prohibitions are consistent with those subject to the existing provisions on counter-terrorism financing (such as sections 7 and 8) under UNATMO.

Targets of prohibition in other jurisdictions

17. In our letter to ALA dated 18 July 2017⁷, we have tabulated the relevant laws of the common law jurisdictions to which reference was made when drafting the Bill. In response to members' request for listing targets to whom the relevant

⁷ See LC Paper CB(2)1945/16-17(02).

provisions apply, the relevant provisions of the Australian, Canadian and UK laws are as follows:

Australian Criminal Code Act 1995

Section 119.1

“Incursions into foreign countries with the intention of engaging in hostile activities”⁸

- (1) A person commits an offence if:
- (a) the person enters a foreign country with the intention of engaging in a hostile activity in that or any other foreign country; and
 - (b) when the person enters the country, the person:
 - (i) is an Australian citizen; or
 - (ii) is a resident of Australia; or
 - (iii) is a holder under the *Migration Act 1958* of a visa; or
 - (iv) has voluntarily put himself or herself under the protection of Australia. ”

⁸ **Section 117.1(1)**

“...A person engages in a hostile activity in a foreign country if the person engages in conduct in that country with the intention of achieving one or more of the following objectives (whether or not such an objective is achieved):

...

- (b) the engagement, by that or any other person, in action that:
 - (i) falls within subsection 100.1(2)* but does not fall within subsection 100.1(3)^; and
 - (ii) if engaged in in Australia, would constitute a serious offence;...”

***Section 100.1(2):**

“Action falls within this subsection if it:

- (a) causes serious harm that is physical harm to a person; or
- (b) causes serious damage to property; or
- (c) causes a person’s death; or
- (d) endangers a person’s life, other than the life of the person taking the action; or
- (e) creates a serious risk to the health or safety of the public or a section of the public; or
- (f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:
 - (i) an information system; or
 - (ii) a telecommunications system; or
 - (iii) a financial system; or
 - (iv) a system used for the delivery of essential government services; or
 - (v) a system used for, or by, an essential public utility; or
 - (vi) a system used for, or by, a transport system.”

^Section 100.1(3):

“Action falls within this subsection if it:

- (a) is advocacy, protest, dissent or industrial action; and
- (b) is not intended:
 - (i) to cause serious harm that is physical harm to a person; or
 - (ii) to cause a person’s death; or
 - (iii) to endanger the life of a person, other than the person taking the action; or
 - (iv) to create a serious risk to the health or safety of the public or a section of the public.”

Canadian Criminal Code

Section 83.191

“Leaving Canada to facilitate terrorist activity

Everyone who leaves or attempts to leave Canada, or goes or attempts to go on board a conveyance with the intent to leave Canada, for the purpose of committing an act or omission outside Canada that, if committed in Canada, would be an offence under subsection 83.19(1) is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.”

Section 83.201

“Leaving Canada to commit offence for terrorist group

Everyone who leaves or attempts to leave Canada, or goes or attempts to go on board a conveyance with the intent to leave Canada, for the purpose of committing an act or omission outside Canada that, if committed in Canada, would be an indictable offence under this or any other Act of Parliament for the benefit of, at the direction of or in association with a terrorist group is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.”

Section 83.202

“Leaving Canada to commit offence that is terrorist activity

Everyone who leaves or attempts to leave Canada, or goes or attempts to go on board a conveyance with the intent to leave Canada, for the purpose of committing an act or omission outside Canada that, if committed in Canada, would be an indictable offence under this or any other Act of Parliament if the act or omission constituting the offence also constitutes a terrorist activity is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.”

UK Terrorism Act 2006

Section 5(1)

“Preparation of terrorist acts

A person commits an offence if, with the intention of—

- (a) committing acts of terrorism, or
- (b) assisting another to commit such acts,

he engages in any conduct in preparation for giving effect to his intention.”

UK Counter-Terrorism and Security Act 2015

Section 1(1)

“Seizure of passports etc from persons suspected of involvement in terrorism

Schedule 1 makes provision for the seizure and temporary retention of travel documents where a person is suspected of intending to leave Great Britain or the United Kingdom in connection with terrorism-related activity.”

Operation of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) and the Fugitive Offenders Ordinance (Cap. 503) with respect to extra-territorial application of new prohibitions in the Bill

18. As stated in our response dated 3 October 2017⁹, clause 4 of the Bill proposes adding the new sections 8A, 11L and 11M to section 3 of UNATMO, so that the relevant prohibitions are applicable to any person within the HKSAR and any person outside the HKSAR who is a HKPR or a body incorporated or constituted under the law of the HKSAR. As regards the proposed section 11K, as mentioned in the provision itself, prohibition is applicable to any HKPR inside or outside the HKSAR.

19. Under the Mutual Legal Assistance in Criminal Matters Ordinance, Hong Kong may make a request for mutual legal assistance (“MLA”) to a place outside Hong Kong for assistance in conducting investigation, collecting evidence or instituting prosecution in respect of commission of relevant offences under UNATMO by a suspected person. If the proposal of the Bill is approved and comes into effect, where a HKPR is suspected to have violated section 8A, 11K, 11L or 11M outside Hong Kong, the relevant law enforcement agency in Hong Kong may, upon satisfaction of the conditions, make an MLA request in respect of the relevant offence for conducting investigation, collecting evidence or instituting prosecution. An MLA request may be made on the basis of a bilateral MLA agreement or a multilateral treaty applicable to Hong Kong and the requested party, or, where there is no applicable bilateral or multilateral agreement, on a reciprocal basis. Any MLA request will be handled in accordance with the provisions of the applicable agreement and the law of the requested party.

20. As for surrender of fugitive offenders, the offences for which surrender may be granted under Schedule 1 to the Fugitive Offenders Ordinance include “offences for which persons may be surrendered under multi-lateral international conventions; offences created as a result of decisions of international organizations”. In other words, upon satisfaction of the conditions, Hong Kong may make a request to a place outside Hong Kong for the surrender of any HKPR who has committed an offence under section 8A, 11K, 11L or 11M for the purpose of instituting prosecution, or for the surrender of the relevant convicted person for imposing or enforcing a sentence. Hong Kong may make a request on the basis of a bilateral agreement on surrender of fugitive offenders or a multilateral treaty applicable to Hong Kong and the requested party, or, where there is no applicable bilateral or multilateral agreement, under the circumstances where such surrender is permitted by the law of the requested party. Any request for surrender made by

⁹ See LC Paper CB(2)2164/16-17(02).

Hong Kong will be handled in accordance with the provisions of the applicable agreement and the law of the requested party.

Yours sincerely,

(Ms Iris LEE)
for Secretary for Security



Security Council

Distr.: General
24 September 2014

Resolution 2178 (2014)

Adopted by the Security Council at its 7272nd meeting, on 24 September 2014

The Security Council,

Reaffirming that terrorism in all forms and manifestations constitutes one of the most serious threats to international peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivations, whenever and by whomsoever committed, and *remaining* determined to contribute further to enhancing the effectiveness of the overall effort to fight this scourge on a global level,

Noting with concern that the terrorism threat has become more diffuse, with an increase, in various regions of the world, of terrorist acts including those motivated by intolerance or extremism, and *expressing* its determination to combat this threat,

Bearing in mind the need to address the conditions conducive to the spread of terrorism, and *affirming* Member States' determination to continue to do all they can to resolve conflict and to deny terrorist groups the ability to put down roots and establish safe havens to address better the growing threat posed by terrorism,

Emphasizing that terrorism cannot and should not be associated with any religion, nationality or civilization,

Recognizing that international cooperation and any measures taken by Member States to prevent and combat terrorism must comply fully with the Charter of the United Nations,

Reaffirming its respect for the sovereignty, territorial integrity and political independence of all States in accordance with the Charter,

Reaffirming that 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, *underscoring* that respect for human rights, fundamental freedoms and the rule of law are complementary and mutually reinforcing with effective counter-terrorism measures, and are an essential part of a successful counter-terrorism effort and notes the importance of respect for the rule of law so as to effectively prevent and combat terrorism, and *noting* that failure to comply with these and other international obligations, including under the Charter



of the United Nations, is one of the factors contributing to increased radicalization and fosters a sense of impunity,

Expressing grave concern over the acute and growing threat posed by foreign terrorist fighters, namely individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict, and *resolving* to address this threat,

Expressing grave concern about those who attempt to travel to become foreign terrorist fighters,

Concerned that foreign terrorist fighters increase the intensity, duration and intractability of conflicts, and also may pose a serious threat to their States of origin, the States they transit and the States to which they travel, as well as States neighbouring zones of armed conflict in which foreign terrorist fighters are active and that are affected by serious security burdens, and *noting* that the threat of foreign terrorist fighters may affect all regions and Member States, even those far from conflict zones, and *expressing* grave concern that foreign terrorist fighters are using their extremist ideology to promote terrorism,

Expressing concern that international networks have been established by terrorists and terrorist entities among States of origin, transit and destination through which foreign terrorist fighters and the resources to support them have been channelled back and forth,

Expressing particular concern that foreign terrorist fighters are being recruited by and are joining entities such as the Islamic State in Iraq and the Levant (ISIL), the Al-Nusrah Front (ANF) and other cells, affiliates, splinter groups or derivatives of Al-Qaida, as designated by the Committee established pursuant to resolutions [1267 \(1999\)](#) and [1989 \(2011\)](#), *recognizing* that the foreign terrorist fighter threat includes, among others, individuals supporting acts or activities of Al-Qaida and its cells, affiliates, splinter groups, and derivative entities, including by recruiting for or otherwise supporting acts or activities of such entities, and *stressing* the urgent need to address this particular threat,

Recognizing 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,

Recognizing also that terrorism will not be defeated by military force, law enforcement measures, and intelligence operations alone, and *underlining* the need to address the conditions conducive to the spread of terrorism, as outlined in Pillar I of the United Nations Global Counter-Terrorism Strategy ([A/RES/60/288](#)),

Expressing concern over the increased use by terrorists and their supporters of communications technology for the purpose of radicalizing to terrorism, recruiting and inciting others to commit terrorist acts, including through the internet, and

financing and facilitating the travel and subsequent activities of foreign terrorist fighters, and *underlining* the need for Member States to act cooperatively to prevent terrorists from exploiting technology, communications and resources to incite support for terrorist acts, while respecting human rights and fundamental freedoms and in compliance with other obligations under international law,

Noting with appreciation the activities undertaken in the area of capacity building by United Nations entities, in particular entities of the Counter-Terrorism Implementation Task Force (CTITF), including the United Nations Office of Drugs and Crime (UNODC) and the United Nations Centre for Counter-Terrorism (UNCCT), and also the efforts of the Counter Terrorism Committee Executive Directorate (CTED) to facilitate technical assistance, specifically by promoting engagement between providers of capacity-building assistance and recipients, in coordination with other relevant international, regional and subregional organizations, to assist Member States, upon their request, in implementation of the United Nations Global Counter-Terrorism Strategy,

Noting recent developments and initiatives at the international, regional and subregional levels to prevent and suppress international terrorism, and *noting* the work of the Global Counterterrorism Forum (GCTF), in particular its recent adoption of a comprehensive set of good practices to address the foreign terrorist fighter phenomenon, and its publication of several other framework documents and good practices, including in the areas of countering violent extremism, criminal justice, prisons, kidnapping for ransom, providing support to victims of terrorism, and community-oriented policing, to assist interested States with the practical implementation of the United Nations counter-terrorism legal and policy framework and to complement the work of the relevant United Nations counter-terrorism entities in these areas,

Noting with appreciation the efforts of INTERPOL to address the threat posed by foreign terrorist fighters, including through global law enforcement information sharing enabled by the use of its secure communications network, databases, and system of advisory notices, procedures to track stolen, forged identity papers and travel documents, and INTERPOL's counter-terrorism fora and foreign terrorist fighter programme,

Having regard to and highlighting the situation of individuals of more than one nationality who travel to their states of nationality for the purpose of the perpetration, planning, preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, and *urging* States to take action, as appropriate, in compliance with their obligations under their domestic law and international law, including international human rights law,

Calling upon States to ensure, in conformity with international law, in particular international human rights law and international refugee law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, including by foreign terrorist fighters,

Reaffirming its call upon all States to become party to the international counter-terrorism conventions and protocols as soon as possible, whether or not they are a party to regional conventions on the matter, and to fully implement their obligations under those to which they are a party,

Noting the continued threat to international peace and security posed by terrorism, and *affirming* the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts, including those perpetrated by foreign terrorist fighters,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* the violent extremism, which can be conducive to terrorism, sectarian violence, and the commission of terrorist acts by foreign terrorist fighters, and *demand*s that all foreign terrorist fighters disarm and cease all terrorist acts and participation in armed conflict;

2. *Reaffirms* that all States shall prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents, *underscores*, in this regard, the importance of addressing, in accordance with their relevant international obligations, the threat posed by foreign terrorist fighters, and *encourages* Member States to employ evidence-based traveller risk assessment and screening procedures including collection and analysis of travel data, without resorting to profiling based on stereotypes founded on grounds of discrimination prohibited by international law;

3. *Urges* Member States, in accordance with domestic and international law, to intensify and accelerate the exchange of operational information regarding actions or movements of terrorists or terrorist networks, including foreign terrorist fighters, especially with their States of residence or nationality, through bilateral or multilateral mechanisms, in particular the United Nations;

4. *Calls upon* all Member States, in accordance with their obligations under international law, to cooperate in efforts to address the threat posed by foreign terrorist fighters, including by preventing the radicalization to terrorism and recruitment of foreign terrorist fighters, including children, preventing foreign terrorist fighters from crossing their borders, disrupting and preventing financial support to foreign terrorist fighters, and developing and implementing prosecution, rehabilitation and reintegration strategies for returning foreign terrorist fighters;

5. *Decides* that Member States shall, consistent with international human rights law, international refugee law, and international humanitarian law, prevent and suppress the recruiting, organizing, transporting or equipping of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, and the financing of their travel and of their activities;

6. *Recalls* its decision, in resolution [1373 \(2001\)](#), that all Member States shall ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice, and *decides* that all States shall ensure that their domestic laws and regulations establish serious criminal offenses sufficient to provide the ability to prosecute and to penalize in a manner duly reflecting the seriousness of the offense:

(a) their nationals who travel or attempt to travel to a State other than their States of residence or nationality, and other individuals who travel or attempt to

travel from their territories to a State other than their States of residence or nationality, for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training;

(b) the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to finance the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training; and,

(c) the wilful organization, or other facilitation, including acts of recruitment, by their nationals or in their territories, of the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training;

7. *Expresses* its strong determination to consider listing pursuant to resolution 2161 (2014) individuals, groups, undertakings and entities associated with Al-Qaida who are financing, arming, planning, or recruiting for them, or otherwise supporting their acts or activities, including through information and communications technologies, such as the internet, social media, or any other means;

8. *Decides* that, without prejudice to entry or transit necessary in the furtherance of a judicial process, including in furtherance of such a process related to arrest or detention of a foreign terrorist fighter, Member States shall prevent the entry into or transit through their territories of any individual about whom that State has credible information that provides reasonable grounds to believe that he or she is seeking entry into or transit through their territory for the purpose of participating in the acts described in paragraph 6, including any acts or activities indicating that an individual, group, undertaking or entity is associated with Al-Qaida, as set out in paragraph 2 of resolution 2161 (2014), provided that nothing in this paragraph shall oblige any State to deny entry or require the departure from its territories of its own nationals or permanent residents;

9. *Calls upon* Member 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 Committee”), and further *calls upon* Member States to report any such departure from their territories, or such attempted entry into or transit through their territories, of such individuals to the Committee, as well as sharing this information with the State of residence or nationality, as appropriate and in accordance with domestic law and international obligations;

10. *Stresses* the urgent need to implement fully and immediately this resolution with respect to foreign terrorist fighters, *underscores* the particular and urgent need to implement this resolution with respect to those foreign terrorist fighters who are associated with ISIL, ANF and other cells, affiliates, splinter groups or derivatives of Al-Qaida, as designated by the Committee, and *expresses* its

readiness to consider designating, under resolution [2161 \(2014\)](#), individuals associated with Al-Qaida who commit the acts specified in paragraph 6 above;

International Cooperation

11. *Calls upon* Member States to improve international, regional, and subregional cooperation, if appropriate through bilateral agreements, to prevent the travel of foreign terrorist fighters from or through their territories, including through increased sharing of information for the purpose of identifying foreign terrorist fighters, the sharing and adoption of best practices, and improved understanding of the patterns of travel by foreign terrorist fighters, and for Member States to act cooperatively when taking national measures to prevent terrorists from exploiting technology, communications and resources to incite support for terrorist acts, while respecting human rights and fundamental freedoms and in compliance with other obligations under international law;

12. *Recalls* its decision in resolution [1373 \(2001\)](#) that Member States shall afford one another the greatest measure of assistance in connection with criminal investigations or proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings, and *underscores* the importance of fulfilling this obligation with respect to such investigations or proceedings involving foreign terrorist fighters;

13. *Encourages* Interpol to intensify its efforts with respect to the foreign terrorist fighter threat and to recommend or put in place additional resources to support and encourage national, regional and international measures to monitor and prevent the transit of foreign terrorist fighters, such as expanding the use of INTERPOL Special Notices to include foreign terrorist fighters;

14. *Calls upon* States to help build the capacity of States to address the threat posed by foreign terrorist fighters, including to prevent and interdict foreign terrorist fighter travel across land and maritime borders, in particular the States neighbouring zones of armed conflict where there are foreign terrorist fighters, and *welcomes* and *encourages* bilateral assistance by Member States to help build such national capacity;

Countering Violent Extremism in Order to Prevent Terrorism

15. *Underscores* that countering violent extremism, which can be conducive to terrorism, including preventing radicalization, recruitment, and mobilization of individuals into terrorist groups and becoming foreign terrorist fighters is an essential element of addressing the threat to international peace and security posed by foreign terrorist fighters, and *calls upon* Member States to enhance efforts to counter this kind of violent extremism;

16. *Encourages* Member States to engage relevant local communities and non-governmental actors in developing strategies to counter the violent extremist narrative that can incite terrorist acts, address the conditions conducive to the spread of violent extremism, which can be conducive to terrorism, including by empowering youth, families, women, religious, cultural and education leaders, and all other concerned groups of civil society and adopt tailored approaches to countering recruitment to this kind of violent extremism and promoting social inclusion and cohesion;

17. *Recalls* its decision in paragraph 14 of resolution [2161 \(2014\)](#) with respect to improvised explosive devices (IEDs) and individuals, groups, undertakings and entities associated with Al-Qaida, and *urges* Member States, in this context, to act cooperatively when taking national measures to prevent terrorists from exploiting technology, communications and resources, including audio and video, to incite support for terrorist acts, while respecting human rights and fundamental freedoms and in compliance with other obligations under international law;

18. *Calls upon* Member States to cooperate and consistently support each other's efforts to counter violent extremism, which can be conducive to terrorism, including through capacity building, coordination of plans and efforts, and sharing lessons learned;

19. *Emphasizes* in this regard the importance of Member States' efforts to develop non-violent alternative avenues for conflict prevention and resolution by affected individuals and local communities to decrease the risk of radicalization to terrorism, and of efforts to promote peaceful alternatives to violent narratives espoused by foreign terrorist fighters, and *underscores* the role education can play in countering terrorist narratives;

United Nations Engagement on the Foreign Terrorist Fighter Threat

20. *Notes* that foreign terrorist fighters and those who finance or otherwise facilitate their travel and subsequent activities may be eligible for inclusion on the Al-Qaida Sanctions List maintained by the Committee pursuant to resolutions [1267 \(1999\)](#) and [1989 \(2011\)](#) where they participate in the financing, planning, facilitating, preparing, or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of, Al-Qaida, supplying, selling or transferring arms and related materiel to, or recruiting for, or otherwise supporting acts or activities of Al-Qaida or any cell, affiliate, splinter group or derivative thereof, and *calls upon* States to propose such foreign terrorist fighters and those who facilitate or finance their travel and subsequent activities for possible designation;

21. *Directs* the Committee established pursuant to resolution [1267 \(1999\)](#) and [1989 \(2011\)](#) and the Analytical Support and Sanctions Monitoring Team, in close cooperation with all relevant United Nations counter-terrorism bodies, in particular CTED, to devote special focus to the threat posed by foreign terrorist fighters recruited by or joining ISIL, ANF and all groups, undertakings and entities associated with Al-Qaida;

22. *Encourages* the Analytical Support and Sanctions Monitoring Team to coordinate its efforts to monitor and respond to the threat posed by foreign terrorist fighters with other United Nations counter-terrorism bodies, in particular the CTITF;

23. *Requests* the Analytical Support and Sanctions Monitoring Team, in close cooperation with other United Nations counter-terrorism bodies, to report to the Committee established pursuant to resolutions [1267 \(1999\)](#) and [1989 \(2011\)](#) within 180 days, and provide a preliminary oral update to the Committee within 60 days, on the threat posed by foreign terrorist fighters recruited by or joining ISIL, ANF and all groups, undertakings and entities associated with Al-Qaida, including:

(a) a comprehensive assessment of the threat posed by these foreign terrorist fighters, including their facilitators, the most affected regions and trends in radicalization to terrorism, facilitation, recruitment, demographics, and financing; and

(b) recommendations for actions that can be taken to enhance the response to the threat posed by these foreign terrorist fighters;

24. *Requests* the Counter-Terrorism Committee, within its existing mandate and with the support of CTED, to identify principal gaps in Member States' capacities to implement Security Council resolutions [1373 \(2001\)](#) and [1624 \(2005\)](#) that may hinder States' abilities to stem the flow of foreign terrorist fighters, as well as to identify good practices to stem the flow of foreign terrorist fighters in the implementation of resolutions [1373 \(2001\)](#) and [1624 \(2005\)](#), and to facilitate technical assistance, specifically by promoting engagement between providers of capacity-building assistance and recipients, especially those in the most affected regions, including through the development, upon their request, of comprehensive counter-terrorism strategies that encompass countering violent radicalization and the flow of foreign terrorist fighters, recalling the roles of other relevant actors, for example the Global Counterterrorism Forum;

25. *Underlines* that the increasing threat posed by foreign terrorist fighters is part of the emerging issues, trends and developments related to resolutions [1373 \(2001\)](#) and [1624 \(2005\)](#), that, in paragraph 5 of resolution [2129 \(2013\)](#), the Security Council directed CTED to identify, and therefore merits close attention by the Counter-Terrorism Committee, consistent with its mandate;

26. *Requests* the Committee established pursuant to resolutions [1267 \(1999\)](#) and [1989 \(2011\)](#) and the Counter-Terrorism Committee to update the Security Council on their respective efforts pursuant to this resolution;

27. *Decides* to remain seized of the matter.
