

**The 132<sup>nd</sup> International Senior Seminar**  
**(10 January - 10 February 2006)**

**1. Main Theme of the Seminar**

Strengthening the Legal Regime for Combating Terrorism

**2. Rationale**

**(1) Increasing Threat of Terrorism to the International Community**

The first five years of the twenty-first century will unfortunately be remembered for the proliferation of horrifying acts of terrorism in many parts of the world. The increasing threat of terrorism to international peace and security, as witnessed in the terrorist attacks in the United States on 11 September 2001, is at present one of the most serious concerns of the international community as a whole. In a society where democracy and human rights are of the utmost value, acts of terrorism as a means to accomplishing political, racial, religious, or any other objectives are not to be tolerated. Acts of terrorism must be strongly denied as open defiance of the rule of law; which forms the basis for citizens of the world to live in peace and happiness.

The international community has been highly responsive to these threats. The United Nations, its Member States, and other international and regional organizations accelerated discussions to tackle the issue of terrorism through a number of high level conferences and meetings with the attendance of heads of states and concerned ministers, as well as relevant experts. In the Asian region, strong political messages were sent out expressing the determination to fight terrorism, including the ASEAN Declaration in November 2001, Bali Ministerial Meeting in February 2004, and Japan-ASEAN Joint Declaration for Cooperation in the Fight against International Terrorism in November 2004. Immense efforts have been made to analyze the latest situation, identify problems, and develop strategies and cooperation mechanisms, thereby making the life of terrorists harder than ever before.

**(2) Significance of Strengthening the Legal Regime for Combating Terrorism**

A nation needs to be equipped with an effective legal regime for anti-terrorism as an essential tool for combating terrorism. This is especially true as terrorists and their supporters are highly organized, well trained, and well funded in many cases, while normal domestic laws, such as penal codes, cannot necessarily function as an efficient tool to

prevent, detect and punish terrorism-related crimes. A sufficient coverage of criminalization as required in the internationally established standards is a prerequisite. It is requested that States accede to 12 universal conventions and protocols against terrorism as soon as possible, if they have not already done so. A country also needs to put in place legal instruments to combat transnational organized crimes in view of the highly-organized character of most terrorist groups.

It is also important to suppress acts of terrorism from a financial point of view, as terrorists and their supporters need to obtain, maintain, and transfer funds, often using services of existing financial institutions, in order to realize their objectives. A nation needs to strengthen its financial system so as not to allow financial institutions to be abused and misused by terrorists and their supporters. A robust financial system not only helps concerned authorities detect and prevent acts of terrorism at an early stage, but also obtains necessary financial intelligence that eventually leads to the freezing, confiscation, and forfeiture of terrorist funds and profits from their criminal activities.

In this regard, the fight against terrorism has many things in common with the fight against money laundering. Both terrorists and money launderers seek jurisdictions with more lax laws and regulations as physical bases for their criminal activities. If a country is poorly equipped with legal instruments to combat terrorism, in comparison with its neighboring countries, it becomes a vulnerable target for terrorism and a safe haven for terrorists from which they are dispatched to all over the world. Measures that have been developed and implemented during several decades in the fight against money laundering are, to a great extent, being utilized to combat the financing of terrorism.

As terrorists are often organized internationally and commit their criminal acts beyond national borders, effective and functioning mechanisms for international cooperation are crucial to expedite investigation, prosecution, and trials. Both formal and informal channels should be utilized to the maximum extent to ensure speedy international cooperation at every stage of the criminal justice operation.

Capacity building of concerned government agencies is always a key to the successful implementation of a legal regime. For this purpose, it is expected that voluntary contributions and appropriate technical assistance be made available to developing countries. It is to be noted that the Government of Japan, having ratified all of the 12 universal conventions and protocols, has continued to provide technical assistance in many areas of anti-terrorism in cooperation with the United Nations, its Member States, and other international and regional organizations.

Finally, States must ensure that any measures taken to combat terrorism are in conformity with the Charter of the United Nations and international law, in particular

international human rights, refugee and humanitarian law.

### **(3) Measures to Combat Terrorism Taken by the United Nations**

The United Nations is the primary organ for establishing guiding principles for a nation to strengthen its legal regime for fighting terrorism. At the Eleventh United Nations Congress on Crime Prevention and Criminal Justice held in Bangkok in April 2005, the issue of terrorism was discussed as one of the main topics, and a workshop was held to upgrade measures to combat it.

The United Nations adopted the following 12 conventions and protocols pertaining to terrorism over a span of 36 years from 1963 to 1999, as important normative foundations in a number of areas. Four of these conventions apply to aviation security, and the others apply to attacks on or kidnapping of internationally protected persons, such as diplomatic agents; attacks upon civilian maritime vessels; attacks on platforms on the high seas; the taking of civilian hostages; explosives and other dangerous devices; the financing of terrorism; and the protection of nuclear material.

- (i) Convention on Offences and Certain Other Acts Committed On Board Aircraft ("Tokyo Convention", 1963)
- (ii) Convention for the Suppression of Unlawful Seizure of Aircraft ("Hague Convention", 1970)
- (iii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation ("Montreal Convention", 1971)
- (iv) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons (1973)
- (v) International Convention against the Taking of Hostages ("Hostages Convention", 1979)
- (vi) Convention on the Physical Protection of Nuclear Material ("Nuclear Materials Convention", 1980)
- (vii) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988)
- (viii) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)
- (ix) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988)
- (x) Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)

- (xi) International Convention for the Suppression of Terrorist Bombing (1997)
- (xii) International Convention for the Suppression of the Financing of Terrorism (1999)

Security Council resolution 1373 (2001) issued on 28 September 2001 declared that acts, methods and practices of terrorism are contrary to the purposes and principles of the United Nations, and called upon all States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism and fully implement them. That resolution was adopted by the Council acting under Chapter VII of the Charter of the United Nations, which makes it binding on all the United Nations Member States.

Security Council resolution 1373 (2001) also led to the creation of the Counter-Terrorism Committee (CTC), which monitors the implementation of the resolution by all States and has been vigorously monitoring the ratification of the 12 international legal instruments. The CTC has since become the United Nations' leading body to promote collective action against international terrorism, and increased the capability of States to fight terrorism, including bringing Member States to an acceptable level of compliance with the terrorism-related conventions and protocols. In restructuring the CTC, the Counter-Terrorism Executive Directorate (CTED) has been established as a special political mission for an initial period ending on 31 December 2007.

Subsequently, Security Council resolution 1566 (2004) condemned, in the strongest terms, all acts of terrorism irrespective of motivation as one of the most serious threats to peace and security, called upon States to cooperate fully in the fight against terrorism and called upon States to become party, as a matter of urgency, to the relevant international conventions and protocols, whether or not they are a party to regional conventions on the matter.

Recently, the Bangkok Declaration, issued as a result of the Eleventh United Nations Congress, also called upon States, that have not yet done so, to become parties to and implement the universal instruments against terrorism.

In the context of the United Nation's efforts to prevent and combat terrorism, the United Nations Office on Drugs and Crime (UNODC) has an expanded program of work for technical assistance to counter terrorism that is based on mandates recommended by the UN Commission on Crime Prevention and Criminal Justice and approved by the General Assembly. These mandates, carried out by UNODC's Terrorism Prevention Branch (TPB) within the Division for Treaty Affairs (DTA), include the provision of technical assistance and advisory services to countries in their fight against terrorism. As a consequence, UNODC's operational activities focus on strengthening the legal regime against terrorism.

This involves providing legislative assistance to countries, which enables them to become parties to, and implement, the universal anti-terrorism conventions and protocols as well as to implement Security Council resolution 1373 (2001).

Against this background, this Seminar intends to assist efforts by Member States in the fight against terrorism, in particular those efforts towards accession to and implementation of the relevant legal instruments, in close cooperation with UNODC.

### **3.Objectives**

The objectives of this Seminar and its subtopics are as follows:

(1) To examine and analyze the current situation of terrorism and the existing legal regime to combat it.

Subtopics: Current Situation of:

(a) Terrorism and related crimes in the participating countries and region;

(b) The accession by the participating countries to the 12 universal conventions and protocols pertaining to terrorism;

(c) Existing domestic laws to combat terrorism, especially those related to the criminalization of acts of terrorism, combating terrorist financing, and international cooperation such as extradition and mutual legal assistance.

(2) To identify and analyze the current problems and challenges.

Subtopics: Problems and Challenges:

(a) In the accession by the participating countries to the 12 universal conventions and protocols to which the participating countries are not a party, especially in drafting laws

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to fulfill their obligations;

(b) In the full implementation of the above instruments to which the participating countries are a party;

(c) Of a non-legal nature that require special attention in strengthening the legal regime of the participating countries.

(3) To explore effective strategies and countermeasures in harmony with the efforts being made

by the international community.

Subtopics: Measures to:

(a) Expeditiously accede to the universal instruments;

(b) Effectively implement the universal instruments - domestic context, especially the criminalization of acts of terrorism and combating the financing of terrorism;

- (c) Effectively implement the universal instruments - international cooperation such as extradition and mutual legal assistance;
- (d) Strengthen capacity building of concerned agencies.