



# GCTF

GLOBAL COUNTERTERRORISM FORUM

**Inaugural Meeting of the Criminal Justice/Rule of Law Working Group  
November 3-4, 2011  
U.S. Department of State  
Washington, D.C.**

**Co-Chairs' Summary**

**Overview**

Global Counterterrorism Forum (GCTF) Criminal Justice/Rule of Law Working Group co-chairs Egypt and the United States hosted the inaugural meeting on November 3-4, 2011, in Washington, D.C. The meeting brought together senior prosecutors and other senior criminal justice officials from GCTF members, as well as UN and non-government experts to exchange views on what should be the basic elements of the compendium of "GCTF" good practices for effective counterterrorism practice in the criminal justice system, which should complement and reinforce the work that has already been undertaken by the United Nations, and share different national experiences in these areas. Working group participants generally agreed on these basic elements and that the co-chairs should prepare a draft good practices documents for consideration and hopefully endorsement at the next meeting of the group, which Morocco offered to host in early 2012. In addition, once this compendium is developed, working group participants voiced strong support for turning the group's attention to providing or facilitating the training, advice and other forms of technical assistance to promote their implementation and, more broadly, the Cairo Declaration on Counterterrorism and the Rule of Law in interested countries, including by making use of existing national and regional training platforms and working through the GCTF's three regional capacity-building working groups.

Rather than a transcript of the proceedings, the following summary seeks to capture the key points raised during the two-day meeting.

**I. Opening Remarks**

In his opening remarks, U.S. Attorney General Eric Holder said the meeting underscores the shared commitment of GCTF members to upholding the rule of law in their respective criminal justice systems. He stressed how every country represented in the Forum has critically important contributions to make to the good practices framework this working group will establish. He further emphasized the importance of adhering to the values of liberty, privacy, and opportunity while bringing the most proven and effective law enforcement tools to bear in the fight against terrorism. The legal framework created by this GCTF working group will serve as a blueprint for how we address terrorism through the criminal justice system today and in the future.

Working Group Co-Chairs Egypt and the United States thanked meeting participants for coming together to improve our capacity to combat terrorism. The Co-Chairs expressed gratitude for the generous contributions from many GCTF members, which has allowed this working group to demonstrate its action-oriented mission from the start. They reiterated that the effectiveness and long-term sustainability of this working group will depend upon its ability to gather and build trust among counterterrorism (CT) practitioners. It is hoped that through these efforts, GCTF members can collectively raise the capacity of other countries' abilities to uphold their respective criminal justice and rule of law systems.

## **II. Organizational Issues Including the Plan for Developing Good Practices Pursuant to the Cairo Declaration**

Lisa Monaco, Assistant Attorney General (AAG) of the U.S. Department of Justice's National Security Division (U.S. DOJ/NSD), reiterated the importance of learning from each other, while respecting the range of legal and cultural traditions. Referring to the *Cairo Declaration on Counterterrorism and Rule of Law*, which was adopted at the GCTF's September 2011 launch, AAG Monaco said this working group has two critical tasks: develop a compendium of best practices for an effective and rule of law-based criminal justice response to terrorism including those aspects related to international cooperation; and identify existing capacity-building programs and develop new ones in order to support and implement these best practices.

The meeting chair, U.S. DOJ/NSD Deputy AAG, Brad Wiegmann, reiterated the importance of identifying the elements of best CT practices in criminal justice and the rule of law, and to reaching agreement on the way ahead and immediate next steps. Following this meeting he hoped GCTF members will commit to the agreed-upon elements in writing, and develop a text by consensus. Once formulated, this best practices document—and growing institutional knowledge and collaboration of practitioners—will put the GCTF in a stronger position to leverage existing programs and better assist non-GCTF member countries with strengthening their counterterrorism criminal justice architecture.

## **III. Effective Internationally Accepted Legal Investigative Tools and Their Application**

The U.S. presented on effective internationally accepted legal investigative tools, and their application, while emphasizing their importance as part of a proactive criminal justice approach to terrorism that is aimed at preventing attacks from occurring. These key procedural tools include: incentives for cooperation, undercover investigations and other special investigative techniques, electronic surveillance, protection of sensitive law enforcement and intelligence information, judicially-approved pre-trial detention, and domestic cooperation among police, prosecutors, and, where relevant, investigative judges. The U.S. further observed that these key procedural tools, when coupled with oversight by an independent judiciary, are in reality key human rights provisions. The availability of these internationally legally accepted tools, reduce the temptation of governmental officials to engage in torture and other gross human rights violations in a mistaken effort to protect their citizens.

Throughout the briefing, the U.S. demonstrated how international legal support for these tools can be found in one or more existing international conventions or protocols, including the UN

Convention against Corruption (UNCAC), UN Convention against Transnational Organized Crime (UNTOC), and some of the UN counterterrorism conventions. In addition, the U.S. enumerated some of the key substantive criminal law elements that are needed to pursue effectively a proactive, preventative approach to terrorist crimes, e.g., preparatory act offenses and conspiracy, attempt, terrorist financing, and non-financing support to terrorists and terrorist organizations.

Turkey spoke about its work in the field of international police cooperation in CT matters, including those related to the PKK and al-Qaida. With respect to the former, Turkey highlighted that the PKK continues to recruit and raise funds in Europe. Turkey noted that its extradition requests in terrorism cases have been refused much more often than requests in drug trafficking and other non-terrorism criminal cases; other countries noted that there are often evidentiary issues associated with some terrorism extradition requests. Turkey also enumerated some of the different forms of CT cooperation activities it undertakes with other countries, which include meeting with police liaison officers, cooperation between judicial units, joint investigations, mutual legal assistance (MLA) requests and meetings between prosecutors, trainings, and information exchanges. Turkey concluded by noting that although CT legal frameworks may differ from country to country, all have some legislation to allow for respect of other countries' views on CT issues.

During the ensuing discussion several delegations reiterated their support for developing a rule of law framework for investigative techniques as well as a MLA framework. Morocco underscored the importance of balancing effective, modern investigative tools while still upholding human rights. Algeria spoke about its special procedural framework for terrorism and organized crime cases, which is overseen by a trained and qualified judge. Some delegations underscored the need for properly trained and specialized judges to handle increasingly complex terrorism cases. Several countries said they were grappling with how to allow the use of the range of investigative tools and the evidence obtained as a result in CT trials. Indonesia emphasized the importance of developing strong relationships between law enforcement officials and prosecutors from other countries. The point was also made that this cooperation is also important to cultivate among judges from different countries.

With respect to the difficulties in securing extradition in terrorism cases it was noted that terrorism is more politically sensitive than other transitional crimes and that the principle of dual criminality may be more difficult to satisfy, in part because of legal issues related to freedom of speech and association. Nevertheless, in accordance with internationally accepted practice, the legal systems of all countries should be able to prosecute inchoate terrorism offenses.

#### **IV. Electronic Surveillance Evidence**

Colombia spoke about the use of electronic surveillance in terrorism cases, with a particular emphasis on ensuring due process and other human rights are respected, including through appropriate judicial and other legal oversight. In order to carry out electronic surveillance in Colombia against a suspected terrorist, a legal threshold must be met; sometimes suspicion coupled with legally-obtained evidence is sufficient. After the legal threshold has been met, the prosecution can authorize law enforcement analysts in special wiretap centers to carry out the

electronic surveillance. It was noted that although communication intercepts have proven invaluable in reactive investigations (i.e., after an attack), they should be used more often to proactively gather information to help prevent terrorist acts that are in their planning phase.

Following the presentation, working group members discussed the need to balance conducting justified electronic surveillance and preventing the violation of human rights. Participants generally agreed that 1) electronic surveillance is an important and effective CT technique premium; 2) national legal frameworks should be flexible enough to evolve with changing communications technologies like Skype and investigative techniques; 3) enhanced international cooperation in this field is important given the increasing need to obtain information housed in other countries; and 4) more attention should be given to training law enforcement officials on how to preserve and shared often valuable electronic intelligence/evidence as well as to training judges on how to accept evidence extracted from electronic surveillance. The UN Office of Drugs and Crime's Terrorism Prevention Branch (UNODC TPB) spoke about how it is developing a training module on the preservation, use, and sharing of evidence obtained via the Internet.

## **V. Undercover Operations**

Colombia and the United States presented on the benefits and risks of undercover operations, and the complex relationship with the judicial system. Colombia explained that a careful risk analysis is always conducted before an undercover operation is authorized. This entire delicate process is overseen by a special prosecutor's office.

A number of delegations described their experiences conducting and prosecuting CT cases that utilized undercover operations as a means to collect evidence. Two key concerns were raised during the discussion: first, protecting the undercover agent's identity during the prosecution, and second, whether evidence gathered during the undercover operation is always accepted in court. The United States said that evidence gathered during undercover operations in terrorism cases are consistently deemed admissible by the U.S. Supreme Court.

It was recognized that because terrorist crimes are planned/conducted in secret, governments must have the ability, consistent with applicable international human rights and other obligations, to conduct terrorist investigations without the knowledge of the suspected terrorists under investigation. Three salient topic areas on undercover operations were outlined for the best practices document: (1) the level of oversight by the prosecution when police gather evidence during undercover operations; (2) how to exercise caution to avoid entrapment; and (3) ensuring effective national coordination between law enforcement and the judicial branch in this area. However, a number of delegations emphasized that due to the sensitivity of the methodologies and tradecraft involved, the topic should receive only general treatment in the good practices document.

## **VI. Incentives for Cooperation**

Italy and the United States made presentations on providing incentives for cooperation to informants, or those being charged with a crime. It was recognized that without adequate

incentives those with knowledge of or involvement in terrorist activity have little reason to cooperate with law enforcement authorities, especially given the fear of retribution by other members of the terrorist organization. It was noted that the most significant incentives are a reduction in sentence, change in conditions of incarceration, and safety. A full exemption is sometimes granted to an informant if he or she reveals the attack before it takes place, and implicates his or her colleagues. It was recognized that being empowered to provide incentives allows investigators to obtain a wide variety of useful information and is a powerful human rights tool as it provides law enforcement officials a vehicle for getting suspects or witnesses to cooperate without employing coercive methods that violate fundamental human rights.

The discussion highlighted how the importance of developing adequate incentives to encourage cooperation. For example, several delegates pointed out that providing informants with guaranteed entry into a witness protection program is a significant incentive for cooperation with the prosecution. In countries where such protection programs and incentives do not exist, it was noted that people are often too afraid to go to trial and testify against suspected terrorists. Some delegations thus stressed the need to build the capacity of witness protection programs.

## **VII. The Use of Forensic Sciences and Other Investigative Techniques**

The United Kingdom and the U.S. presented on the use of forensics during terrorism-related investigations. They noted how 1) forensic evidence comes in many different forms, e.g., finger or palm prints, footprints, chemical or other substances, 2) it can generally point to conclusive evidence of a terrorist plot or act, and 3) can be exploited using modern technology.

The UK presented a case study of the largest anti-terrorist operation in England to date – Operation Overt – which successfully foiled a plot to blow up transatlantic airplanes in 2006. Forensic analysis technology played a key role in apprehending the suspects in this operation. The United States explained how the Federal Bureau of Investigation (FBI) was able to deploy rapid reaction teams to Somalia and Uganda to assist local law enforcement officials with post-attack investigations and evidence analysis. The U.S. pointed out that it does not require a formal treaty to gather evidence in another country and that informal police-to-police cooperation can be more efficient. Both presenters emphasized the desire for proper investigative procedures that help ensure the chain-of-custody is preserved.

Indonesia underscored the highly technical nature of forensic evidence and the need for properly trained, specialized prosecutors to explain the evidence to judges. The point was also made that judges may also benefit from training in this area. The UN noted that in some countries where specialized forensic units do exist, those teams are often centralized in the capital region and have difficulty deploying quickly to a crime scene in other parts of the country. They also reported on an increase in requests from countries for assistance in developing manuals for non-experts on the use of forensic evidence in prosecuting terrorism and other complex criminal cases.

During the discussion that followed, countries agreed that exchanging information and experiences between countries' law enforcement and judicial officials to share challenges and good practices in the use of forensic evidence in terrorism cases should be a short-term priority.

Over the longer term, however, it was mentioned that the focus should be on developing sustainable national capacities in the use of forensic investigative techniques, noting that this might be more cost effective and sustainable than deploying a forensic team to another country to assist with post-blast investigation of a specific terrorist attack.

### **VIII. Arrests and Detention**

France and Canada presented on the efficacy of their respective national approaches to arrests and detention in terrorism and related criminal cases. In response to a court decision that overturned its long standing counterterrorism practices, France recently created a new legal regime for suspected terrorists. This new law provides more rights to the detainee, while still allowing a modified form of investigative (pre-charge) detention. The new law reduces the duration of police custody without judicial authorization, augments the defendant's rights while in custody, and provides greater and more immediate access to counsel. Canada discussed its common law system, with a very clear charter of rights and freedoms. Police have limited freedom to arrest someone suspected of terrorist activity without a warrant. They must have reasonable grounds to believe there is imminent danger; the same logic applies to other crimes as well.

The point was made that the different legal approaches represented among the GCTF members have clear rules defined for arresting and detaining suspected terrorists before trial. Some treat terrorism as a special crime, while others have specialized procedures and courts to authorize the pre-trial detention of suspected terrorism or rely on regular criminal procedures and courts. During the discussion, delegations emphasized the importance of having "bias-free" policing and not associating any particular religion or culture with terrorism or suspected terrorists.

The representative from the UN's Counter-Terrorism Executive Directorate (CTED) said the UN recognizes special pre-trial detention procedures for terrorism and other serious crimes, such procedures must undergo particular scrutiny to ensure they are in conformity with the rule of law. CTED noted its work in developing CT practitioners' seminars, which gather together prosecutors, investigating judges and other key stakeholders to share best CT legal practices.

### **IX. International Legal Cooperation (Including Extradition and Mutual Legal Assistance)**

UNODC's TPB opened the session by highlighting some of the key challenges in pursuing more effective international legal cooperation in counterterrorism matters and offered some recommendations for strengthening cooperation. According to UNODC, among the prosecutorial challenges faced by national criminal justice officials in this area are: 1) suspects located abroad; 2) victims, evidence, witnesses, and experts located outside of the country's jurisdiction; 3) different legal systems; and 4) lack of coordination among different institutions in international cooperation in terrorism matters.

From UNODC's perspective, the main obstacles to effective MLA and extradition are: 1) weak or outdated laws/treaties; 2) lack of awareness among prosecutors and judges of national and international extradition/MLA legal framework and practice; 4) difficulties in identifying the rights authorities in other countries for handling international MLA/extradition requests; 5) lack

of trust among countries regarding the integrity of each other justice system; 6) the omission of critical information from MLA/extradition requests; 7) challenges due to differences between legal systems; 8) slow transmission of requests; 9) limited to no use of modern technologies, e.g., video conferences; 10) procedural or substantive constraints that limit the ability of a country to fully execute or respond to MLA requests; and 11) failure to respect human rights.

In terms of addressing the challenges, UNODC enumerated a number of priority areas, which include: 1) enhancing the effectiveness of the existing MLA/extradition legal framework – UNODC recommended that GCTF members evaluate their existing MLA/extradition legal frameworks and modernize them if needed.; 2) strengthening the effectiveness of central authorities responsible for making or handling requests for international legal cooperation in terrorism and other cases; 3) raising awareness of national and international legal requirements and best practices to facilitate MLA/extradition; 4) expediting cooperation through the use of alternative means, e.g., informal networks of prosecutors/focal points; and 5) disseminating examples of effective casework practice.

During the discussion, participants highlighted four key weaknesses in the area of international legal cooperation, including in terrorism cases: (1) weak or outdated laws and treaties to support or encourage such cooperation; (2) a lack of modern technologies available to practitioners; (3) a lack of trust between states or entities and an overall reluctance to share sensitive information (it was noted that law enforcement entities are culturally more open to sharing information with other countries' police, but some prosecutors are culturally reluctant to share information with other countries' prosecutors); and (4) the slow communication and execution of requests for extradition or MLA from other countries. MLA treaties to enable this currently do not exist. The U.S. noted that its prosecutors favor and support informal cooperation and evidence exchange and expressed its view that such informal cooperation is a key to effective counterterrorism investigations and prosecutions.

Switzerland spoke of the desire to ensure that MLA provisions are flexible enough in order to best accommodate requests. It highlighted the particular challenge of receiving and using intelligence information from another country in Swiss criminal proceedings.

The United States suggested three basic principles to enable more effective international legal cooperation: (1) formulate a broad legal framework to provide MLA; (2) form a strong central authority with a simple structure, and a sufficient number of empowered and trained personnel and adequate resources; and (3) augment informal or unofficial communication methods and cooperation channels in order to enable more agile cooperation between countries.

The EU stated that its member states do have credible information security concerns, but are committed to a close relationship and information sharing across borders. The EU adheres to a policy of mutual recognition of legal decisions across borders; in other words, a decision made by a judge in one EU country must be recognized and upheld by a judge in another country. Furthermore, all 27 EU states adhere to common charter of strictly enforced human rights, and submit to regular and rigorous monitoring. An ideal example of this commitment to information sharing is the EU Judicial Cooperation Unit (Eurojust), which is composed of 27 senior judges – one from each EU member state. Eurojust functions as a semi-independent venue to build trust

and sustainable relationships between law enforcement and prosecutorial officials in the EU states.

Russia emphasized the need to develop close contacts with relevant, foreign criminal justice officials handling MLA requests and to treat terrorism as a regular as opposed to a political crime. It noted that denial of extradition in terrorism cases becomes more likely when the case viewed as a political issue. China said the role of central authorities should be strengthened, noting that they should be seen as just a mailbox. Rather, they can be quite useful in facilitating the collection of evidence and conducting of investigation by foreign law enforcement officials and in arranging cross-border legal conferences. Egypt suggested that the working group develop a model form for GCTF members to complete when they wish to ask for MLA from another country without prejudice to existing bilateral or multilateral arrangements; any effort along these lines should build on the existing mutual legal assistance writer tool that UNODC has already developed on its website. Algeria mentioned that some countries continue to seek additional guarantees from the requesting state – evidence that the necessary trust is lacking – which can impede cooperation. Egypt noted that the above-mentioned informal official contacts should be viewed as supplementing but not replacing the formal channels pertaining to international legal assistance.

## **X. Protection of Classified and Sensitive Law Enforcement Information**

The United Kingdom and the U.S. presented on protecting classified and other sensitive law enforcement information in terrorism and other criminal investigations. At the outset both countries noted that all their terrorism trials are open to the public, and the protection of classified and sensitive information related to information possessed by the government that may be of used by the defense in the preparation of its own case.

In order to maintain the usefulness of sensitive investigative techniques that generate this information, governments must be able to protect certain types of information and techniques from public disclosure. The most important part of this equation is to have a strong, independent, and impartial judiciary system. The UK spoke about some of the current problems with its existing judicial system and how it is exploring ways to improve it so as to allow courts to more readily access the information without disclosing sensitive investigative techniques. The U.S. spoke about its Classified Information Procedures Act (CIPA), which was enacted in 1980 as a procedural mechanism to protect classified information. CIPA protects classified sources and methods, while at the same time protecting a defendant's due process rights. This act also protects national security intelligence information that other countries have shared in confidence with the United States.

During the discussion, the point was made that there should be a mechanism to determine whether or not the information is classified and then to balance the national security interest in not-disclosing the evidence to the accused versus. the due process rights of the accused.

Delegations raised several different best methods for protecting classified or sensitive law enforcement information were raised, which include:

- Holding a closed hearing;

- Providing a substitute (i.e., as a summary), which can be presented at open proceedings without the source being recognizable;
- Having the judge look at the intelligence or information, and determine whether it should be disclosed;
- As a last resort, dropping the case against the accused.

## **XI. Substantive Criminal Offenses (Preparatory Act Offenses, Conspiracy, Attempt, and Other Terrorism Charges)**

Indonesia and the U.S. presented on substantive criminal offenses including those aimed at preventing a terrorist attack before it occurs. Members agreed that the term “preparatory act offenses” covers a wide range of charges, including conspiracy, inchoate offenses, accessory after fact, or counseling/solicitation.

Indonesia briefed on its statutory legal CT framework, detention policy, and CT law reform (which now includes protection mechanisms for witnesses and victims). Indonesia presented a holistic case study of the evidence and charges against Abu Bakar Ba’asyir, the most wanted terrorist in Indonesia due to his involvement in several bombings and his influence among extremist elements of Indonesian society.

The U.S spoke about arresting and prosecuting people for inchoate crimes (attempt, solicitation, and conspiracy) being a top priority. In fact, conspiracy is the most frequently used charge in terms of prosecuting people for terrorism-related offenses in the U.S. since the attacks of September 11, 2001. Among the reasons cited for this success were excellent coordination efforts between law enforcement and prosecutorial authorities and the utility of undercover operations as being extremely effective in disrupting potential terrorist plots against the U.S.

Although the terminology is a little different, Canada said it created a number of specific terrorist offenses designed to prevent an actual attack from taking place. Morocco spoke about how the different terminologies and lack of a common approach in criminalizing preparatory acts create impediments to international legal cooperation. For example, some countries may consider acts or communications to be terrorism-related, while other countries would consider the same acts to be protected by freedom of expression. Continuing, Morocco recommended that the dual criminality requirement for MLA/extradition in terrorism cases be relaxed.

## **XII. Keynote Speech: Judge Jean-Paul Laborde, French Cour de Cassation**

Judge Jean-Paul Laborde, former Chief of UNODC’s Terrorism Prevention Branch, and former Chair of the UN Counter-Terrorism Implementation Task Force (CTITF), underscored that the GCTF – and the Criminal Justice and Rule of Law Working Group in particular – has a unique opportunity to strengthen cooperation between countries. He emphasized the importance of treating terrorism as a crime, its international dimension, and how judicial cooperation is so important to combating it effectively. The evolving nature of international terrorist threats demands a growing arsenal of cooperative efforts between countries to gather, share, and analyze pertinent information to prevent a future attack. In addition, he called for more trust-building among judges and prosecutors – as without trust there is no cooperation – and encouraged the

GCTF to foster exchanges among judges and prosecutors, and bar associations, from different countries and legal systems. Echoing one of the themes of the meeting, Judge Laborde encouraged all countries to make better use of internationally-accepted legal mechanisms to use the criminal justice system to prevent terrorist attacks before they occur. With respect to capacity-building, he said that more emphasis should be placed on exchanges among the practitioners in different countries and bar associations.

Laborde recommended that the working group's best practices document build upon and avoid duplicating existing efforts of the United Nations in the criminal justice and rule of law fields. Judge Laborde closed his remarks with praise for what this working group has accomplished so far, and stated he is looking forward to seeing what else the group can achieve in the future.

### **XIII. Punishment, Incarceration, and Special Protective Conditions of Confinement**

The United States presented on its approach to housing criminals convicted of terrorism-related offenses in a humane way. The overarching goals are to prevent terrorist plots from being furthered from prison, and deter a cycle of incarceration, further radicalization, and release back into society. The U.S. penitentiary philosophy is to avoid solitary confinement unless absolutely necessary. In very rare circumstances, a highly restrictive Special Administrative Measure can be placed on an inmate; this requires authorization from the U.S. Attorney General. These restrictions are needed in order to prevent an incarcerated terrorist from continuing their terrorist activities from within prison. Indeed, many observed that one of the largest difficulties faced by prison systems is how to prevent incarcerated terrorists from continuing their unlawful activities from prison—it is for this reason that the U.S. uses special administrative measures.

Egypt spoke about its experience in deradicalizing convicted terrorists, noting the importance of combating the ideological foundation of terrorist groups and the need to change the mindset of these criminals if one hopes to make progress. Italy spoke about the importance of training prison officials to be able to identify prisoners at risk of being radicalized towards violence and the challenges that prison overcrowding can present. Jordan said that rehabilitation in prisons was a critical phase in the process of countering violent radicalization.

Participants noted that one of the most effective parts of the rehabilitation program is to teach valuable life skills, and reduce feelings of vulnerability to recruitment or radicalization during incarceration. A key concern raised was how to best differentiate between extremely dangerous terrorists, and those who could be successfully rehabilitated.

Working group participants generally agreed that the incarceration and rehabilitation of convicted terrorists should be elements of the good practices document that the working group will prepare. Participants highlighted a number of the key questions that need to be addressed, e.g., how to best strike a balance between punitive and rehabilitative measures, whether to aggregate terrorists with or separate them from other prisoners.

### **XIV. Technical and Other Capacity-Building Assistance to Strengthen CT Capacities of National Criminal Justice Systems**

Representatives from the UN Counter-Terrorism Executive Directorate (CTED) and EU, as well as Anton du Plessis, the head of the International Crime in Africa Program at the Institute for Security Studies in South Africa presented on lessons learned in building the CT-related capacities of criminal justice officials.

Mr. du Plessis identified a number from his work in sub-Saharan Africa in building criminal justice capacities: 1) the importance of integrating CT capacity building into broader (and often more palatable) rule of law reform efforts, while ensuring officials receive specialized CT-related training; 2) the need to harness the political capital of sub-regional organizations, which can bring political legitimacy to the training and promote its sustainability; 3) the importance of building trust with the right criminal justice/law enforcement officials and experts, which in turn will lead to an increase in political will; involving judges/prosecutors' associations can be helpful here; 4) the need to ensure that the delivery of a good product to the right officials. In terms of recommendations for going forward, Mr. du Plessis suggested more focus be given to providing training in specialized investigative techniques and to training judges/prosecutors on the various modalities (formal and informal) for engaging in international cooperation. In addition, he urged the GCTF to work to build the capacities of witness protection programs in under-resourced countries, including in Africa.

The EU underscored the importance of building trust, adopting a comprehensive, long-term approach to CT capacity building in the criminal justice and rule of law sectors, addressing the entire chain in the criminal justice process (i.e., police, prosecutors, judges, and prisons), building local ownership, and involving civil society.

The UN Counterterrorism Executive Directorate (UN CTED) spoke about its efforts to bring together CT prosecutors from different countries and regions in order to allow these specialists to share experiences and identify common challenges and good practices for overcoming them. CTED said that many of the same challenges identified during this GCTF working group meeting were uncovered during the two CTED-organized prosecutor seminars, e.g., providing appropriate oversight for the use of special investigative techniques, ensuring the necessary cooperation between intelligence agencies and prosecution services, and ensuring the protection of witnesses and law enforcement officials. Building on these activities, CTED is developing a multi-year process that will draw CT prosecutors together at the regional level and thinks that this GCTF working group can help identify solutions for some of the key challenges that are highlighted during that process

Australia spoke about the Jakarta Center on Law Enforcement Cooperation as good practice in terms of regional training centers and Egypt emphasized the importance of having the working group soon identify viable ways to assist countries in improving the capacities of investigators, prosecutors, and judges to prevent and combat terrorism. Turkey highlighted its experience in providing law enforcement training to third countries. The UK mentioned how the Commonwealth Secretariat has established an online clearinghouse for requests for criminal justice-related capacity-building assistance and underscored the importance of making international efforts in this area more coherent in order to minimize capacity gaps.

The U.S. said that as soon as the working group finalized the compendium of good practices it should turn much of its attention to providing or facilitating the training, advice and other technical assistance to promote their implementation in interested countries. In this regard, it encouraged GCTF members to take advantage of existing judicial and law enforcement training centers, whether at the national or regional level, and welcomed suggestions on how best to leverage these existing platforms.

To support the working group's efforts, it was suggested that the GCTF Administrative Unit reach out to GCTF members for information on existing capacity-building programs and platforms in this field and develop a catalogue of such information that would be shared with GCTF members and the UN. In addition, it was suggested that the working group annex to the good practices document two forms: one allowing states to request assistance in one or more of the elements in the compendium and the other allowing them to signal in which areas they are prepared to offer capacity-building assistance. Both suggestions were well-received.

Morocco urged the working group to focus its capacity-building efforts on strengthening national capacities to engage in international cooperation more effectively and Algeria added that although different countries have different CT legal frameworks and mechanisms the working group should help them strengthen their capacities to ensure all countries can combat terrorism in conformity with the rule of law.

## **XV. Conclusion: Next Steps**

The Working Group co-chairs outlined the immediate next steps to be taken. The first is drafting a document that outlines CT good practices in the criminal justice sector, addressing the elements discussed during this two-day meeting. It was generally agreed that the document should be practical, not overly detailed, and include annexes: one for assistance requests and the other for offers. A draft of this "best practices" document will be circulated within the next 30 days, with the goal of having a revised draft ready before the next meeting of this working group, which Morocco has offered to host in January or February 2012 (exact dates will be determined at a later date). It is expected that this initial draft will become a living document to be updated and amended over time; the text and specifics will be discussed in greater depth at the next Working Group meeting in Morocco.

It was agreed that the Working Group would then seek to leverage existing training platforms/programs, as well as the Forum's three regional capacity-building working groups, for the purpose of promoting the implementation of the good practices.