

GROUP 3

PREVENTION, DETECTION, INVESTIGATION AND PROSECUTION OF TERRORISM ACTS

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I. INTRODUCTION

Group 3 started its discussion on Jan 18, 2006 and elected the members of the board as listed above. The chairperson then, with the agreement of the group members, gave to each group member the respective topics to be prepared for further discussion as follow:

1. measures to control entry of terrorists and dangerous materials. (Ms. Miyoshi and Mr. Supian)
2. Effective measures to prevent and suppress terrorism acts within its own territory. (Mr. Odey and Mr. Imai)
3. Specific issues related to investigation and prosecution of terrorism offences. (Mr. Unga)
 - (i) Use of special investigative techniques. (e.g. Electronic surveillance, undercover operations). (Mr. Odey and Mr. Imai)
 - (ii) Witness protection. (Mr. Unga)
 - (iii) Use and protection of intelligence information in criminal proceedings. (Mr. Unga)
4. Coordination and cooperation among relevant authorities. (Mr. Sonam and Ms. Doi)
 - (i) Inter-agency coordination between relevant agencies. (Mr. Sonam and Ms. Doi)
 - (ii) Law enforcement cooperation between states. (Mr. Unga)

II. SUMMARY OF DISCUSSION

A. Effective Measures to Control Entry of Terrorists and Dangerous Materials

1. General Discussion

The discussion started with a brief explanation by two members of the group regarding the entry of persons and goods including dangerous materials into the country. They explained that there are basically two ways of entry of persons and goods: either through legal or illegal means.

The legal entry of persons and goods is made through legal entry points such as through the seaports, airports and border entry points where they must have relevant documents to be submitted for inspection and approval by either the immigration officers or the customs officers prior to their entry. Whereas the illegal entry/smuggling of persons and goods can be done by getting them into the country through an illegal entry/landing place where there are no enforcement officers manning the area; or the persons or goods are taken into the country through the border checkpoints without any proper documents or without declaring them/it by hiding them/it in a secret compartment of a vehicles or container entering into the country.

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The discussion continued with suggestions for effective measures to be taken for controlling the entry of terrorists and dangerous materials. The chairperson then opened the discussion to the other group members for further comments and suggestions that would benefit the group in tackling this issue.

2. Proposed Measures

The group came to a consensus of opinion that effective measures to control the entry of terrorists and dangerous materials such as weapons, firearms, explosives and hazardous chemicals are of crucial importance to any nation state in the world. The group also made a reservation that measures taken, however, should depend upon the resources and capability of each country in implementing them due to economic, political and other reasons.

The group then unanimously agreed to propose the following measures to control entry of terrorists and dangerous materials into a country as follows:-

- (i) Use of very high performance detection equipment for easy detection of terrorists and dangerous materials trying to be smuggled into the country through clandestine means and also to trace the use of forged travel documents. In some countries this measure has already been applied and has proven to be very helpful. A group member said that in his country, more than 15 scanner machines have been placed in major ports, airports and at border entry/exit points to help the customs officers detect the smuggling of goods into the country. With the help of this technology, they managed to get many cases, however so far no case of smuggling of persons and dangerous materials have been detected. In response to a question raised by one member, he then explained that not all the containers or vehicles which entered into the country are scanned. Due to the high volume of containers and passengers' vehicles entering into the country everyday, only selected containers and vehicles were scanned. He then agreed with the observation made by the member that some containers or vehicles which contained dangerous materials or persons may have entered the country without being detected.
- (ii) Introduction of a biometrics identification system which can help the immigration officers to identify the actual holder of the passports through their facial images and fingerprints. This measure was proposed by one member. According to her, her administration is facing the problem of the use of forged passports where the pictures of the actual holder of the passports were replaced by the pictures of the carriers. Therefore, by the use of this system, as some countries have implemented, this problem can be tackled.
- (iii) Use of an Advanced Passenger Information System (APIS) which helps the immigration officers to identify high risk or black-listed persons in advance prior to their arrival by receiving information on passengers in an electronic form from the country from which the airplane departed.

Since the measures suggested in paragraph (i) and (ii) above are directly related to the issue of immigration, the group did not discuss them in detail but agreed with the proposals since they seem to be very useful in preventing the entry of terrorists.

The group also unanimously agreed that the measures suggested in paragraph (i), (ii) and (iii) above are advanced technology systems in which not necessarily all the countries are planning to introduce in the near future. However, all countries represented here have the same goal which is to strengthen all measures in order to combat terrorism. Nonetheless most of these countries economies do not allow them to implement such measures because of the high cost involved. Since there are some countries which have tentative strategies of implementing these systems within their borders or nationally, gradual assistance to other countries to implement such systems would be highly appreciated.

- (iv) One member then suggested other measures which can help prevent the entry of dangerous materials into the country by creating a specific provision in the laws, especially the customs laws of each country to prohibit the importation of dangerous materials which can be used for terrorist purposes with a condition which requires the issuance of an approval permit from the relevant authorities, such as the police, prior to the importation. A member agreed with the proposal and explained that in his country, the Customs Act 1967 provides a power to the Finance Minister to

issue a directive to totally prohibit, or conditionally prohibit subject to a license, the importation and exportation of certain goods prescribed under the Customs (Prohibition of Imports) Order 1988 and Customs (Prohibition of Exports) Order 1988. Therefore, if the goods imported are subject to a license and the importer cannot produce it, the goods can be seized and forfeited to Customs and the importer can be charged in court. One group member then informed the group that his country also has this provision in their law and it helps to control the importation of goods, especially weapons and chemicals.

- (v) To impose severe penalties/punishment in the relevant laws on those who commit the offence of smuggling or aiding the illegal entry of terrorists and dangerous materials. There were different suggestions given by the members of the type of penalty/punishment that should be imposed. One member suggested that the offender should receive capital punishment or life imprisonment if convicted while others believed that 30 years imprisonment should be the maximum penalty imposed.

One member also suggested that besides punishing those who commit the offence of smuggling dangerous materials or aiding the illegal entry of terrorists, the captain of a ship who carries the dangerous materials or terrorists must also be punished as he is also criminally liable for not checking the type of goods or people that he is carrying. This suggestion got a mixed reaction from other members. Most of them are against this proposal on the grounds that it is impossible for the ship's captain to check all the goods that he is carrying where all the containers are locked and the information that he has is only based on the documents submitted by the owner/exporter of the goods. One member then said that under the immigration law of her country, the pilot and the airline company are liable if it is found that a passenger is on board their aircraft without a valid passport. However, it is only an administrative sanction with a fine and not a crime.

- (vi) To encourage people to provide information on illegal entry of terrorists and dangerous materials, for example by establishing a monetary reward system for any information which leads to a successful arrest and seizure case and put a specific provision in the law which guarantees the secrecy of the identity of the informer. This proposal is supported by all members since their countries are implementing this measure where the agencies concerned such as the police, customs or immigration have a system of encouraging people to come forward to give information and they will be rewarded afterwards and their identity also will be kept secret.
- (vii) To put a specific provision in the law to give sufficient power to the immigration and customs officers for inspection and investigation purposes. One member made an observation that it is important for these agencies to have the powers to inspect, seize, investigate and prosecute those who commit the offence. Without these powers, prevention will be difficult.
- (viii) Develop cooperation with other enforcement agencies, inter and intra, for joint operations, exchange and sharing of information and other relevant activities which can tackle the problem of illegal entry of people and goods into the country. One member gave an example where its administration used the assistance of the army that has advanced radar controlling equipment to trace any suspicious ships or boats entering into the country by sea. The information is then relayed to its administration for immediate action. One member also shared his country's experience where there are regular joint operations at the land border of the country consisting of police, immigration and customs to prevent the entry of illegal immigrants and goods; and through this joint operation, many attempts to smuggle persons and goods have been foiled.
- (ix) Use of sniffing dogs to detect dangerous materials coming into the country through a clandestine manner. This proposal was raised by a member where in his country, these K-9 dogs were not only used to detect narcotics but also to detect any explosives which were attempted to be smuggled into the country. Another member said that his customs administration did not use sniffing dogs to detect explosives coming into the country but the police did use them to detect any explosives which were put in a building, etc. Other members also used this method to detect drugs and explosives in their respective countries.
- (x) Enhancing patrolling activities at sea, air and land to detect and prevent the illegal entrance of terrorists and dangerous materials into the country. According to one member, he was of the

opinion that one country cannot stress only the problem of illegal entry of persons and goods through the airports, seaports and entry/exit points at the land borders; but emphasis must also be given to prevent the illegal entry of persons and goods directly through the illegal entry points at the sea and land borders. His opinion was supported by other members and one of the members further explained that in his country, his administration created a prevention system called a 'firewall' where patrolling of areas classified as high risk areas is carried out simultaneously at the sea and land during stipulated periods of time and it was further strengthened by building camps at those high risk areas so that prevention can be done effectively. Other member also suggested that the patrolling can also be carried out through the air where the cooperation from the police and the army can be requested. There was also a proposal from one member to put surveillance cameras at certain strategic locations to monitor and trace any attempt to smuggle persons and goods into the country. However, his suggestion was considered by other members as too costly and not practical for most countries.

- (xi) Having good and efficient immigration and customs officers to tackle the illegal entry of terrorists and dangerous materials by establishing an effective recruitment system and continuous training system and capacity building programme was another measure proposed by a member. She stated that without good and efficient officers, the enforcement of the laws cannot be done efficiently. Her views was supported by other members who were of the opinion that we usually emphasis legal provisions but do not take into consideration the ability of the officers to enforce the law. So the group agreed that strengthening the legal regime to combat terrorism must go hand in hand with equipping the enforcement agencies with good, knowledgeable, experienced and competent officers.
- (xii) To develop a database of all suspected terrorists so that the entry of terrorists into any country can be prevented at the entry point. However the group was informed by one member that the identification of terrorists is very difficult to be make and some of the information given by some countries is not so reliable because their definition of a terrorist maybe different from other countries which makes a terrorist in one country not a terrorist in another. Therefore, the group agreed to suggest that the United Nations should offer a solution to this problem and create a mechanism to gather and disseminate information on terrorists.

III. EFFECTIVE MEASURES TO PREVENT AND SUPPRESS TERRORISM ACTS WITHIN EACH COUNTRY

A. General Discussion

One member started the discussion by explaining the approach taken by his government in preventing and suppressing terrorism acts by way of knowing the terrorists activities, criminalizing terrorist activities and arresting them, outlawing or dissolving terrorists organizations, preventing terrorists from getting materials potentially used for terrorism, suppressing terrorist financing and finally strengthening security measures at possible terrorist targets.

Anther member then added to the points made earlier by conveying the approach taken by his country which uses the doctrine of reciprocal responsibility where the public have to cooperate and work hand in hand with the authorities in fighting crime and terrorism by not committing or supporting these activities. He further stressed that his country is also adopting a programme known as the 'Three-Tiered Defence System' which utilizes the synergy of partnerships among the government agencies at all levels, the police and all other concerned sectors in taking counter-terrorism measures. According to him, this system has three distinct components: intelligence gathering, target hardening and incident management. The use of this system has so far helped his government in tackling the problems of terrorism in his country.

Other members responded to the discussion on this issue by suggesting building strong inter-government agency cooperation to trace and apprehend suspected terrorists and their groups in order to make them feel that they are not accepted in the country by the people and the government.

The proposal was further elaborated by another member who suggested that inter agency coordination is very important especially to prevent terrorist attacks on certain areas or places which are vulnerable to terrorist attack. She cited an example such as facilities which use nuclear power to generate electricity. With

the coordination between the ministries concerned and other enforcement agencies, the task to create a plan or programme to protect these places will be much easier.

B. Proposed Measures

The chairperson continued the discussion with the proposed effective measures to prevent and suppress terrorism acts within each country as follows.

1. To gain a better understanding of terrorist activities by identifying who are the terrorists, when they will act, where they operate, why they are involved in terrorism, how they conduct their activities, who are their targets and all other relevant information relating to them. One member said this is a very important measure to take into consideration first before we proceed with other actions. another member supported this opinion by saying that this information is vital since no war can be won unless we know who the enemy is.
2. To criminalize terrorist activities and outlaw terrorist organizations. In doing so, a member suggested that a clear provision in the laws such as in the penal code, anti-terrorism laws, explosives control laws and so on must make every terrorist act a crime and punishable. Another member suggested in order to make it more clear, the act must list all the actions which are considered by that country as terrorist acts. Another member told the group that his country is in the process of amending its penal code in order to criminalize and punish the act of terrorism and the proposed amendment also specifies all action which his country considers a terrorist act.
3. To prevent the terrorists from getting materials that have the potential to be used for terrorism. One member suggested that ownership of weapons should be licensed and it should be a criminal offence to be in possession of weapons, such as pistols and rifles without a license. Another suggestion was to control the importation and storage of dangerous chemicals, precursor chemicals and explosives which can be used for a NBC attack or bombing, and to monitor the transactions of these materials for easy detection if they have been used in terrorist activities. One member of the group reiterated his earlier comments that under his country's customs legislation the finance minister can make an order to totally prohibit, or conditionally prohibit subject to a license, the importation and exportation of certain goods prescribed under the Customs (Prohibition of Imports) Order 1988 and Customs (Prohibition of Exports) Order 1988. Through this provision, the government can control the importation of these kind of goods and can punish those who are importing them or in the possession of goods without the required license.
4. To suppress terrorist financing by individuals or organizations which sympathize with them or support their mission by obliging financial institutions to identify their customers and to report any suspicious transactions. And to have a legal system which gives the power to the authority concerned to confiscate and freeze terrorist assets, to punish those who provide financial support to the terrorists, to license the activity of donation collection for whatever purposes, etc. The group was informed that most of the group members' countries already have Anti Money Laundering and Terrorist Financing provisions with the purpose of preventing terrorists from benefiting from their criminal actions or unjust enrichment and also to prevent the property from being used for other terrorist actions.
5. To strengthen security measures on any possible terrorism target such as military bases, nuclear power facilities and embassies of the countries which have been the target of certain terrorist groups. One member gave his view that intelligence agencies in one country must have good communications and good relationships with other intelligence agencies outside their country in order to get reliable information on the suspected terrorists, their organizations, their targets and other relevant information that could help the country in preventing and capturing the terrorists before they can commit their plan.
6. To educate the public on the dangers and impact caused by terrorist activities in order to prevent them from supporting terrorists and to get their cooperation in giving information of any terrorist activities known to them.
7. To build strong inter-government agency cooperation by exchanging and sharing information and making a joint effort in whatever activities and actions are taken in tackling the problem of terrorism.

8. Military action should be the last alternative after other preventive action has been taken since military action will only cause the reproduction of other terrorists as has happened in Iraq. The chairperson observed that every country has their own policy in this regard. One member explained that his country has to use this measure since other diplomatic measures cannot prevent and eliminate the terrorist threat in his country. Therefore, the group agreed that military action should be used as a last resort taking into consideration that terrorism itself is a threat to our respective countries. In some countries this threat has grown to the point where normal life is affected by it. So the authorities have the right to use all means necessary to stop, minimize or neutralize such threats as to maintain their integrity and sovereignty. Therefore, the use of military force as a final option will be determined by each country based on their own particular situation.

IV. SPECIFIC ISSUES RELATED TO THE INVESTIGATION AND PROSECUTION OF TERRORISM OFFENCES

A. Investigation

The discussion started with a brief overview of the process of investigation by one member based on his country's experience. He explained that the aim, or the primary purpose, of carrying out an investigation is to search for the truth in a way which is fair for the accused and also admissible in court. The most important thing which must be done by the investigator is to gather the evidence. In doing so, he has to answer these five important questions that are first, who committed the offence. For this he must know the identity of the accused, the co-accused and also the accomplice. The second question is why he/she committed the offence. Therefore, the investigator must know the motives and the *mens rea* of the offender. The third question is to know when he/she committed the offence. In the search for the answer, the investigator must find the whereabouts of the suspect before, during and after the offence was committed or the alibi of each suspect.

He then raised the fourth question, that is to know where the offence was committed by establishing the scene of the crime and the final question is to know how he/she committed the offence that is the *modus operandi* used by the accused. According to him, the answer to all these five questions can be obtained from the statement of the witnesses and evidence which can be in the form of oral evidence, documentary evidence, real evidence, that is the exhibits, the statements of the accused and digital evidence.

On the issue of digital evidence, the member made an observation that in most countries including his, digital evidence is not admissible in court. Therefore, he suggested that the evidence laws of these countries be amended to include a definition of digital evidence and to allow the admissibility of digital evidence in court. One adviser informed the group that in Japan's Criminal Procedure Code, the admissibility of digital evidence is stated in the provisions. However, the law does not specify the type of digital evidence. Furthermore, the Japanese Government is in the process of amending its Evidence Act for the purpose of enhancing the admissibility of digital evidence in court. He further suggested that the laws regarding investigation also need to be amended to enhance our ability to investigate e-crime.

A member then made an observation on the admissibility of oral evidence in court. According to him, in his country, oral evidence is not admissible unless it is put in writing - that is in a statement form.

The discussion related to how to carry out an investigation so as to acquire reliable admissible evidence which could be sustained in court. The following specific issues were discussed.

1. Search Warrants

One member of the group explained that in his country, every search must be done with a warrant issued by the court. The law stated that any police officer of the rank of sergeant or above or officer in charge of the police station may apply for it from the court. However, in the case of terrorism, an application for a search warrant can be made through phone, fax or any other electronic device and the court may issue the warrant as a matter of urgency but the applicant must complete the formalities of the application within 48 hours after the warrant has been issued. He further explained that the warrant should be valid for one month and can be executed at any time. He further stated that in an urgent case, a search warrant is not needed.

According to another member, in his country every search must be accompanied with a search warrant issued by the court. However, there is an exception with regard to cases where the crime is flagrant - where the criminal is caught in the act. In this situation, the police need not have a search warrant to search around the crime scene. Another member also mentioned that the same procedure applies in his country where offences are divided into two categories: cognizable offences where a search warrant is not needed and non-cognizable offences where the police must have a search warrant before doing any search. While another member told the group that in his country, a search cannot be carried out on any establishment like a hotel or shopping complex without a search warrant. And in some other countries, no search warrant is needed if the search was done in the presence of a prosecutor.

Another member gave an example of his country where the Customs Act provides a power to the Customs officer to search any premises or vehicles either with a warrant or without a warrant. The reason for allowing the authority to search without a warrant is to avoid the possibility that the evidence will be destroyed or removed if the action is delayed due to the process of getting the warrant.

2. Arrest of the Suspect

In most group members' countries, the authorities can arrest a suspect either with a warrant issued by the court or arrest without a warrant depending on the seriousness of the offence and the high possibility of the suspect escaping if the agency has to apply for a warrant first. In one member's country, there are two kinds of arrest - that is a warrant arrest by the authorities and secondly, a citizen's arrest whereby a citizen can arrest any suspected criminal without the need for a warrant from the court. One group member then raised the question of whether there is a provision in any country which allows the authorities to arrest any person who the authorities have reasonable grounds to believe that he/she will commit an offence, or in other words, to arrest a person before the incident or before a criminal act is committed. One member gave his country's experience where the authorities can only arrest a person if there is enough evidence that he/she has committed a crime. However, in some cases, preparation for crime is also a crime, and this condition also applies in the case of terrorism. In this case, the authorities can arrest the person before the actual crime is committed.

3. Use of Special Investigative Techniques

A member of the group emphasized the importance of collecting information on terrorism. Through the information, an act of preventing a terrorist attack can be taken, a suspected terrorist can be arrested or deported and the terrorist assets can be frozen or confiscated. He further elaborated that in order to get or collect this information, various methods can be used such as wiretapping, use of equipment such as bugs, tailing and guarding the suspect, etc. However, he observed that even though collecting information is a must in preventing terrorism, the process of collecting it sometimes influences or breaches the human rights of the suspects, such as the right of privacy. The authorities must strike a balance between the degree of terrorist threat and the effect on human rights before deciding to allow this kind of information gathering in the law.

One member gave his opinion that in order to allow the authorities to obtain information through wiretapping, there must be a legal provision which allows them to do so and the authorities must furnish very good grounds to justify their actions. And he also emphasized the importance of the constitutional rights of the citizen before deciding to take this kind of approach to getting information for the purpose of their investigation.

Another member said that in his country, the police have the power to install tracking devices, listening devices or any other electronic device for the purpose of gathering information which is required for their investigation. This is subject to a condition that there must be reasonable grounds to believe that the occupants or any persons that visit the place are suspected of committing an act of terrorism. He further added that any information collected by such device may be admissible as evidence in court and subject to challenge by the accused.

While according to one member, his country does not have any electronic devices to help them collect information. They only use plainclothes policeman to work undercover and pretend to be beggars, cleaners or vendors to collect and gather information from the public.

Another member stated that in his country, the use of an electric shock device on a suspected criminal to get information or his cooperation is allowed by the law and the admission of the suspect is admissible as evidence in court. He, however, mentioned that this method will only be used when there is reasonable evidence to believe that the suspect is involved in a criminal action. The majority of the members stated that in their respective countries, this method of getting information or an admission is not allowed by the law because it is considered torture and an admission obtained through torture or duress is not admissible as evidence in court.

B. Prosecution

The discussion relating to prosecution has been divided into the following specific issues.

1. Witness Protection

One member voiced his view that in every prosecution, the accused has the constitutional right to cross-examine all the witnesses who give evidence against him/her. In order to judge the credibility of the witness, the court is entitled to judge the demeanour of the witness. Due to this, sometimes it is very hard to convince the witness to give evidence because they fear for their safety. Therefore, it is necessary to consider the legal framework which aims to protect witnesses in order to encourage them to provide important evidence. He then gave his recommendation for the legal framework such as to protect the identity of the witness, even before court. In this instance, the prosecutor has the privilege of not disclosing any information which may lead the recipient to identify the witness.

He also suggested that the courtroom also should be structured in a way which allows the accused to hear the witness's voice only and not to see his/her face. And for the purpose of cross-examination, the process can be conducted over the phone. The group took the example of the practice in some countries, where there is a special court procedure allowing witnesses to give evidence by video conferencing and the identity of the witness can be hidden from the accused and the public.

The group then discussed the issue of protecting the witness after the court's proceedings end. Most participants stated that there was no procedure in their country to protect the identity and security of the witness, such as to provide them with a new identity as some countries do. However, one member stated that in his country, the authorities will give an assurance to the witness that he/she will be protected before he/she agrees to be a witness. During the trial, the witness will be put in a protected house. After the trial ends, the authorities will give him/her some money so that he can settle down somewhere far from his/her previous residence.

2. Use and Protection of Intelligence Information in Criminal Proceedings

One member was of the view that information gathered through the use of 'HUMINT', that is human intelligence or an informer, is not fit to be used in criminal proceedings. This is because in many cases their identities have to be kept secret for security reasons. He further explained that without producing the informer in court and without revealing his name, their information will be regarded as hearsay evidence which has only a limited capacity as evidence. Therefore, the HUMINT should be mainly used for prevention and investigation purposes and not for criminal proceedings. On the use of other intelligence means, such as wiretapping, he said that it can be used for criminal proceedings as long as it was obtained through legitimate means.

On discussing the same issue, one member stated that the common law, which is the foundation of law in his country, has seen some developments. Before this, if the evidence collected by the police was proved to be breached criminal procedure, the evidence will be inadmissible. However, the law now gives discretion to the court to decide whether the evidence can be admissible or not depending on its probative value and prejudicial value. If the prejudicial value is more than the probative value, then the evidence will not be admissible.

One adviser stated that in some countries, there is a firewall between criminal proceedings and intelligence activities. He said that in these countries, information gained through intelligence activities cannot be used in criminal proceedings. However, after the 911 incidents, the law in some countries allows the use of such information in criminal proceedings. Therefore, he wants to know whether other countries in

this group have adopted the same approach, and if the answer is affirmative, what are the requirements for the information to be admissible.

In replying to this question, most members said that their countries do not accept information gained through intelligence activities as evidence in court. The information will only be used for investigation purposes. While one member of the group repeated his earlier statement that in his country the police can wiretap any person suspected to be a terrorist and any information collected by such device will be admissible as evidence in court. However, it is subject to the condition that the evidence is relevant to the fact in issue and also its probative value must be greater than its prejudicial value.

V. COORDINATION AND COOPERATION AMONG RELEVANT AUTHORITIES

A. Inter-agency Coordination between Relevant Agencies

One of the group members opened the discussion by talking about the importance of intelligence information in fighting terrorism and mentioned that each country has a different approach in gathering intelligence information such as the use of wiretapping, where in some countries it is permitted whereas prohibited in others. She is also of the opinion that it is necessary for every agency or organization in each country to share the information that they have among each other to prevent terrorist acts and also the information will be useless if it does not reach the target user immediately after it is gained. However, she observed that it is a problem faced by most countries where the agency or organizations concerned in preventing terrorism are reluctant to share the information that they have. Therefore, we must find ways to solve this problem. She also mentioned the importance of examining closely any information received because the information may not be important to one agency but might be to another.

Another member then related the situation in his country where there are two levels of committee which monitor and control the security of the nation, namely a district level committee and a national level committee. The task of the district level committee is to gather all information, disseminate instructions and submit a report or feedback to the national level committee. The committee members consist of the department heads such as immigration, police, customs and also the army. Business community leaders are also members of this community. While the function of the national level committee, which is chaired by the Prime Minister, is mainly to draft policy on security matters. He also mentioned that in his country, the police have the privilege to relay any information directly to the highest authority.

Before the discussion continued, one adviser expressed his view that the revelation of intelligence information obtained must be carefully done so that the information will only go to the actual person who needs it and not to any other person that will prejudice the security of the information and the security of the nation. He further explained that it is not necessary that we immediately pass any intelligence information that we get to the authorities concerned. What we can do is to develop more on that information. He gave an example where there is information that someone is a member of a terrorist group. Instead of giving that information immediately to the authorities to arrest the suspect, we can build more on that information by following him until we can get more information on him/her and his/her organization.

One member told the group that he agrees with the formation of a committee to tackle the issue of terrorism, but it must be done at the highest level and the representatives must be the head of each department who can make a decision on behalf of their departments. He also voiced his opinion that intelligence information can be shared but we must know how, when and to whom the intelligence information can be disseminated.

One member of the group then reminded us that the sharing of intelligence information cannot be done if there is no trust and a give and take principle among the agencies. Therefore, each agency concerned with security issues must build trust with other agencies and realize that the sharing of information is for the benefit of the nation. His opinion was shared by another group member who observed that almost all intelligence agencies or those who work to gather intelligence information, irrespective of their agency or organization, will always try to protect the confidentiality of the information. This makes them feel insecure if they have to share the information with others. But on the other hand, if we focus too much on protecting the confidentiality of the information and do not want to share it, the information will die and be useless as it cannot be developed more. Therefore, as that member said, trust among agencies concerned must be built and developed.

He further added that based on his experience, the reason why the agencies concerned do not want to share information that they have is due to bureaucratic sectionalism. He felt that this reason cannot be accepted. But if the reason for not sharing the information is to protect the confidentiality of the sources of the information, then it can be accepted. However, by sharing information, he feels that it does not have to compromise the informant. Therefore, a lot of effort needs to be made to solve this issue.

This problem of sharing of information may be different from one country to another and maybe other countries have had this kind of problem. One member told the group that in his country, all agencies concerned are working hand in hand to fight any problem or issues which will affect the stability of the nation politically, economically and socially. This includes the sharing of information. One member also said that his country has cooperation among the agencies concerned.

One member raised a question on the proper channel to disseminate information especially among police around the world. According to her, immigration and customs agencies have their own international agency which deals with this matter. One member replied that Interpol performs this function. And in answer to another question raised by the member, he said that if a country knows that a wanted terrorist worldwide is hiding in one country, the authorities in that country can either channel the information to Interpol or arrest that person immediately for further action. Another member informed the group that he had visited Interpol once and found that they had insufficient staff. He also found that the exchange of intelligence information on terrorists is normally done bilaterally among countries and not multilaterally.

According to another member, one way to solve the problem of the sharing of information is by having an intensive and strong police-community partnership where they work hand-in-hand to eradicate this problem. This partnership is important because most of the time, the criminals are hiding among the community. So the community will have direct information on that criminal, and without their help in passing on the relevant information, the criminal cannot be traced and arrested easily. He further elaborated that his country's criminal justice system, which consists of the community, the police, the prosecution, the courts and the corrections agencies, really help and are effective towards the attainment of a healthy and peaceful society.

At the end of the discussion the group agreed that one of the coordination and cooperation measures needed to fight terrorism is information sharing and when we have enough information, to carry out an investigation and then to prosecute the offender. The group also agreed that in order to minimize the risk of potential terrorist attacks, all agencies and organizations concerned must always discuss regularly the action to be taken to prevent the action, and what action to take if an incident occurs. One of the methods is to conduct drills or exercises in specific areas which are vulnerable to terrorist attack.

B. Law Enforcement Cooperation between States

With regard to the issue of law enforcement cooperation between states, all the group members are of the same opinion that all the 13 Conventions of the United Nations have laid down the necessary measures on the issues of mutual assistance in criminal matters and extradition to be adopted by all countries that acceded to it. Therefore, it is up to the each country, according to their capability and situation, to adopt the measures suggested in those conventions.

When discussing more on the issue of cooperation between states, one member mentioned that in his country, the government has formed a special agency known as the Transnational Crime Centre with the main purpose of sharing information between states that have diplomatic relations with his country. He gave one recent example where a national of a foreign country was arrested in his country based on information that he was involved in a criminal activity in that country. The information was obtained from that country's authorities through this centre. That criminal is now waiting to be extradited to that country.

Another member told the group that his administration is a member of a World Customs Organization where one of its missions is to assist members in their efforts to meet the challenges of the modern business environment and adapt to changing circumstances (including the terrorism threat), by promoting communication and co-operation among members and with other international organizations, and by fostering integrity, human resource development, transparency, improvements in the management and working methods and the sharing of best practices. Through this organization, his administration cooperates

and coordinates with other member countries in the sharing and exchange of information and assistance in customs matters. He further informed us that this organization has also established regional intelligence liaison offices with the purpose of cooperation in regard to intelligence, and his administration is a member for the Asia-Pacific region.

VI. CONCLUSION

The group agreed, respecting each country's legal regime, and the process of prevention, detection, investigation and prosecution of terrorist acts, there is a clear determination to face this crime. Moreover, the cooperation and exchange of information among each country's agencies will help assure the prevention of these terrorist activities. Therefore, the trust among local agencies to share such information should also be fostered among agencies of different states by co-operating both bilaterally and at a regional level, so that the threat of terrorism will be reduced to a minimum.

The group also reflected on the existing Conventions which obliged countries to implement the necessary measures in order to combat terrorist activities. At the same time the group understands that there are countries that have economic resources to implement these measures. Whereas other countries limited resources inhibit them implementing these measures to the fullest extent. Yet they are aware of the importance of these measures and are willing to cooperate in this regard.

Therefore, we should go back and look at the *aut dedere aut judicare* principle which is stated in all the 12 Conventions of the United Nations. This means in simple words that the signatory countries are obliged either to extradite or prosecute the offender. If this is applied among the states as a sign of cooperation and solidarity, then we will all contribute to live in a peaceful and more prosperous society in our respected countries and also in the world.