

To the Chairman of the Lower House  
of Dutch Parliament  
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Section: National Anti-Terrorism Coordinator  
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Re.: Combating terrorism

## 1. Introduction

The form that current terrorism has taken is a new phenomenon, one that presents society with new dilemmas. In the letter written by the Dutch cabinet after the attacks in Madrid (TK 2003-2004, 27 925, no. 123), we proposed that an assault in Europe also affected the Netherlands, because the Netherlands could equally have been the target. Moreover, the Netherlands is also at particular risk because of the presence of its troops in Iraq, the link with the United States and the presence of specific Muslim groups susceptible to radicalisation processes. Recent incidents underline the existence of a potential threat in the Netherlands.

The ability of state and society to protect themselves against a possible attack and to arm themselves against such attempts must be adapted to meet this threat. This is not a single change but a continuous adjustment of accumulating insights into the nature and scale of the threat. The anti-terrorism policy is constantly developing, both at national and international level. However, we would be mistaken if we thought that this only involved temporary modification because of an acute threat. It must be realised that the open and complex nature of modern society makes it vulnerable to the opportunities of modern weapons technology so that state and society should shore up their defensibility regardless of the current threat. The measures that are taken can then not only be evaluated in the light of the concrete threat.

As stated, after the attacks in Madrid, the anti-terrorism policy as developed after 11 September 2001 has been stepped up, both in the Netherlands and in an international context. Ideas on tightening up measures were exchanged with the House on 14 April this year. In that context, a number of steps were announced. In particular this involved the adequate gathering of information relating to persons who should receive closer attention because of their behaviour, contacts or statements. Further, the preparation of an early warning system was announced. Another important aspect was the appointment of an anti-terrorism coordinator, Mr. Joustra, who inspected the working method and organisation in tackling and preventing terrorist attacks. Based on his findings, the cabinet decided that a more efficient approach and structure of this working method and organisation was needed. Over recent months, important steps have been taken to improve the management and evaluation of information on individuals and threats. In the same time, a number of concrete threats were also made. Based on experiences, insights and recommendations the cabinet reached the conclusion that there is reason for new steps and measures. These are:

- that the combination and valuation of information flows, policy preparation, steering and information on combating terrorism should be combined in one organisation
- that the authority is created to take the necessary steps in urgent cases, if necessary by skirting the standard division of powers
- that the possibilities to intervene, investigate and take into pre-trial detention are expanded in the event of the preparation of terrorist crimes

The cabinet hereby wishes to inform you about these steps, as well as the threat scenario that developed in recent months. This letter will also deal with the early warning system announced earlier, that is currently under realisation.

## **2. Threat scenario**

Since the attacks of 11 March this year in Madrid, the threat for the Netherlands has certainly not lessened (see also Parliamentary Documents II, 2003-2004, 27 925, no. 137). A number of factors can be indicated that imply that the Netherlands, just as the United States, Great Britain, Spain and Poland among others, are more likely targets than other countries. However, this presupposes that the threat issues solely from a single centrally directed organisation that chooses rational goals. So the organisation, if it ever existed, has been fractured by the anti-terrorist activities taken over the last two years. It has been replaced by a multiplicity of active groups, cells and individuals that, inspired by the example of 9/11 prepare and commit acts of terrorism. Over recent months developments have indicated that Islamic terrorists have also marked Holland as a target. The most important observations that influence the current threat scenario for the Netherlands related to the reconnaissance of targets, threats on the Internet and the context of the international threat of Islamic terrorism that have been established.

The most concrete phenomenon to have confronted Holland recently, and that flows from the threatening international situation regarding Islamic terrorists, is *reconnaissance activities*. Over the last few months, it has been determined that individuals are active in the Netherlands, investigating objects and sites that could be possible terrorist targets. Although research into these possible reconnaissance activities is still in full swing, there are sufficient indications for believing reconnaissance activities or activities that could be construed as reconnaissance activities are being carried out at different levels by separate groups or individuals. The measures taken this year on 9 July should be seen partly against this background. In recent months, other countries have also been confronted with similar scouting activities. The targets defined in the United States especially, are typical 'soft targets'.

The numerous *threats* from Islamic terrorist networks against countries currently deploying troops in Iraq are also relevant for the current threat scenario. These countries are warned that they will come under serious attack if they fail to withdraw their troops from Iraq. Such threats are made by various groups and appear in different media including the Internet and some Arab-language news stations. Threats against the Netherlands are generally connected to Dutch foreign policy. Islamic terrorists consider the presence of Dutch troops in Iraq and Afghanistan as participation in what they perceive to be the war of the west against Islam. Which makes Holland a fair target in their eyes. Threats to other countries with troops in Iraq and Afghanistan are of similar import.

The backgrounds of the threats are diverse. Every threat is taken seriously and valued individually for gravity and probable implementation. But origin and plausibility are often hard to evaluate. Some organisations that make such statements lead a virtual existence. Others exist in the flesh but it is uncertain whether they are capable of perpetrating assaults outside Iraqi soil. Nor is it always certain whether the threats come from groups connected to international, Islamic terrorist networks. Taking measures on the basis of these threats calls for a cautious weighing up and all its aspects can not always be publicly clarified.

Since the attack on Afghanistan in October 2001, Al-Qaida has weakened to some extent. This is due to the fact that a number of important leaders, who dealt with planning and facilitating assaults among other things, have either been killed or are under arrest. Islamic individuals belonging to Al-Qaida or related networks have,

however, scattered throughout the world. They have (re) grouped and are more autonomous than before, preparing assaults. This can also be clearly seen in Holland. Al-Qaida may have weakened, but the risk of assaults by independent cells – which seems to have been the case in Madrid – is still very real. The motivation of members of this type of autonomous cells is strongly influenced by international conflicts and western (Dutch included) involvement in them. The perceived injustice being done to Muslims worldwide is moreover projected onto their own situation, which is seen as equal. These feelings of disadvantage and discontent are encouraged and exploited by persons and organisations that, for various reasons, have an interest in expanding the gulf between Muslims and non-Muslims. This contributes to the creation of Muslim radicalism that is a rich breeding ground for the successful recruitment to the Jihad elsewhere in the world, and, ultimately in the Netherlands itself.

### 3. Policy and approach: starting points

In documents sent to the House previously (such as the policy document “Terrorisme en bescherming van de samenleving (“Terrorism and Protection of Society”), (Parliamentary Documents II, 2002-2003, 27 925, no. 94) and the annual reports of the *Algemene Inlichtingen- en Veiligheidsdienst* (General Intelligence and Security Service or AIVD) dealt with the specific features and nature of terrorism confronting the western world, and the Netherlands. Present-day terrorism is not an isolated phenomenon but should be seen against the background of fundamental and cultural contrasts, international and national conflicts far from an individual country’s boundaries and of related issues such as radicalisation, extremism and fundamentalism. All this implies that the west, and with this most definitely Holland, must take the threat of substantial terrorist attacks with great seriousness for the time being. This similarly applies to the Islamic world.

The nature, organisation distribution and the fact that efforts do not concern a concrete political or ideological conflict and a specific country or region but have a more general cultural and religious motivation, will define anti-terrorism actions. The wide, not concretely determined view of current terrorism has resulted in uncertainty regarding potential perpetrators, the site and nature of possible attacks and concrete reasons for them. Partly in view of the character of the organisation, comparison with the threat elsewhere does not offer sufficient grasp. Effective investigation and prosecution are only possible to a limited extent because of this. Consequently, efforts will primarily need to focus on the timely identification and disruption of possible preparations for assaults, surveillance, following and timely arrest of individuals who could potentially be involved, the acknowledgement and adequate monitoring and security of persons, objects, places or gathering that could be a potential terrorist goal; if possible refusing those suspected of terrorist activities access to the Netherlands and developing the sensitivity and decisiveness of the authorities responsible.

International cooperation is essential in preventing and tackling terrorism, given that the causes lie elsewhere, preparation that can take place outside the borders in various countries and the many countries that are potential targets. Preventing assaults in the Netherlands is only possible as part and parcel of preventing assaults in Europe. This also implies that when protecting and taking action against preparation, there should be no distinction as to whether Holland is the target or other countries. In turn this implies that the Netherlands will become more closely involved with tackling terrorism that originates elsewhere, which could affect the nature of the threat in the Netherlands.

Terrorism cannot be tackled by eradicating the underlying grievances under pressure. This would in essence be giving into the threat of terrorism which generally acts as an incentive rather than a discouragement. However, this does not mean that the phenomenon of terrorism should not also be tackled by limiting its breeding ground

wherever possible. In addition to a foreign policy geared to decreasing and managing the conflicts that partly feed current terrorism, this support involves helping the countries from where the threat originates to develop their capacity to identify, combat and control preparations for assaults at an early stage. However, the fact is that perpetrators of assaults are also partly recruited in Europe. In Dutch society, radicalisation is a potent breeding ground for such recruitment. Partly with a view to preventing terrorism, the radicalisation processes in Dutch society will also need to be opposed and restricted in the understanding that this need not be placed solely or even primarily in the realm of anti-terrorism.

Unfortunately, the threat is always such that no government in this time can confidently give assurance that an attack within its territories can be avoided. This does nothing to alter the fact that all effort should be geared to it. Aspects that are decisive for a government's ability to tackle the threat of terrorism efficiently in light of the above include: effectively gathering and using information; disposing over resources and powers to take timely action; adequate safety and security of potential targets; a cross-border approach and restriction of the breeding ground for recruiting potential perpetrators. These factors must be organised so that the available information, options and indications can be translated into decisions and actions as effectively as possible. In the light of the assaults in New York and Madrid over the last few years, measures have already been taken in each of these areas. The House was informed of them. With the experiences gained in mind, new insights into the threat and an investigation of current working methods it is, however, desirable to take new steps and measures that can further strengthen society's defensibility and the government's capacity to prevent and tackle attacks.

#### **4. An effective organisation and ability to take binding decisions**

An effective organisation of information flows, policy and implementation, available manpower and deployment of resources and decisiveness concerning requisite measures is both a condition and cornerstone for an effective approach to tackling terrorism. In the policy document "Terrorisme en de bescherming van de samenleving" (Terrorism and Protecting Society) the first steps towards a more integrated approach to terrorism were outlined. The *Gezamenlijk Comité Terrorismebestrijding* (Joint Anti-Terrorism Committee or GCT) and the *Coördinerend Overleg Terrorismebestrijding* (Coordinating Anti-Terrorist Consultative Body or COTb) came out of this; the GCT focuses on strategy and policy and the COTb on operational collaboration between all services involved. At present, there are around 20 institutions in the Netherlands involved either in terms of policy or operationally in anti-terrorist activities. Above all, a number of coordination frameworks and coordination mechanisms are in place that are involved, to a greater or lesser extent, in aspects relating to anti-terrorism. At national level this involves the *National Coördinatiecentrum* (National Coordination Centre or NCC) and the *Nationaal Coördinator Bewaking en Beveiliging* (National Security and Safety Coordinator or NCBB), at local level these are the local 'triangles'. The coordination cadres and mechanisms mentioned are not suitable to act as a framework for the necessary cooperation required for anti-terrorist activities. What needs to be assured is that efforts will pivot on a single concept with clear direction and the required authorities. Here it should be noted that effective coordination, collaboration and integration of policy and implementation in tackling terrorism is not only needed when there is a concrete threat or other possible crisis, but far longer before-hand. The effort and expertise of all parties must be used so that the result is "more than the sum of the parts". In the current organisation this cannot be sufficiently assured because it remains in principle a collaborative and coordinated effort between "peers" without direction, integrated policy, information evaluation and implementation. Where a more far-reaching form of collaboration has been found, such

as in the surveillance of individuals, it is already clear, on a modest scale, just how profitable such a collaboration can be.

The *Nationaal Coördinator Terrorismebestrijding* (National Anti-Terrorism Coordinator or NCTb) was appointed in May 2004. He is responsible for improving cooperation in the field of anti-terrorist activities. The combination of services or powers is merely a limited response to this issue. The majority of organisations involved in preventing and tackling terrorism have a far broader function and duties in this framework; bodies such as the police, the Public Prosecutions Service, the Immigration and Naturalisation Service or IND and other investigative or executive services (the Centre for Reporting Suspicious Transaction or MOT, the Fiscal Intelligence and Investigation Service or FIOD, etc). Anti-terrorist activities will never constitute the bulk of the activities of any of the organisations, and even the services for which this is currently the case such as the AIVD do not restrict their functioning and principal duty to it. Most of the services involved are of value in tackling terrorism because of the fact that the activities in that regard are part of a broader remit; without this duty they would have no function in this area. So the concentration of individuals charged with gathering information at the AIVD, Military Intelligence and Security Service or MIVD, Kmar (the Royal Netherlands Marechaussee), police forces and other information agencies within a service is not a solution, because this entails losing contact with the ‘mother’ organisations. The same applies in principle to the powers to be used when tackling terrorism.

The degree of collaboration over the *entire* area of terrorist prevention should therefore structurally be given greater priority. What is needed is a clear, fast and tightly directed approach. In most areas, what needs to be dealt with is the shoring up of direction and creation of the necessary ability to take binding decisions in the interests of decisiveness, while retaining the distribution of duties and implementation. The cultural shift that this calls for will also need to be vigorously continued in the sections in question. Above all, speedy action must be possible, locally and internationally in the prevention phase and when taking measures.

The choice available in the various courses for solutions can vary depending on the functions involved. However, the following are essential to tackling terrorism:

- a single joint strategic conceptual policy framework, internationally coordinated and decisive for priorities in policy and actions
- a single central institution to function like a spider in a web to organise closer collaboration, direction and the ability to take binding decisions
- combining, enhancing and using information gathered by third parties
- a range of administrative and legal tools geared to the gravity of the situation that lay down the necessary authorities concerning anti-terrorist activities

#### A joint policy framework and a central organisation

To give the anti-terrorist policy a basic framework, it is important to develop a joint strategic conceptual policy framework for the both the short and the long term. The preparation and formulation of this is currently distributed across different ministries with the emphasis on the Ministry of Justice and the Ministry of the Interior and Kingdom Relations. The result is that in each of the ministries involved, the activities in this area stack up against other ones, while constant mutual fine-tuning is required. To improve this process, the activities of the Ministry of Justice and the Ministry of the Interior and Kingdom Relations will be clustered within one organisation unit led by the National Anti-Terrorism Coordinator or NCTb. The NCTb is responsible for preparing general policy in the field of terrorism prevention, under the aegis of the

coordinating minister for terrorism prevention – the Minister of Justice – and the Minister of Justice and Minister of the Interior and Kingdom Relations.

The organisation of the NCTb will also be responsible for other activities in the field of anti-terrorism. These activities may resemble those of the current *Beveiliging Burgerluchtvaart* (Civil Aviation Protection) unit of the Ministry of Justice that, in the field of civilian air travel, is charged with organising passenger, hand baggage and cabin luggage controls, airport security (including entry checks), patrolling and safeguarding the periphery and protecting aircraft. The training of security staff, investigations into the records of personnel employed at airports, monitoring air cargo and, finally, mobilising air marshals are also the responsibility of the unit. The *Inspectie Beveiliging Burgerluchtvaart* (Civilian Aviation Inspectorate or IBBLV) will also be placed under the NCTb, which supervises the implementation of civilian aviation security. The *Nationaal Coördinator Bewaking en Beveiliging* and his support unit the *Eenheid Bewaking en Beveiliging* (known as NCBB/EBB) will become an integral part of the NCTb. This assures coherence in preparing measures to prevent a terrorist assault. The activities of the NCTb fall fully under ministerial accountability. The Minister of Justice and Minister of the Interior and Kingdom Relations are responsible for the NCTb in accordance with their separate ministerial powers. As instances arise, one will stand in for the other in the responsibilities and powers of the ministers relating to the field of operation of the NCTb. The current replacement regulations are being adjusted accordingly. In terms of management, the NCTb is funded by the Ministry of Justice budget.

#### Direction

Besides the activities described above in the field of terrorism prevention, there are a large number of policy areas that to a lesser or greater extent are related to anti-terrorist activities. Generally, ministries other from the Ministry of Justice and the Ministry of the Interior and Kingdom Relations are involved too. However, there is no need to bring these tasks under the management of the NCTb either directly or indirectly despite the fact that a number of activities and projects in particular are relevant to terrorism prevention. However, if all these duties were to be made the responsibility of the Coordinator, it would tax his management and control tasks, without these being required to safeguard the coherence and progress. In those cases the NCTb will be responsible for direction. As process director, the NCTb must assure cooperation and progress, if need be by appointing project managers. This involves the following, and other, topics:

- identification of possible targets and the development of the required protective measures [systems such as the *Vitaal* project and the *alertering* (early warning) system will be structured initially in the context of anti-terrorist activities although they are not designed entirely for terrorism prevention]
- the structure of special assistance
- drills
- evaluations and
- monitoring policy areas for which first-line accountability primarily lies with other ministries such as:
  - financial flows in relation to terrorism
  - NBC terrorism (terrorism with nuclear, biological and/or chemical weapons)
  - infrastructural provisions

#### Combining, analysing, enhancing and using information

A different organisation is required for acquiring, combining, analysing, enhancing and using information. Information is the most important 'raw material' for terrorism

prevention. As a rule, this does not involve concrete leads but the collection of data from a large number of sources or a search for patterns, discrepancies or striking irregularities in data collection. This is done by a number of different services, not all of which are specialised in this task. The results of these services' activities are used in a number of ways. First, they deliver direct input for policy decisions or for the investigation and prosecution of individuals. Here they can be combined with information from other services or other administrative sources. But the results of the joint services must also provide input for government information which can be used to gain a constant picture of the threat scenario for Holland. A threat analysis is built up out of (among other things) general trends and developments, threat analyses from the EU, the specific situation in Holland and an analysis of the risk targets. At the moment, the constant need for diverse threat analyses at any desired moment is not catered for. The organisation of these various functions must be different. Gathering information, processing and analysing them to be able to warn of certain incidences, guarding persons or objects or scouting possibly unusual developments should, where possible, take place within or between specific services involved. Below, under 5, we deal with the way in which this is currently organised for the observation and surveillance of individuals meriting particular attention.

Developing and up-dating threat analysis and safeguarding general developments demands the involvement of as many services as possible and collaboration at the highest possible level. Because of this a central point is needed, specialising in threat analysis in the broadest sense of the word, and one that serves numerous target groups and/or clients.

This is why, as part of the NCTb, an expertise and analysis centre is being formed in which – in addition to the AIVD (which also makes use of threat analyses provided by foreign services when preparing its input) and the police force, the MIVD, the Immigration and Naturalisation Service, the Royal Netherlands Marechaussee, the FIOD/ECD, Customs & Excise, the Foreign Affairs department and other partners can participate. The centre prepares recommendations relating to the general situation regarding terrorism. This means no duplication of the work done by the various services, but an addition with the combination and policy-oriented translation of information provided. This is partly in relation to any measures to be taken. In addition, the centre performs a coordinating function with respect to all the organisations involved. The centre will also assure information collection for the national safety and security coordinator. The products of the knowledge centre should include:

- integral (regional, national and international) threat analyses
- analyses to be used by the National Early Warning System
- analyses for Safety and Security
- specific analyses at the request of municipalities for instance (concerning events or other soft targets, among other things)

However, targeting individuals and taking directed measures against individuals is not part of the remit; the alliance set up between the AIVD/Royal Dutch Constabulary/Public Prosecutions Service/Immigration and Naturalisation Service will cater for this.

#### Communication and information

A key element for the way in which society learns to deal with the risk of terrorist attacks is the way in which the threat and concrete risks are communicated. The danger of badly thought-out information on the one hand is that many civilians live in constant fear in their everyday lives and feel restricted when it comes to numerous activities. The other extreme is that people get used to frequent warnings and become inured to possible signals even when really necessary. On the other hand, not being fully open about measures taken can be in the interests of effective anti-terrorist activities.

However, the risk is just as great that this will give the impression that nothing is happening or that the organisations in question are incapable of doing their job. The risk of poor communication is finally in question when an assault unexpectedly occurs, the public's ability to act, which is urgently required at that point, is paralysed by public anger at negligence.

Against this background, the development of a uniform, coherent policy relating to communication on threat analyses, incidents, measures taken and the policy developed by the government is of crucial importance to efficiently tackling the threat of terrorism. The NCTb is integrally responsible for communication surrounding terrorism. Information and PR activities concerning terrorism and the fight against terrorism take place under his direction.

#### Effective ability to take binding decisions

The complex nature of a terrorist threat and the enormous potential impact of an assault, call for more effective national operative management. In the event of the threat of a terrorist assault there must be assurance that the required measures can be taken instantaneously. Such assurance is required so that the Minister of Justice and the Minister of the Interior and Kingdom Relations can adequately fulfil their responsibilities for anti-terrorist activities. The concrete threat of a terrorist attack should also still constitute the possibility of a punishable offence. Prevention in this area falls under the responsibility of the Minister of Justice, via the Public Prosecutions Service.

Likewise it could be necessary to take other operational measures too. These could entail an instruction to evacuate a building or barricade roads. The power to do so lies with the local authorities. Measures that fall under the remit of other ministers could also be involved, such as bringing a train to a halt on a certain stretch of track or suspending telecom traffic in a certain region.

The measures created in response to tackling terrorism should be implemented immediately. This normally happens according to existing, normal lines of supervision and via the usual procedures. Within the cabinet it was agreed that every minister would immediately provide his/her cooperation to implement the measures planned. In threatening situations, where consultation or agreement is no longer an option given the urgency, it will (as indicated during the debate with the Lower House on 14 April 2004) ultimately be the Ministry of Justice who, in his capacity as coordinating anti-terrorism minister, has the decisive power to take the requisite measures, possibly with powers that lie within the remit of other ministers. This will be regulated by law.

Given the current threats expressed against our society, we consider it essential that, in the intervening period until the Act comes into force, the coordinating anti-terrorism minister should be able to use these powers. A royal decree, at the recommendation of the prime minister, will provide for this.

#### **5. Information, surveillance and tracking**

Preventing and tackling terrorism should in the first instance be geared to current and possible perpetrators. As a rule, such individuals do not broadcast their activities. At the same time, the risk and possible consequences of a terrorist attack are such that there can be no waiting until concrete, hard suspicions or evidence has emerged against specific individuals. If so, any action will generally come too late. This is why measures and provisions are necessary to enable the government to identify signals and indications that justify suspicion, early, also to be able to observe and follow individuals against whom suspicion has arisen to establish whether the suspicions are justified or not.

With this in mind, after the attack in Madrid, the cabinet took measures to assure that individuals who raise suspicion that they could be in any way involved in terrorist activities or supporting them, can be 'kept an eye on'. These are not people who can be typified as 'hard core' terrorists who are a serious danger or against whom there are concrete suspicions of involvement in terrorism-related punishable offences; rather, it concerns individuals who in a previous or still running AIVD and police investigation emerged at some point as possible links in terrorist networks.

The result is an entirely new collaboration between the AIVD, police, Public Prosecutions Service and Immigration and Naturalisation Service in which the MIVD also wishes to participate. The services intensified their information-exchange by setting up a Contra Terrorism (CT) information box. The CT infobox functions as an information junction and analysis unit. It combines different information files after which the information is subjected to a multi-disciplinary evaluation. In an early stage, based on as complete a picture as possible, a well-considered risk-forecast is made on the grounds of which a suitable operational approach can be taken. The service that possesses the information relevant to this, notifies the service responsible for the operational approach to this effect in an official message. The information exchange of course conforms to the statutory provisions that apply.

The operational approach can include a) criminal law interventions, b) actions taken in the context of aliens law, c) surveillance for information purposes or d) disruption, or a combination of these measures. Here, it is important that the activities of the various actors are connected to the statutory provisions that apply to them – the Code of Criminal Procedure for the police force and the Public Prosecutions Service, the WIV for the AIVD and aliens legislation for the Immigration and Naturalisation Service. Taking these statutory provisions into account, attempts are made to work with the above methods so that they complement each other, to maximally reduce the risk of a terrorist threat.

If there is no concrete suspicion that the individual has been involved in a punishable offence, or if he or she can not be extradited on the grounds of aliens law, surveillance for information purposes will be the next goal. The first results within the collaborative alliance indicate that of the high risk individuals identified by the police and AIVD, only a limited number can be successfully dealt with by criminal or aliens law. To restore to an acceptable level the risk that such an individual will become involved in terrorist-related activities unnoticed, it may be decided to monitor his or her comings and goings and contacts. This information-oriented surveillance or 'monitoring' can be pursued over a long period of time.

During monitoring, when terrorism-related activities are uncovered that cannot be typified as punishable offences, disrupting these activities may be an option. Disrupting means surveillance in such a way that it is clear to the individual in question, and his or her contacts, that he or she is the subject of some form of government activity, if necessary deploying other statutory provisions so that the individual can effectively no longer be involved in terrorist-related matters. This avoids the further development of such an individual into a usable partner in terrorist activities.

Operative management of the police force and Public Prosecutions Service regarding the approach to persons related to terrorism is under the aegis of the Ministry of Justice; management of the AIVD is under the aegis of the Ministry for the Interior and Kingdom Relations. However, in the context of disruptive action, other services and organisations that are not the responsibility of these ministries, can be called in. These services and organisations have a variety of steering mechanisms and their own planning cycles. However, for disruptive action it is crucial that the activity be carried

out right away. This can thwart the internal priorities of services or organisations. To prevent delays or steering problems, the cabinet decided to give the Minister of Justice responsibility for the general approach to disruptive action. This means that the Minister of Justice can request other ministers to deploy services that report to them, to take action against potential terrorists (naturally within the current statutory framework and with the help of existing authorities). Any thwarting of current policy or planning is justified by the urgent character of the anti-terrorist activities. The National Police Service (KLPD) /UTBT plays a central role in safeguarding the coherence of the various actual actions taken in the context of disruption.

Another aspect of supervising individuals is using the scope offered by aliens law. Here the starting point is that the admission of an alien should be checked before the border if possible. This means that, on first contact with the embassy monitoring should be carried out to see whether the admission criteria are met. When the person in question is suspected of involvement in punishable offences that may support terrorist activities, such as faking official documents or theft or drug trafficking to finance terrorism, the person will not be issued with a visa for the Netherlands. A subsequent check will entail the Royal Netherlands Marechaussee carrying out holding pre-boarding-checks for high risk flights. On arrival in Dutch airports the Royal Netherlands Marechaussee will then conduct gate checks when passengers disembark from specific flights. Then, in the admissions procedure, the Immigration and Naturalisation Service will focus on article 1F of the Geneva Convention and terrorism. Finally, in the Netherlands, the Aliens Police monitors supervision of aliens within Holland, also with regard to combating terrorism.

#### **6. Extending powers with regard to terrorism prevention**

Preventing terrorism implies that timely action can be taken if indicated by the available information. Such interventions will as a rule occur within the criminal law context if there are concrete suspicions. Criminal law does not after all restrict its significance to responding to injustices that have been perpetrated, but also at preventing them. This does not prejudice the fact that criminal law is applied in situations and activities that, in many respects, seem to resemble a 'war situation' or an exceptional situation other than general criminal offences within an orderly society. This can create tension between what is acceptable according to criminal law, and what is considered desirable to protect society. In Dutch legal order, this generates few problems these days. But the *Wet terroristische misdrijven* (Criminal Offences Act) introduced a separate category of offences to the Dutch Criminal Code. By expanding the punishability of preparatory actions, by making conspiring to commit serious terrorist offences and recruiting for the violent jihad punishable, it is possible to deploy powers that ease prosecution, it is possible to deploy prosecution powers at an early stage and thereby take timely action.

The criminal law bodies should possess the appropriate powers to prepare the criminal case for adjudication based on the information at their disposal. With a view to this the government has, up to now, already proposed adjusting legislation on a number of points. An overview of all the measures is given in the progress reports accompanying the 'Actieplan Terrorismebestrijding en Veiligheid' (Anti-Terrorism and Safety Action Plan) (Parliamentary Documents II, 2001-2002, 27 925, no. 10) in the policy document 'Terrorisme en de bescherming van de samenleving' (Parliamentary Documents II, 2002-2003, 27 925, no. 94) and the letter immediately after the assaults in Madrid (Parliamentary Documents II, 2003-2004, 27 925, no. 123). As a result of screening the legislation that was announced earlier in the last-mentioned letter, the cabinet is currently preparing a number of proposals for the total expansion of powers with regard to preventing terrorism.

An important instrument to gather the necessary data in the initial phase of an investigation preliminary to prosecution is to gather the data required for setting up an exploratory investigation. Article 126gg of the Criminal Code on exploratory investigations determines that if there are indications that serious offences are being planned or committed within assembles of individuals, the public prosecutor can instruct investigating officers to commence an investigation aimed at preparing the tracing process. This power is also useful in the context of combating terrorism. The public prosecutor can, if necessary for carrying out the investigation, determine that, in the context of the investigation, article 9, first paragraph of the *Wet bescherming persoonsgegevens* (Data Protection Act) is not applicable to public registers (to be determined at a later date) that are set up by law. At the moment, the exploratory investigation regulation offers insufficient opportunities for the investigation of terrorist activities due to the restrictions. The cabinet therefore proposes to expand the power to conduct exploratory investigations in crimes of a terrorist nature. This involves obtaining identifying data from bodies other than government institutions, but also linking data required for such an exploratory investigation that is already available from the police, to data held by other government bodies or private institutions.

A second power that is crucial to prevent and detect terrorist crimes is the power of preventive searching. The *Wet Wapens en munitie* (the Weapons and Ammunition Act) enables packaging to be opened, vehicles to be stopped and searched, and searching individuals if this is indicated. If no indications are present, these powers can moreover be applied in pre-designated safety areas. The cabinet is preparing a bill in which the powers referred to are expanded in a number of areas. This legislative amendment should enable the public prosecutor in a designated area (such as transport axes like motorways or rail networks) to search anyone, and to have packages and vehicles searched in connection with a (threatened) terrorist attack. This regulation will be added to currently valid rules relating to preventive searching whereby the mayor has a responsibility. With a view to combating terrorism, the power to conduct preventive searches will be placed on an equal footing with the WED power to open and search packages and have cars pull over, where the public prosecutor can order these powers to be exercised against individuals if this is indicated.

A third category of powers constitutes the exceptional powers (phone tapping, infiltration, systematic surveillances and so on). These powers can be practiced in an investigation that is not confined to suspicions of a concrete punishable offence. In that case it entails exceptional detection powers in an investigation into planning or committing serious crimes in an organised context. The application is linked to the reasonable suspicion that serious offences, to be detailed more closely, are being planned or committed in an organised context. Exercising these powers is currently already possible with a view to combating terrorism. An 'organised context' can also exist within a terrorist cell. If there are insufficient indications of such a context, investigation into planning serious punishable offences, where no requirement of suspicion of a concrete offence is established, may however be similarly desirable. Against this background the cabinet is preparing a bill that – within the constitutional cadres – expands the statutory possibilities of applying the exceptional investigation powers in connection with combating terrorism. If this expansion has consequences for the Wiv, it will likewise be adjusted.

With regard to temporarily depriving individuals suspected of terrorist crimes of their liberty, a proposal is similarly being prepared. With terrorist crimes in particular, the situation arises of being taken into police custody under relatively light suspicion. A court order for a remand in custody will not be issued if the investigation has provided too little in the short period available. The requirement of grave evidence currently compels this.

The cabinet will prepare a bill in which remand is possible on the grounds of suspicion, even in the absence of grave presumptions against the suspect.

The Criminal Code also stipulates that a criminal case must be handled in court after 106 days whereby the case documents for all participants in the case are open for inspection. This timespan may be too short particularly in investigations into terrorist offences to provide the openness required by law. The cabinet wishes to revise this regulation to enable incomplete case documentation to be retained longer in terrorist cases.

With regard to the AIVD a number of bills have now been announced that enable the service to respond efficiently to the current threat situation.

The consequences for current legislation in the field of asylum and migration is once more being considered.

## **7. National *alertering* (early warning) system**

Besides the measures referred to above, a system is currently being developed with which the government (local and national) the commercial sector and the public are informed of current threats and risks. The system enables appropriate measures to be taken quickly to reduce the chance of assaults and other crises, even if the danger is focused at several locations simultaneously. In this chapter we inform you of the progress of developments regarding the early warning system and the subsequent planning. The main points of how the system operates will also be explained.

### *Goal and effect*

The goal of the national early warning system is to clearly inform government bodies, operational services, vital companies and (other) public and commercial sectors of the warning phase and measures required so as to reduce the risk of a crisis. The system contains a number of warning levels, each with a package of measures, which correspond to other international systems wherever possible. The system is being developed for general crisis management; in other words, it is applicable to every type of crisis. The development of this system is also announced in the *Beleidsplan Crisisbeheersing 2004-2007* (TK 2003-2004, 29 668, no. 1). The system's contingency measures for preventing terrorist attacks is more fully developed than those for other types of crises.

Warning levels for terrorism are announced by the anti-terrorism coordinating minister, the Minister of Justice. Because of the involvement of administrative and operational authorities, the Minister of Justice consults with the Minister of the Interior and Kingdom Relations unless there is no time because of the concrete nature of the threat. The announcement of warning levels is tuned to the time and place of the current risk if at all possible, based on threat and risk analyses. This means that a warning level may apply to a specific (sub) sector or to a specific area while a lesser warning level continues to, or applies to, other sectors and/or areas. This avoids a specific threat unnecessarily leading to measures throughout the entire country.

The system has been designed for situations of heightened risk, to organise an instantaneous and uniform response from governments, operational services and relevant sectors/companies, where all parties are clear about the action required and what they can expect from others. The early warning system is thus everything but non-binding. If it is decided that a situation merits a specific warning level the administrative bodies, services and (commercial) sectors involved are expected to take the corresponding measures. These measures will be laid down in instructions about the required means of action, before the system is introduced.

### *Introduction*

At present, the afore-mentioned instructions with regard to the measures to be taken are under preparation whereby, under the direction of the central government, coordinated rafts of measures of (co) governments, operational services and public and commercial sectors involved, are under development. Against the backdrop of the assaults in Madrid, the national early warning system is for the time being detailed for the risk of terrorist attacks corresponding to a scenario envisaging an assault on the rail sector. With regard to this scenario, the measures are currently being expanded and, per warning level, allocated to the governments and parties involved from the commercial sectors in question. Such measures will be stepped up as the risk of threat increases and will range from police surveillance to entirely cordoning off an area. The business community is also taking the necessary steps: from instructions concerning extra personnel alerts, extra entry checks, to suspending train traffic. In the main, there is consensus concerning the measures to be taken although further elaboration – include quality criteria such as the permissible duration, etc – is essential. Following on from this, the organisations involved can invest in preparation for the measures so that they can be implemented quickly if the situation requires.

A start was recently made to expand the system to include other possible goals of terrorist assaults, whereby the results of the ‘pilot rail network’ forms the thread running through the instructions that are being detailed for the remaining sectors. In a number of cases, the requisite measures have already been planned at local level.

The system is being developed as a matter of great urgency. Given the scale and complexity of the system, its implementation demands thorough preparation. The planning that was originally foreseen (see Parliamentary Documents II, 2003-2004, 27 925, no. 123) appeared too tight. Now the intention is to round off the functional preparations on 1 January 2005 so that a start can be made with the technical and operational introduction of the system with regard to terrorism.

Outside the situation of exceptional circumstances, the statutory provisions to issue instructions to take measures do not go far enough at present. Given the enormous importance of preventing terrorist attacks we assume that, nonetheless, the desired and agreed measures will be taken so that the early warning system can be introduced without having to wait until the statutory obligations required have come into force. The way in which this will take place was already outlined above.

### *Communication*

Communication is an important aspect of the early warning system. The system will help keep the public informed of the watchfulness required regarding possible contingencies such as terrorist attacks, and informs citizens of the measures necessary in this regard. The starting point here is to give citizens a clear picture of the risk, providing information by degrees and in such a way as to avoid ‘inflation’ eroding the system. In each situation involving a shift in warning level, the public will be provided with a clear and concrete view of the action being taken.

Before this system enters into force, an intensive implementation and information campaign will be held, geared to both government bodies and public and commercial sectors, and the public. A communication strategy is currently being developed for this. The campaign should succeed in providing all parties involved, and the public, with clear insight into how the system works and into the attitude and conduct expected when a warning level is proclaimed by the central government. The campaign should partly result in confirming society’s faith in the government’s recognition of the terrorist danger, and measures taken, and that it takes the public seriously and keeps it

informed. The campaign will be launched when the parties are actually working according to the early warning system that is to be agreed. This campaign is preceded by providing the public with more detailed information of the risk management policy.

## **8. Tackling legal entities that support terrorist activities**

Of equal importance is tackling legal entities that are in any way involved in facilitating terrorist organisations. The main group under consideration here are foundations of a charitable or religious nature that play a role in financing terrorist activities.

Based on a study by the Financiële Expertise Centrum (Financial Expertise Centre or FEC) on non-profit organisations and terrorism financing, measures are being prepared to subject foundations to a greater level of transparency. Here, attention is focused on expanding monitoring and sanction options with regard to foundations. In the first instance, making better use of the existing options is being analysed, as are more structural solutions. This calls for measures under the aegis of various ministries and services (including the Ministry of Justice, the Ministry of Finance, the Ministry of the Interior and Kingdom Relations, the Public Prosecutions Service and the AIVD).

Part of this approach consists of the Public Prosecutions Service using its civil law powers pertaining to legal entities as laid down in the Civil Code in this area. The Public Prosecutions Service has begun a pilot to investigate the scope of this possibility in these specific circumstances. This involves a court order to dissolve a legal entity to request a ban declaration, a request to board members for information if there are grave doubts that the charter is being complied with in good faith or that the foundation is being properly managed, or an order to dismiss the board members for maladministration.

Besides research into the possibility and desirability of deploying the civil powers of the Public Prosecutions Service in this area, work is being done to see if there are ways in which the transparency of legal entities can be promoted by tightening up the publication obligation and by setting up a method for risk analysis.

For a full overview of cabinet policy on this point, please see the policy document to your House (Parliamentary Documents II, 2003-2004, 27 925, no. 136) on combating the abuse of non-profit organisations for terrorism financing based on the report of the Financial Expertise Centre on this topic in 2003.

## **9. International collaboration**

Combating terrorism in the Netherlands is of course not a separate area but should be part of a coordinated collaboration with other countries to tackle terrorism in a wider, international context. To realise this, a number of initiatives have been undertaken. As president of the EU, the Netherlands plays an important role in the further development and implementation of the various initiatives. Below is an over view of the activities that have since been taken in an EU context and the activities Holland will focus on in the framework of its presidency.

A crucial aspect was the appointment of an EU anti-terrorism coordinator, Mr De Vries who, among other things, has been charged with encouraging the diverse EU councils concerned with anti-terrorism to work together more effectively and harmoniously, and to coordinate the implementation of the anti-terrorism action plan. A revised action plan has been designed which contains new and existing activities in the field of anti-terrorism in the EU, and which should be speedily implemented. Further, the information capacity of the EU, the SITCEN, will be expanded with representatives from security services which will improve information exchange at EU level in the

future. The European Taskforce of Police Chiefs is also involved in anti-terrorism and in this context also places more emphasis on intensifying information exchanges. In addition to this, the Europol Terrorism Taskforce has also been activated.

In the context of the EU presidency, following on from the activities in the context of 11 March 2004, the Netherlands is focusing specifically on improved cooperation and information-exchange between the police and I&V services, overall collaboration, reinforcing operational collaboration between member states and the development of a counter strategy against terrorism recruitment. The Netherlands is concentrating on the further development of the contribution of the European Security and Defence policy to combating terrorism, including protection of the civilian population after a terrorism attack (with weapons of mass destruction) and cooperation with NATO. Anti-terrorist activities is also a prominent part of the JHA *Meerjarenagenda* (Justice and Home Affairs Long-Term Agenda) that is expected to be adopted by the European Council on 5 November 2004. During the Dutch presidency, attention will also be given to tackling terrorist financing. The aim is to make considerable progress to realise the third directive concerning money-laundering and the realisation of measures to compel information about the sender being included in cashless payments. The rapid realisation of measures for the cross-border traffic of cash monies is also a priority. In a European context, the debate on the transparency and regulation of so-called non-profit organisations is also commencing. The evaluation of the European mechanism for freezing the credit balances of terrorists and terrorist organisations is also being dealt with. Finally, the Netherlands will reinforce collaboration with third countries in the area of anti-terrorism. In close collaboration with the EU terrorism coordinator, and with a group of priority countries, work will be done to improve collaboration and provide technical assistance in the implementation of international obligations.

#### **10. Limiting terrorism breeding grounds**

Tackling terrorism should not only be geared to the possibility of concrete assaults. There are other opportunities for prevention. One of the first points of opportunity is the process of radicalisation in the current global society that is a key breeding ground for recruiting the perpetrators of acts of terrorism. A second is the given that the threat comes, to a great degree, from outside, from countries that often have too few resources to read the signs that attacks are being prepared, on time. A third point is the failed states: countries where the state is so weak that terrorist movements have free reign in preparing attacks elsewhere.

The policy to prevent or restrict these 'failed states' is part of foreign policy. It involves policy the results of which will first be visible in the long term. The support of countries in which potential terrorists are residing, in developing the skills to recognise perpetrators or their preparations at an early stage, and disrupt their communication and contacts with overseas, also offers short-term prospects, and supplement the domestic measures being taken. Decelerating, stopping or even reversing the process of radicalisation that forms a breeding ground for the recruitment of potential perpetrators is an approach that also offers a solution.

Radicalism involves the (growing) willingness to accommodate and/or support personal (political or ideological) convictions that can imply far-reaching changes in society or a threat to democratic legal order and/or whereby undemocratic resources are deployed. In the context of terrorism, a striking and urgent problem concerns the radicalisation of (converted) Muslims. But this is not the only aspect. The radicalisation of other groups in the population is a no less essential aspect of the problem. Increasing support for radical variants of Islam is an unmistakably crucial factor, but the polarisation among Muslims and their surrounding society, and the radicalisation of other groups in their animosity towards Islamic citizens is a no less potent factor. The

involvement of an extremely small group, including Dutch Muslims in international terrorism, has considerably reinforced negative perceptions of Islam. This could prove a breeding ground for Muslim youth.

In practice, various forms of radicalisation in our society and many of the activities performed in this context, appear not to be punishable. When countering radicalisation, criminal law should not immediately be thought of as an instrument. For the same reasons, it is not only about what action the government takes; individuals and organisations must also be mobilised. Political, national government, local governance, civil society or members of Muslim communities themselves are all actors that can offer a counterweight to the perceived threats. Combating terrorism is geared on the one hand to empowering vulnerable groups, and entering into dialogues with both moderate and fundamental groups on the other. By extension, the cabinet will table additional proposals to combat recruitment, specifically the prison system, with regard to terrorist groups.

Although the prevention, isolation or curbing of radicalisation is an important element to combat both disintegration and terrorism, here we are involved with an issue that should not only be contemplated from the perspective of anti-terrorism. For these reasons, the topic should also be discussed within in a broader framework. In the short term, your House will receive a separate policy document outlining the vision and plans of the cabinet in this area.

Specifically in the context of combating radicalisation processes in Islamic circles, and eradicating a breeding ground for Islamic terrorist, various steps have already been taken in recent months. However small the actual radical group is, any violent assault can have huge repercussions on (perceptions of) safety and on public order. A society's defensibility against this threat can be direct: repressively tackling radical groups. On the other hand, it can be indirect by reinforcing the defensibility of Dutch Muslims and Islamic communities against radicalisation tendencies in their own circles.

The cabinet stimulates local governments to enter into dialogue with groups within their municipality that voice extremist opinions. In this regard, the Minister of the Interior and Kingdom Relations, and the Minister for Immigration and Integration and a large number of G30 mayors (mayors of the largest Dutch cities) discussed ways of dealing with radical mosques, specifically tackling radicalisation processes as a breeding ground for terrorism. During this mayoral conference, the administrative scope available to local governance was discussed. Changes that might be made include tightening up the conditions for providing subsidies and issuing licences. These should be made specifically reliant on the degree to which organisations are willing to shoulder their social responsibility and be open about their objectives and finances. Also, at local level, the dialogue with Islamic organisations will be reinforced.

The dialogue with Islamic organisations will be conducted at national level too. The Minister for Immigration and Integration is in regular contact with the *Landelijk Overleg Minderheden* (National Ethnic Consultative Body) and has periodic contact with religious contact bodies. In the framework of the specific approach to radicalisation, an implementation programme is being developed in collaboration with FORUM to bring the discussion about Islamic radicalisation into the public arena. This programme is expected to be presented to the Lower House in October 2004 by the Minister for Immigration and Integration.

## **11. Financial implications**

Acting on the ambitions outlined here takes money. Part of the funding can be found by reorganising existing budgets. Further, the personnel costs of the Security and Safety

Unit that currently fall under the budget of the Ministry of the Interior and Kingdom Relations will be transferred to the budget of the Ministry of Justice. The net additional costs of the National Anti-Terrorism Coordinator will structurally total around 11 million euro according to current forecasts, in accordance with the overview below; this concerns additional budgeting. In the *Voorjaarsnota* (spring budget) these sums will be processed into the budget. With regard to the capacity of the AIVD, amounts were added to the 2004 spring budget. A new financial overview will be made based on the results of the activities of the *Commissie Bestuurlijke Evaluatie* (Administrative Evaluation Commission).

X 1000 Euro

	2005	2006	2007	2008	2009
Personnel	4000	4900	4900	4900	4900
Office space / premises	680	850	850	850	850
Security	120	150	150	150	150
ICT	200	250	250	250	250
Drills	456	570	570	570	570
Inspections / investigations	200	250	250	250	250
Publicity campaigns / PR	2350	2350	2350	2350	2350
Developing analysis models, etc	670	670	200	200	200
IND information and analysis	1500	1500	1500	1500	1500
Already available Min. of Justice budget	4000				
<b>Total</b>	<b>6176</b>	<b>11490</b>	<b>11020</b>	<b>11020</b>	<b>11020</b>

## 12. The long term

The expansion and adjustment of the organisation and the reinforcement of the steering this involves, by the Minister of Justice in tandem with the Minister of the Interior and Kingdom Relations, are steps that can and should be taken in the short term. With this, in the extension of the earlier measures of the cabinet after 11 September and 11 March 2004, an important, substantial follow-up step will have been taken, that offers a solution to the bottlenecks that have been identified (work is fragmented, coordination between peers, lack of clear direction) that, above all, can be implemented in the short time. However, it doesn't stop there.

With regard to terrorist developments and increasing threats to the west (including the Netherlands), expectations are of such a grave nature that far-reaching measures seem to be imperative. We firmly believe that, for the mid and long term, thorough analysis of possible alternatives for a more effective, efficient organisation and distribution of responsibilities in the field of (national) safety, is required. The evaluation of police functioning (see the General Agreement), the results of the administrative survey into

the AIVD (the *Havermans* Commission) and the results of the state-wide analysis of the tasks of the *Andere Overheid* (security and legal order) will be able to provide input for the investigation mentioned. This analysis will be conducted under the aegis of the Minister for Government Innovation and Kingdom Relations in consultation with the prime minister and the ministers most closely involved. The said analysis will be completed in the second half of 2005 at the latest.

### **13. Conclusion**

From the above it appears that over recent years, since 11 September 2001, a great deal has been accomplished. Over recent years, this process has been continued with, for instance, the entering into effect of the *Wet terroristische misdrijven* (Terrorist Offences Act) and intensive collaboration between the investigation and information services. This work is never finished; we have the outline of an early warning system, which will be elaborated upon; there are bills pending that will make tackling terrorism more effective, and a new organisation is in the wings, an organisation in which all parties will join forces to combat terrorism. This does not diminish the fact that there is always a chance that an assault can be made in the Netherlands. However, the cabinet is on the alert and is making every effort, with all its resources, to keep the chance to a minimum.

The Minister of Justice

The Minister of the Interior and  
Kingdom Relations