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**DISCLAIMER**

The boundaries, names and designations used in this report do not imply official endorsement or acceptance by the United Nations. They are intended for illustrative purposes only.

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## Abbreviations

<b>ASEAN</b>	Association of Southeast Asian Nations
<b>ASEANAPOL</b>	ASEAN Association of Heads of Police
<b>CIS</b>	Commonwealth of Independent States
<b>CODEXTER</b>	Council of Europe Committee of Experts on Terrorism
<b>CSTO</b>	Collective Security Treaty Organization
<b>ECCAS</b>	Economic Community of Central African States
<b>ECOWAS</b>	Economic Community of West African States
<b>EUROJUST</b>	European Union Judicial Cooperation Unit
<b>EUROPOL</b>	

**THE PRESENT GLOBAL SURVEY OF THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1373 (2001) BY MEMBER STATES** was prepared by the Counter-Terrorism Committee Executive Directorate, pursuant to the request of the Security Council, contained in its resolution 1963 (2010), that the Committee Executive Directorate update the previous survey, issued in November 2009 (S/2009/620).

The Council also stated in its resolution 1963 (2010) its intention to convene, on 28 September 2011, a special meeting of the Counter-Terrorism Committee, open to the wider United Nations membership, to commemorate the tenth anniversary of the adoption of resolution 1373 (2001). Linking the present survey to the discussions to be held at that meeting, the Council requested that it be prepared by 30 June 2011.

The Council further requested that, in addition to recording the state of implementation of resolution 1373 (2001), the survey should also assess the evolution of risks and threats, region by region; identify gaps in implementation; and propose ways to address those gaps.

The survey relies on data compiled on the basis of information and updates provided by Member States; reports on country visits (in the case of the more than 60 States visited by the Committee); regional workshops; and information provided by international, regional and subregional organizations. The data are also recorded in the preliminary implementation assessments prepared by the Committee Executive Directorate for all 192 Member States. As with the previous versions, the present survey was prepared by the experts of the Committee Executive Directorate, based on their professional judgement of the information available as at April 2011.

The survey focuses on the major thematic areas addressed by the resolution, notably: counter-terrorism legislation, the counter-financing of terrorism, law enforcement, border control and international cooperation. It also takes into account the protection of human rights, as relevant to the requirements of the resolution. The sections on law enforcement and border control in each region have generally been expanded from the 2009 survey, as experts have identified additional criteria by which to assess progress in these areas.

**SECTION II** of the survey provides an assessment of the implementation of resolution 1373 (2001), broken down by region and subregion, as in the previous surveys. The regional and subregional did su4(o)6-6(n57(o)-10(c)-1(n)-3(d).444 Td8 Tw (p)-9

At the conclusion of each section, there are three priority recommendations for practical steps that Member States and the Committee and its Executive Directorate could take to strengthen implementation of the resolution in each subregion or thematic area. It is hoped that these recommendations will also be useful for other international organizations and bilateral donors working in the counter-terrorism field.

A list of key counter-terrorism instruments is contained in the annex to the survey.

Security Council resolution 1373 (2001) fully retains its topicality and remains a key United Nations document in the field of counter-terrorism. In the 10 years since the adoption of resolution 1373 (2001), much progress has been made in this global effort. The resolution has brought increased solidarity and intensified dialogue among Member



remains a potent and dangerous force. This is due in part to its alliances with groups such as Al-Qaida in the Islamic Maghreb and Al-Qaida in the Arabian Peninsula and to its continued capacity to inspire other groups and individuals to plan attacks in all regions of the world.

A particular threat has arisen through increased use by terrorist groups and individuals of new information and communication technologies for recruitment, incitement and fund-raising, often across international borders. The In-



**ASSESSMENT BY REGION**

# **Africa**



North Africa has suffered more than other African subregions from terrorism and has adopted a variety of approaches, both legal and operational, in response. All North African States have adopted legislative counter-terrorism measures. However, these measures often lack the precise definition of criminal behaviour set forth in the international counter-terrorism instruments. This might raise concerns in relation to human rights and the rule of law. Counter-terrorism expertise has been acquired and innovative approaches adopted, whether to prevent further recruitment of potential terrorists or to counter radicalization that may lead to violence.

Recent political and security developments in North Africa may lead some States to revisit current strategies, especially in order to ensure adherence to the rule of law and to address human rights concerns while also maintaining the region's capacity to counter serious offences such as terrorism.

As a general comment, law enforcement measures in the subregion could be better coordinated, particularly at the operational level, and should be subject to judicial oversight. Lengthy maritime and open land borders continue to pose challenges to border control.

**LEGISLATION.** All visited States have introduced legislation giving their judicial, prosecutorial and law enforcement authorities the competences needed to counter terrorism. Penal codes, supplemented by special legislation, are primarily relied upon in bringing alleged perpetrators of terrorist offences before the courts. Terrorism-related prosecutions have been undertaken successfully in several States. However, some States continue to use an overly broad definition of terrorism and would be advised to codify terrorist offences into their domestic criminal law in accordance with the international counter-terrorism instruments. Such an approach is being taken by

cordance with the Convention. This may undermine their ability to cooperate effectively at the international level. Tunisia and the Libyan Arab Jamahiriya have (in 2009 and 2010, respectively) extended customer due diligence,







mittee's visits have demonstrated that States of the region (primarily cash-based economies) need to strengthen control of cash couriers by introducing threshold requirements, where they do not already exist, for the movement of cash and bearer negotiable instruments.

**LAW ENFORCEMENT.** The vast majority of States rely primarily on their criminal procedure codes to regulate the work of their law enforcement agencies. Almost all States lack some capacity to conduct effective investigations or utilize advanced tools such as databases and forensics. Counter-terrorism and security structures for the purpose of internal coordination and the study of terrorism exist in some States. Kenya has a National Counter-Terrorism Centre; the United Republic of Tanzania, a National Counter-Terrorism Centre; and Uganda, a National Security Council.

and engage in regular contact with community leaders on border issues. Since publication of the previous survey, four States have received second-cycle ICAO USAP missions and two have received first-cycle follow-up missions.

**INTERNATIONAL COOPERATION.** The level of ratification of the international instruments has remained unchanged since 2009 and varies widely. One State is a party to 14 instruments, while one of its neighbours is a party to none. Very few States have adopted laws on extradition and mutual legal assistance. This limits their ability to respond positively to related requests from other States. In 2009, the Ministers of Justice of the member States of IGAD agreed on a draft convention on extradition and a convention on mutual legal assistance which, when fully implemented, will enhance cooperation in criminal matters among a number of East African States.

■ ■ ■ States of the subregion should:

- (a) Adopt and implement national counter-terrorism legal frameworks that are comprehensive and coherent and include all the terrorist offences set forth in the international counter-terrorism instruments, while also conforming to international human rights standards;
- (b) Enhance their internal coordination at the policy and operational levels;
- (c) Strengthen efforts to enhance border security at entry points and along open borders, including through the development of regional approaches and best practices, such as community policing, in order to prevent and suppress the movement of terrorists across borders, and also prevent and suppress the physical cross-border transportation of currency and bearer negotiable instruments, cargo and arms/explosives, in accordance with international best codes and practices.

■ ■ ■ The Counter-Terrorism Committee and its Executive Directorate should:

- (a) Engage more actively with the relevant regional organizations (African Union, East African Community, Eastern Africa Police Chiefs Cooperation Organization, Eastern and Southern African Anti-money-laundering Group and IGAD Capacity Building Program Against Terrorism, and focus on activities geared towards overcoming deficiencies and improving implementation of the resolution;
- (b)

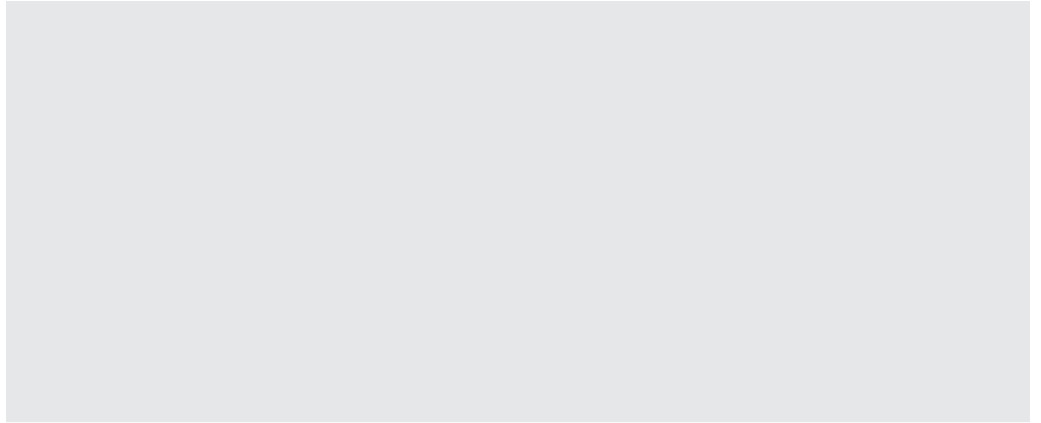
Although Southern African States have made a commitment to countering terrorism, many lack the technical and

strate the continued need to encourage States to fully incorporate the international counter-terrorism instruments into their domestic legislation and to develop the institutional capacity of the prosecution and judiciary with respect to counter-terrorism cases.

**COUNTER-FINANCING OF TERRORISM.** Six States of the subregion are parties to the Terrorist Financing Convention. Four States have adequately criminalized the financing of terrorism, while three have not done so at all. In July 2010, Angola introduced legislation establishing preventive and restrictive measures against money-laundering and terrorist financing. On 15 April 2010, Angola submitted its application to join the Eastern and Southern African Anti-money-laundering Group. The majority of States have anti-money-laundering legislation in place, and four of those States include terrorist financing as a predicate offence. Most States continue to experience challenges with respect to legislative and operational measures for the freezing of funds without delay. Six States have some measures in place relating to reporting obligations, including for financing of terrorism, but only one has adequate measures in place. In most cases, these measures extend to banks, but it is not clear whether they cover other financial, as well as non-financial business and professions.

There has been progress in the adoption of measures to establish financial intelligence units. At present, four may be considered fully operational and three (those of Malawi, Mauritius and South Africa) are also members of the Egmont Group. Dissemination of suspicious transaction reports by Mauritius and South Africa has resulted in a num-

**BORDER CONTROL.** Several States are taking steps to computerize their immigration and citizenship processes. With the exception of South Africa, entry/exit systems for checking passengers at most border points remain manual. South Africa's land crossings are linked to a central database, and all entry points have access to a central automated system that captures all travellers' details and contains warning lists that are regularly updated with





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effectiveness of the system is undermined in almost all States by manual processing of information. Some States are willing to set up coordinating mechanisms, including at the operational level, in the Ministry of the Interior, but still face internal challenges related to resources, control and oversight. Some States have yet to address human rights concerns (e.g., exceptional periods of police custody and limits on access to counsel) relating to terrorism cases. Mali and the Niger are members of the newly established subregional Joint Intelligence Centre in Tamanrasset, Algeria. The creation of the new INTERPOL Regional Bureau in Cameroon, in 2010, supported by INTERPOL projects such as "OASIS Africa" (a project to develop operational policing capacities) will enhance -7(p)-5(a)-2(c)1(19-2(c)-5a)-5(a)-2(c)

ships' crews; and issue secured identity documents in accordance with ILO standards, including the Seafarers'

**ASSESSMENT BY REGION**

**Asia**



Most States of the subregion have been subject to terrorist attack, whether carried out on their territory or against their nationals in other parts of the world. There is therefore a high level of awareness of the importance of remaining vigilant against the threat of terrorism, and most States have worked to strengthen their defences against potential attacks. The United Nations Lists identify a number of terrorist organizations pursuing their activities in the subregion.

Implementation of resolution 1373 (2001) is reasonably well advanced in the East Asia region, although challenges remain. Legislation has been enacted — although not always as comprehensively as recommended and not always in full accordance with international norms. States have also strengthened implementation of required counter-terrorism measures at the institutional level. An important accomplishment in this respect has been increased participation in, and involvement with, regional structures as well as provision of technical assistance on a bilateral basis. One State has not submitted sufficient information to allow for an assessment of its counter-terrorism efforts.

ment agencies. Three States have established a reasonable level of coordination and cooperation among their law enforcement authorities. All States have taken some steps to regulate the production, sale and transfer of arms and explosives, but the domestic legislation of some States contains no clear provisions on arms brokering, transit of weapons or Security Council arms embargoes. One State is not yet a party to the Firearms Protocol.

**BORDER CONTROL.** Four States have introduced procedures for the screening of travellers against national databases of individuals of interest to authorities. Four States use modern equipment to detect falsified travel documents. These States report that they have implemented the following measures:

(c)


The terrorism risk to States of the Pacific Islands Forum is considered low, because of their isolated geographic location, transport limitations, small size (a factor that deters anonymity) and their relatively unsophisticated financial and commercial sectors. The region could however be vulnerable to use as a haven for terrorist activity, because of major resource constraints, which hinder implementation of required control measures in many areas of counter-terrorism.

Transnational crime, including drug trafficking, trafficking in persons, and money-laundering, is present in the Pacific region. Pacific Islands Forum States require sustained capacity-building (including strengthening of border and maritime security controls) to address this criminality and any potential links to terrorism.

Nonetheless, Pacific Islands Forum States have made good progress in implementing a variety of counter-terrorism measures in compliance with resolution 1373 (2001). They have enacted counter-terrorism legislation and made efforts to further strengthen regional coordination and cooperation, especially in the maritime context. Law enforcement efforts to combat transnational crime have been increased and could be adapted to counter-terrorism efforts if required. Several initiatives have been undertaken in the region to address these issues.





 States of the subregion should:

- (a) Further institutionalize their counter-terrorism frameworks and review their criminal laws in order to ensure that terrorist offences in each of the designated categories are properly crimi-

Major terrorist groups in the region include Jemaah Islamiyah, which has been especially active in Indonesia, Malaysia and Singapore; the Abu Sayyaf Group; insurgent groups in the Philippines; and separatist insurgents in southern Thailand. Largely as a result of effective counter-terrorism law enforcement measures, these terrorist groups are mostly believed to be in decline, although still capable of occasional attacks (e.g., the Jemaah Islamiyah suicide bombings at two hotels in Jakarta in July 2009, after four years' silence, and a series of more recent terrorist attacks in Mindanao and southern Thailand). Since 2000, however, Indonesia has made over 600 arrests and prosecuted around 500 individuals for terrorist offences. This has not only removed a large number of dangerous people from society, but has shown the wider community that terrorism can be handled through the normal criminal justice system.

States of the subregion have moved well beyond mere law enforcement approaches to address the challenge posed by terrorist groups. They have actively promoted interfaith dialogue and public-private partnerships; set up community-policing initiatives; and experimented with prison rehabilitation programmes in an effort to address violent extremism at its roots. Indonesia, Malaysia and Singapore have gathered experience and good practices in this area and may be in a position to provide technical assistance to States in need.

All States except one have established special counter-terrorism bodies at the policy and/or operational levels. Overall, law enforcement capacity has been greatly enhanced. However, the criminal justice system in at least five States could be improved in order to bring terrorists to justice more effectively. Four States employ preventive

**COUNTER-FINANCING OF TERRORISM.** Although all States except one are parties to the Terrorist Financing Convention, almost half the States of the subregion do not sufficiently criminalize the financing of terrorism. Some States do not criminalize money-laundering in accordance with international norms. The Financial Action Task Force on Money-Laundering International Cooperation Review Group stated in June 2009 that six States of the subregion had anti-money-laundering and counter-financing of terrorism deficiencies. Four States have no mechanisms in



South Asian States have suffered greatly from terrorism at the hands of groups espousing a wide variety of ideologies. Terrorist groups active in various parts of the region include Al-Qaida, elements of the Taliban, Lashkar-e-Taiba, among others, which continue to threaten the peace and security of the States of the subregion. Porous boundaries, illicit drug production, increasing criminal activities, globalization and limited resources and response capacities have contributed to the internationalization of the terrorist threat in the region and beyond. There is a close link between

**COUNTER-FINANCING OF TERRORISM.** All States but one are parties to the Terrorist Financing Convention. The subregion has experienced numerous developments in anti-money-laundering and counter-financing of terrorism legislation in recent years. For example, Nepal adopted the Asset (Money) Laundering Prevention Act (2008), Bangladesh adopted the Money Laundering Prevention Ordinance (2009) and Pakistan passed the Anti-Money-Laundering Act (2010). India is the only country in the region to become a member of the Financial Action Task Force on Money-Laundering (in June 2010). All eight States have set up financial intelligence units. Considering that many South Asian financial intelligence units were established only recently, the development of capacities is a priority concern. The capacity of States of the subregion to freeze assets without delay and in accordance with due process

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situation thus does not allow for the systematic screening of refugees for potential links with terrorism and other serious criminal activity. With regard to the criminalization of trafficking in persons and the smuggling of migrants, only India is a party to the Trafficking in Persons and Smuggling of Migrants protocols.

Further steps need to be taken to implement practical measures to suppress the smuggling of arms and explosives. Although three States reported to the Programme of Action on Small Arms, in 2010, and one did so in 2008, four other States have not reported to the Programme of Action at all. Airports in Bangladesh, Bhutan and Nepal were audited during 2009 and 2010 as part of the ICAO USAP. With regard to maritime security, the ISPS Code (1974 SOLAS Convention) is applicable and in force in five States of the subregion. Four of those five States have designated a national authority responsible for ship security, and three States have designated such an authority for port security.

**INTERNATIONAL COOPERATION.** Two States are parties to at least 13 of the international counter-terrorism instruments. No State has ratified the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation or the 2005 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. The most recent activity in the subregion in this regard was the ratification by Pakistan of the Terrorist Financing Convention, in June 2009. During a June 2010 meeting of the SAARC Terrorist Offences Monitoring Desk, SAARC member States decided to share information on a real-time basis and to exchange data on many related areas, such as photographs of terrorists, terrorist incidents and terrorist profiles.

With the aim of enhancing the capacities of law enforcement officials in South Asia to counter terrorism and related crimes and, at the same time, to strengthen regional cooperation and information-sharing among law enforcement personnel, the Counter-Terrorism Committee Executive Directorate has facilitated a series of workshops (beginning in November 2009) aimed at bringing together law enforcement officials — primarily police officers and prosecutors — to share experiences, lessons learned and best practices in handling cases relating to international crimes and terrorism. All eight South Asian States have actively participated in the three meetings held to date, and the SAARC secretariat has attended as observer. Beginning with the fourth workshop, held in Bhutan in May 2011, this process will include the participation of judges.

## RECOMMENDATIONS FOR PRACTICAL WAYS TO IMPLEMENT THE RESOLUTION

### States of the subregion should:

- (a) Address vulnerabilities in the money-transfer system and strengthen frameworks to prevent misuse of funds obtained overseas by charitable organizations;
- (b) Develop a protection framework for witnesses, judges and law enforcement personnel;
- (c) Strengthen regional cooperation and information-sharing among law enforcement personnel, including with regard to relevant human rights issues.

### The Counter-Terrorism Committee and its Executive Directorate should:

- (a) Continue to support initiatives to strengthen regional cooperation and information-sharing among law enforcement personnel, such as the regional workshops for police, prosecutors, other frontline officials and representatives of civil society working to counter terrorism in South Asia;
- (b) Build upon ongoing efforts to actively involve SAARC in regional activities supported by the Committee and its Executive Directorate;
- (c) Consider future visits to all States of South Asia, as well as follow-up visits to those already visited.



The implementation of resolution 1373 (2001) in Central Asia is hampered by several factors: proximity to the conflict in Afghanistan (where drug production feeds terrorist activities and has generated a dynamic arms-for-drugs trade); the illicit activities of transborder cash couriers (a potential source of terrorism financing); the circulation of surplus arms (owing to political and civil unrest in the region); remote and underprotected borders, coupled with the lack of human and material resources to ensure effective border control; and the large number of migrant workers (which in turn increases the use of informal remittance systems, a potential source of terrorism financing). Moreover, the Islamic Jihad Group, the Islamic Movement of Uzbekistan and its affiliated East Turkistan Islamic Movement — all Al-Qaida-affiliated groups — operate in some parts of the Central Asian subregion. Central Asian States are thus confronted with an acute transnational terrorist threat that requires concerted regional and coordinated responses.

Central Asian States have made significant progress in implementing a variety of counter-terrorism measures, in compliance with resolution 1-12(s)h r()-9(i)-4i37(i)-6

counter-terrorism legal instruments into their criminal codes. Kazakhstan has also penalized crimes relating to



**RECOMMENDATIONS  
FOR PRACTICAL WAYS  
TO IMPLEMENT****■ ■ ■** States of the subregion should:

- (a) Ensure that national criminal and related databases are established, maintained and updated, and linked to law enforcement and border offices;
- (b) Ensure that technical equipment (document readers, scanners and fraud detection) are installed at key border crossings;
- (c) Tighten controls/monitoring of remittance systems (both formal and informal), including the physical movement of cash and bearer negotiable instruments across borders.

**■ ■ ■** The Counter-Terrorism Committee and its Executive Directorate should:

- (a) Engage more actively with the international and regional organizations engaged in the region (including the Collective Security Treaty Organization (CSTO), the Organization for Security and Cooperation in Europe (OSCE), the Shanghai Cooperation Organization Regional Anti-Terrorist Structure and the OSCE Border Management Staff College in Dushanbe, Tajikistan) in order to focus on activities geared towards overcoming deficiencies and improving implementation of resolution 1373 (2001);
- (b) Work more closely with States of Central Asia and the Caucasus through various approaches (including the facilitation of technical assistance in cooperation with providers/donors and the organization of regional workshops) to address specific areas requiring attention, including strengthening of criminal justice systems and specialized programmes for judges and prosecutors;
- (c) Consider future visits and follow-up visits to this subregion in order to engage more actively with States.

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Threats and challenges in this subregion include terrorism, regional conflicts, instability caused by political transition and civil unrest, and piracy. In general, States of the subregion have strengthened their counter-terrorism measures since the adoption of resolution 1373 (2001). However, there is a need to fine-tune some of these measures to bring them into line with international codes and best standards and practices for implementing the resolution (including adherence to the rule of law and international human rights obligations). States of the subregion should ensure effective judicial oversight of law enforcement activities to guard against abuses and prevent impunity.


The advanced economic status of several States of the subregion and the presence of political instability in neighbouring areas present the risk that funds may leak to terrorist groups. There is therefore a need to enhance the security of financial sectors, controls on remittances, and movement of cash across borders.

The non-profit sector is carefully regulated by several jurisdictions. (For example: the practice of collecting money at kiosks has been banned in both Kuwait and Saudi Arabia, and charities are more closely regulated, in general, by the relevant ministries.) There is a need to enhance connectivity in order to facilitate



**BORDER CONTROL.** Most States have introduced measures to detect forged travel documents. The United Arab Emirates uses a multitiered approach to document security and travel-document inspection, which includes primary screening of travel documents and secondary screening of suspect documents in a well-equipped forensic document examination laboratory. In Jordan, officials at all major border checkpoints have advanced document fraud-detection equipment at their disposal. On-site observations indicate that the equipment is being regularly used to identify travel-document fraud. All States of the subregion met the ICAO deadline of April 2010 for the introduction of machine-readable travel documents. All visited States use INTERPOL databases. Most States, however, need to extend access to INTERPOL databases to border posts for use by front-line officers. Most States have operational mechanisms in place to identify and halt cash couriers. In Jordan, the customs department has set up an Anti-Money-Laundering and Counter-Financing of Terrorism Unit, which has access to various internal and external databases and cooperates with all border posts.

Only two States are parties to the 1951 Refugee Convention, and very few States have laws on asylum-seekers, relying primarily on the offices of UNHCR in the region to help them manage these processes. United Nations

 States of the subregion should:

- (a) Train prosecutors and judges, as well as other relevant law enforcement officials, in the effective implementation of recently enacted laws in the field of counter-terrorism and/or money-laundering, with due regard for international human rights obligations;
- (b) Enhance legislative and regulatory frameworks for countering the financing of terrorism, including by criminalizing the financing of terrorism, adopting necessary measures to freeze funds without delay, and conducting risk assessments of the non-profit sector;
- (c) Continue taking measures to enhance border security through the implementation of relevant international best codes and practices.

 The Counter-Terrorism Committee and its Executive Directorate should:

- (a) Engage more actively with relevant regional organizations, including the League of Arab States, the GCC, the Organization of the Islamic Conference and the Middle East and North Africa Financial Action Task Force, with a focus on activities geared towards overcoming challenges and improving implementation of the resolution;
- (b) Continue building upon the close dialogue established with visited States, particularly in the light of current developments in the subregion. This would also assist in identifying best ways to facilitate technical e technichnichn3671p-7(, t)46ta cuetetaut;



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**ASSESSMENT BY REGION**

# **La in America**







Caribbean have, however, adopted the Caribbean Treaty on Mutual Legal Assistance in Serious Criminal Matters (including offences relating to terrorism, terrorism financing, money-laundering and drug trafficking). The Treaty obligates States to afford the widest measure of mutual legal assistance at any stage of investigations, prosecutions and judicial proceedings in relation to the above-mentioned serious criminal offences. Moreover, 20 States are members of the OAS Inter-American Committee against Terrorism, and around half of these States are parties to the Inter-American Convention against Terrorism and have ratified the Inter-American Convention on Mutual Assistance in Criminal Matters. Regional and bilateral mechanisms for law enforcement cooperation, such as early warning mechanisms and intelligence cooperation, have been established. Cooperation in the subregion is continuously improving, but should be further strengthened, especially in border areas, in order to bolster controls against possible terrorist incursion and proliferation of transnational crime.

**RECOMMENDATIONS  
FOR PRACTICAL WAYS  
TO IMPLEMENT THE  
RESOLUTION**

- States of the subregion should:
  - (a) Strengthen legislative and practical measures to regulate and control illicit trafficking in small arms and light weapons;
  - (b) Continue to improve border-control measures in order to increase effectiveness in preventing and detecting illicit cross-border activity;
  - (c) Improve customs-control methodologies in the cargo-processing domain in order to guard against manipulation for terrorist ends.
  
- The Counter-Terrorism Committee and its Executive Directorate should:
  - (a) Continue to strengthen their partnerships with regional organizations in support of effective implementation of resolution 1373 (2001) by Member States of the subregion;
  - (b) Engage more actively with States of the subregion through visits and strengthened dialogue, especially with key actors and policymakers, in order to heighten awareness of resolution 1373 (2001) and of requirements for its effective implementation;
  - (c) Continue to facilitate delivery of technical assistance in the identified areas of need, partnering with international and regional organizations and donor States, in order to build capacity.



acted and effectively implemented in at least 10 States (12 in the previous survey). Peru and Uruguay have achieved improvements in this area. No State has completely reviewed its non-profit sector or conducted a risk assessment for terrorist financing. Many States have improved measures to address cash couriers by establishing declaration or disclosure systems for the reporting of cross-border movement of cash. Monitoring of alternative remittance systems continues to require improvement in most States, and regulation and monitoring of these systems remain challenges that must be addressed.

**LAW ENFORCEMENT.** Ten States have set up national agencies or offices (combined law agency groups) or high-level central offices to deal with counter-terrorism matters. States of the subregion have developed joint strategies and relationships among their various counter-terrorism agencies. However, States' reports do not contain information about the law enforcement special investigative techniques used or about specific exceptional criminal procedures in place. All States have set up mutual legal assistance arrangements to facilitate regional and international cooperation and information-sharing. Regional law enforcement mechanisms are also used. Cooperation, including through early-warning and intelligence, seems to be effective. Colombia, Chile, Paraguay and Peru have also enacted legislation giving their law enforcement authorities special investigative powers. All States have access to INTERPOL data, but in many cases the degree of efficiency of access and use of the data is not clear. Domestically, law enforcement agencies rely on relevant legislative provisions, memorandums of understanding and membership in national central bodies for cooperation, coordination and information-exchange. Five States are not yet a party to the Firearms Protocol, but almost all have introduced OAS legislation criminalizing the illicit manufacturing, possession and trafficking of small arms and light weapons, ammunition and explosives. In nine States, the relevant legislation appears comprehensive. Most Governments appear to be strongly committed to ensuring that law enforcement agencies respect human rights, although in some cases serious concerns have been raised about violations by security forces.

**BORDER CONTROL.** All States of the subregion have enacted immigration and passport laws to regulate immigration and travel-document security and have set up procedures for establishing the true identity of persons prior to the issuance of identity documents. All States issue machine-readable travel documents. Nine States have implemented effective screening procedures for travellers. Cooperation across regional borders, including the sharing of information and customs cooperation, has improved substantially. However, the effectiveness of controls could be significantly improved by increasing police patrols and acquiring detection equipment, particularly in light of the subregion's porous borders. Nine States have expressed their intention to implement the WCO SAFE Framework of Standards. During the period of assessment, seven States of the subregion reported on their implementation of the Programme of Action on Small Arms. Most States have implemented controls on the cross-border movement of small arms and light weapons and are working to improve prevention and detection effectiveness. However, the existence of large stocks of illegal small arms and light weapons utilized in past and present conflicts makes the control and elimination of arms trafficking a challenge for border control and other law enforcement authorities.

Controls on the cross-border movement of cash and bearer negotiable instruments continue to be improved in the region through training and awareness-raising workshops and exercises. Chile, Colombia, Peru and Uruguay have established effective controls to detect and prevent illicit movements at some border points. Five States received an ICAO USAP audit during 2009 and 2010. Most States have introduced laws establishing national aviation security authorities and implementing aviation security standards, but few have provided information on their implementation of the relevant annexes to the Convention on International Civil Aviation. Implementation of maritime security codes and standards has also improved, overall. Despite the progress achieved, border management continues to pose a challenge because of the porosity of borders and the existence of black-market trade routes. Ten States have ratified the 1951 Refugee Convention. All States have ratified the Trafficking in Persons Protocol, and all but two are parties to the Smuggling of Migrants Protocol, yet the implementation of laws to prevent and suppress the movement of terrorists across borders could be strengthened.

**INTERNATIONAL COOPERATION.** The subregion has achieved a reasonable level of ratification of the international counter-terrorism instruments. Chile has ratified 14 instruments, Brazil, Paraguay and Peru have ratified 13, and four States have ratified 12. Eight States have introduced adequate provisions on extradition and mutual legal as-

sistance, and the remainder are making progress in this area. International cooperation has improved, including through the establishment of regional cooperation mechanisms. All States are members of OAS, which provides regional mechanisms for cooperation at the policy and operational levels. Only two States have not yet ratified the Inter-American Convention against Terrorism. Eleven States have ratified the Inter-American Convention on Mutual Assistance in Criminal Matters, and the remaining State is a signatory. Only two States have ratified the Inter-American Convention on Extradition, while five other States are signatories. There appears, however, to be a lack of coordination among some actors involved in regional cooperation, especially in extradition and mutual legal assistance matters.

■ ■ ■ States of the subregion should:

- (a) Review criminal laws in order to ensure that offences in each of the designated categories are properly criminalized, and enact counter-terrorism legislative provisions, as necessary;
- (b) Address deficiencies in the criminalization of terrorist financing and the freezing of terrorist



ASSESSMENT BY REGION

# Europe and North America







across the region varies. In three visited States, the border police did not possess equipment capable of detecting forged travel documents and did not have in place effective border surveillance mechanisms. In those States, formal border crossings were often found to be unconnected to central databases.

Most States of the subregion face challenges in implementing measures dealing with cash couriers. Most States

This subregion is vulnerable to a range of terrorist threats. While low in most States, the terrorist threat is high in

in the Criminal Code pertaining to the illegal acquisition of nuclear and radioactive substances. Belarus, the Russian Federation and Ukraine have all established fully operational financial intelligence units. In 2010, Belarus and Ukraine adopted amendments to their anti-money-laundering and counter-financing of terrorism laws on client identification, customer due diligence, record-keeping, ascertaining beneficial ownership, and suspicious transactions, and also extended oversight criteria for remitting money through the State postal system. In 2009, the Russian Federation increased the participation of, and coordination among, organs involved in financial monitoring, by forming an inter-administrative committee composed of high-level representatives of relevant ministries, the Bank of Russia, the Parliament and the Office of the Prosecutor-General.

In December 2009, Slovakia amended its Penal Code to establish the autonomous criminal offence of terrorist financing. In 2009, Poland amended its Penal Code by adopting a new Act on Counteracting Money-Laundering and Terrorism Financing, thereby giving greater coverage to anti-money-laundering and counter-financing of terrorism. In October 2009, Poland established an inter-ministerial advisory body against terrorist financing in the Office of the Inspector General for Financial Information. The International Sanctions Act of Estonia, which provides for financial sanctions, came into force on 5 October 2010. In 2009, Hungary clarified the legal framework for its non-profit sector by ruling that all non-profit organizations must register as non-profit business associations. In 2010, Hungary introduced the Law on Electronic Registration, which provides for the electronic registration of foundations and allows all relevant authorities to access the register; and established a procedure for the publication of “sanctions” resolutions of the Security Council.

The six States of the subregion that are members of the European Union use the declaration system on the control of cash entering or leaving the Community introduced by the adoption of regulation (EC) No. 1889/2005 of the European Parliament and the Council of 26 October 2005.

#### **LAW ENFORCEMENT.**

fair implementation of the provisions on determining refugee status set forth in the 1951 Convention. In 2010, Poland adopted a six-year programme to retrain its border guards to meet current border challenges.

All States but one have signed the Letter of Intent to implement the WCO SAFE Framework of Standards. In 2010, the Russian Federation amended a series of legislative acts to establish administrative and criminal responsibility for transportation security and unlawful interference with transport operations and infrastructure. ICAO completed security audits of airport and aviation security in Belarus, Estonia, Hungary, Latvia, Lithuania, Poland and the Russian Federation. The Russian Federation reported that it had introduced measures to protect vessels and port facilities against terrorist attacks, as set out in the provisions of the ISPS Code relating to training, notification and signals in emergency situations. Belarus, the Russian Federation and Ukraine are making progress in implementing standards and practices to ensure cargo security. The maritime security of the six European Union member States is being monitored and assessed by the European Maritime Safety Agency, which inspects classification societies, assesses port State control systems, tracks problem ships and safeguards the standards of onboard equipment. The Agency monitors more than 20,000 vessels across Europe and worldwide.

Most States of the subregion have introduced laws regulating the import and export of weapons. In 2010, all seven States submitted national reports to the Programme of Action on Small Arms.

Belarus, the Russian Federation and Ukraine have introduced measures to implement declaration and inspection systems for cash and other monetary instruments crossing their international borders, although further action may be required to ensure that customs officers have the necessary resources to detect and prevent their illicit movement across their borders.

**INTERNATIONAL COOPERATION.** All States have ratified 13 or more of the international counter-terrorism instruments. Latvia is the only State in the subregion that is a party to all 16 instruments, and Estonia is a party to



- ■ ■ States of the subregion should:
  - (a) Develop more integrated approaches and more effective mechanisms for ensuring robust cooperation and exchange of intelligence information among relevant counter-terrorism agencies, at the national and international levels;
  - (b) Tighten controls/monitoring of the physical movement of cash and bearer negotiable instruments across borders, as well as of remittance systems (both formal and informal);
  - (c) Enhance their capacity to freeze terrorist funds and assets without delay and improve customer due diligence.
  
- ■ ■ The Counter-Terrorism Committee and its Executive Directorate should:
  - (a) Engage in dialogue with Belarus, the Russian Federation and Ukraine to organize visits to these three States during the period 2012-2013 in order to identify any areas of implementation that require attention;
  - (b) Engage more intensively with relevant regional organizations, including the CIS Anti-Terrorism Centre, CSTO and the Eurasian Group on Combating Money-Laundering and the Financing of Terrorism, in order to focus on activities aimed at the implementation of resolution 1373 (2001), and similarly, continue its robust cooperation with the European Union and its associated entities;
  - (c) Encourage States to ensure that counter-terrorism measures are conducted in compliance with human rights obligations, and establish effective mechanisms for oversight and accountability, as appropriate.









(c) Further develop programmes to counter radicalization and recruitment to terrorism.

■ ■ ■ The Counter-Terrorism Committee and its Executive Directorate should:

(a) Encourage States to strengthen the capacities of their anti-money-laundering and counter-

## **ASSESSMENT BY THEMATIC AREA**

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This section of the survey provides the general standards and recommended practices that should be in place to give effect to the provisions of the resolution and presents general global trends in the implementation of the resolution in key thematic areas. This thematic assessment provides a more holistic picture of how the international



In order to implement Security Council resolution 1373 (2001) effectively, it is essential to establish comprehensive counter-terrorism legislation. The intent of the resolution is that States, by enacting specific counter-terrorism legal provisions, should no longer need to resort to vague legal provisions, ad hoc methods, or customized interpretations in order to prosecute terrorist acts. Instead, States should establish a clear, complete and consistent legal framework that specifies terrorist acts as serious criminal offences, penalizes such acts according to their seriousness, establishes jurisdiction, and helps the courts bring terrorists to justice. As stated in Security Council resolution 1963 (2010), this framework should in turn provide the basis for the development of a comprehensive, integrated national counter-terrorism strategy that is rooted in a legal approach and ensures the rule of law (especially through the inclusion of fair treatment in the investigation and prosecution of terrorists, thereby protecting human rights) while also countering terrorism as effectively as possible.

Although most States have taken significant steps towards the development of such a legal framework, progress

Security Council resolution 1373 (2001) requires all Member States to bring terrorists to justice. However, country visits and other activities of the Committee have shown that this requirement poses a major challenge for States' criminal justice systems. Most visited States continue to experience difficulties in their efforts to introduce legal provisions on effective investigative methods and criminal procedures, international cooperation, and human rights safeguards. In their efforts to develop a comprehensive legal framework, States should take steps to enhance the capacities of the prosecution and the judiciary. Many States continue to face challenges in their efforts to staff prosecution services and the judiciary with skilled prosecutors and judges and to provide them with the necessary technical resources and training.

The prosecution of counter-terrorism cases relies on specific skills and expertise, and pert054 Tw Tm crosecuti(r)-19(s )1(a)-7(n)-3(d)

Counter-financing of terrorism lies at the heart of Security Council resolution 1373 (2001), which requires States to take a number of legal, institutional and practical measures to prevent and suppress terrorist financing. Although there has been some progress in this area, States continue to face a number of challenges. Because of the continuous development of the financial sector, States are confronted with various threats and vulnerabilities, such as Internet-based systems, new payment methods, development in wire transfers and electronic payments. The potential misuse of charities and the use of cash couriers for terrorism purposes also remain sources of concern. States need to ensure that their legislation and guidance are sufficiently flexible and robust to cover new threats and maintain their preventive function.

The obligations of States in relation to the criminalization of terrorist financing are set forth in resolution 1373 (2001) and in the International Convention for the Suppression of the Financing of Terrorism. Compliance with these obligations requires the establishment of a comprehensive legal regime. Both the resolution and the Convention provide that in order for the terrorist financing offence to exist, the funds intended to finance the terrorist act need not be the proceeds of crime, and that the terrorist act that the funds were intended to finance does not actually need to have taken place.

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Financial inclusion and financial integrity are complementary objectives. The former adds value to the anti-money-laundering and counter-financing of terrorism regime by helping to lower the amount of cash in economies and by promoting the use of the regulated financial service sector, which is the basis of a sound and effective anti-money-laundering and counter-financing of terrorism regime.

The emergence of new payment methods is a powerful argument for promoting financial inclusion. In recent years, there has been a significant rise in the number of transactions and the volume of funds moving through new payment methods, such as mobile money transfers and prepaid cards. New payment methods present a risk of terrorism financing because they can facilitate anonymous transactions and cross-border transfer of funds. Cases of money-laundering and financing of terrorism involving the use of new payment methods have been identified. However, States are experiencing difficulties in developing appropriate legislation and regulatory systems for these payment methods, which are evolving at an increasingly rapid pace. The investigation and prosecution of cases involving new payment methods requires a high level of technical skill and speedy action by the authorities. They also require enhanced forms of international cooperation, especially in the preservation of electronic evidence. In this regard, the Group of Eight 24/7 Network for Data Preservation and the 24/7 Network, established by article 35 of the Council of Europe Convention on Cybercrime, represent good practices.

Many informal money or value transfer systems — such as *hawala*, *hundi* and *fei-chien*

The Financial Action Task Force on Money-Laundering is currently reviewing its counter-financing of terrorism standards as part of an effort to improve its own evaluation process, respond to new threats and challenges, and support States' effective implementation of the international standards. The Counter-Terrorism Committee Executive Directorate is actively supporting the Task Force in this work.

## RECOMMENDATIONS

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### ■ ■ ■ Member States should:

- (a) Strengthen their efforts to introduce legal and practical measures aimed at effectively implementing the “freezing” provision of resolution 1373 (2001), taking into account the need to ensure fair treatment;
- (b) Continue to be alert to the development of the most recent techniques, in order to prevent misuse and to detect cases of terrorism financing through new payment methods; develop appropriate laws and regulations; and enhance international cooperation in investigating and prosecuting suspicion of misuse of new payment methods for the purpose of terrorist financing;
- (c) Adopt practical and proportionate measures to protect the non-profit sector from terrorism financing abuse.

### ■ ■ ■ The Counter-Terrorism Committee and its Executive Directorate should:

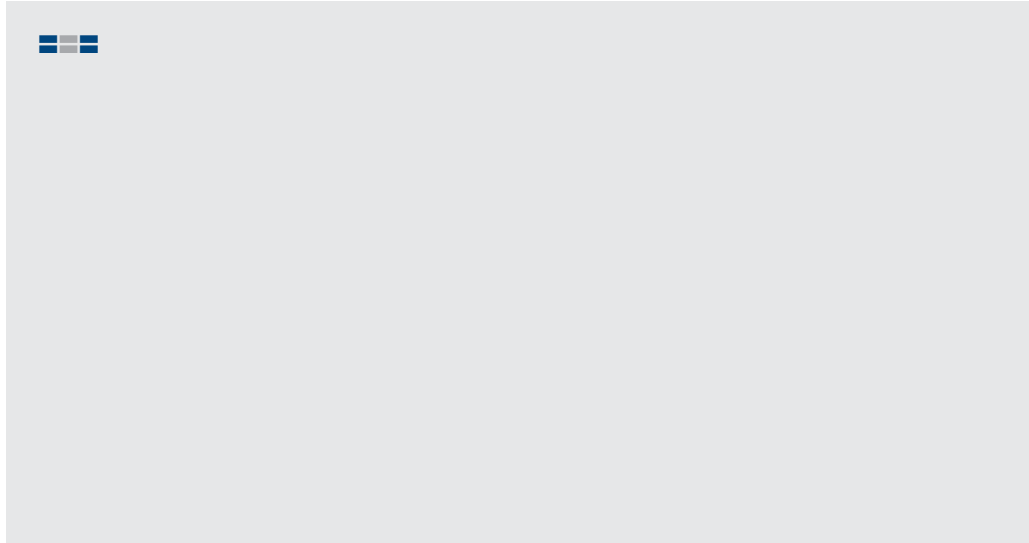
- (a) Continue their efforts to bring together key international, regional and national actors, including representatives of the non-profit sector, to share perspectives and gather tools and good practices to protect the sector against such abuse;
- (b) Help States to enhance their responses to the illicit movement of funds across borders, by organizing subregional workshops with the support of donor States and organizations;
- (c) Continue to support the efforts of the Financial Action Task Force on Money-Laundering to improve international counter-financing of terrorism standards, with a view to helping States to effectively implement the counter-financing of terrorism provisions of resolution 1373 (2001).



Most States report certain positive developments in the implementation of practical measures to prevent and counter terrorism, although some have yet to report to the Committee on their efforts in this regard. Most States have developed comprehensive strategies for combating terrorism and have taken steps to ensure that counter-terrorism measures are managed by relevant or dedicated agencies. However, many have only begun to develop dedicated counter-terrorism capacities. A number of States continue to work to institutionalize the requisite capacity and coordination in their law enforcement systems. The level of inter-agency cooperation and coordination needs to be improved in most States.

Although most States have access to INTERPOL information and communications tools, the use of these tools, including the INTERPOL databases, needs to be more consistent and widespread, and promulgated beyond the INTERPOL community. In an effort to provide more coordinated assistance, INTERPOL established Special Representative Offices to the United Nations and the European Union, a liaison office in Bangkok, and six regional bureaux. One example of effective cooperation was the establishment of an INTERPOL regional bureau that supports the work of the Committee of Chiefs of Police and States' law enforcement capacities in Central Africa. Many States lack centralized databases and sufficient forensics capacities to engage in complex counter-terrorism investigations. However, information-sharing tools and databases of organizations such as Europol and INTERPOL, available to most States, may assist in this regard. Most States are aware of the need for regional and international cooperation and have created relationships and mechanisms to facilitate early warning and a basic level of information-sharing. Nevertheless, regional and international cooperation in counter-terrorism matters requires further strengthening.

As the terrorism threat changes through the adoption of new technologies and capacities for recruitment, financing and operations, law enforcement agencies must also adopt new practices and enhance their counter-terrorism capacities. Some States have adopted strategies to counter the radicalization of individuals within the framework







The resolution also directs Member States to take the necessary steps to prevent the commission of terrorist acts. In the area of border control, States have made notable progress in three important areas: safeguarding the security of the global trade supply chain, civil aviation and maritime navigation. States continued to enhance the security of the international supply chain by implementing international customs standards and expressing their intention to implement the WCO SAFE Framework of Standards (a total of 164 States have now done so). The SAFE Framework notably establishes standards that provide supply chain security and facilitation at the global level, promote certainty and predictability, enable integrated supply-chain management for all modes of transport, strengthen cooperation among customs administrations to improve their capability to detect high-risk shipments and strengthen customs-to-business cooperation.

With respect to the security of civil aviation, most States have ratified the Convention on International Civil Aviation and have implemented, to varying degrees, its annex 17 on Safeguarding International Civil Aviation against Acts of Unlawful Interference, as well as the related security provisions of annex 9. To that end, ICAO performs audits of States' airport and aviation facilities under its Universal Security Audit Programme and prescribes remedial measures, as necessary. During the period under review, ICAO conducted many second-cycle and follow-up USAP missions in many States, and continues to work with States to ensure their full compliance with the relevant standards.

With respect to maritime security, there has been general improvement in the implementation of the IMO ISPS Code, which provides a standardized and consistent framework for evaluating risk so that Governments can determine the threat and vulnerability posed to ships and port facilities, assign the appropriate level of security, and implement the corresponding security measures. Since the previous survey, there have been additional ratifications of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its 2005 Protocol, as well as the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf and its 2005 Protocol. There has been a recent trend towards increased ratification by small landlocked States and small island States, perhaps because the former wish to establish dual criminality and because the economies of the latter are dependent on shipping, ocean commerce and tourism.

There has also been a marked increase in crimes committed at sea (including acts of piracy) and within national waters. This has compelled States to impose more stringent controls in order to protect strategic shipping lanes and preserve international supply chains. It is thought that payments generated from the release of seized ships, cargo and crews may be used to finance terrorist groups or activities. Moreover, there are concerns that seagoing vessels, whether hijacked or otherwise, may be used to commit terrorist acts. In order for States to adequately patrol vast coastlines, they are required to cooperate through the sharing of information and surveillance among their coastguards, navies and customs administrations. An example of such cooperation is the recent establishment of a network of coastguard units to enhance cooperation among law enforcement agencies in West and Central Africa under the aegis of MOWCA, with the assistance of IMO.

States continued to enhance controls on the cross-border movement of small arms and light weapons, ammunition and explosives, in accordance with relevant provisions of the Programme of Action on Small Arms, which seeks to control the export, import and transit of small arms and light weapons and prevent their illicit brokering, trafficking and diversion, and establishes programmes for weapons marking, tracing, end-user certification, record-keeping and secure storage. A number of regions have also concluded specific agreements to control the export, import and transit of such weapons.

States also continue to implement practical measures to prevent and suppress the movement of terrorists across borders. Two of the three Protocols supplementing the United Nations Convention against Transnational Organized Crime — the Trafficking in Persons Protocol and the Smuggling of Migrants Protocol — are also key instruments in this regard. There have been 11 new accessions to the Trafficking in Persons Protocol, and eight new accessions to the Smuggling of Migrants Protocol, since the previous survey. The 1951 Refugee Convention is a valuable tool in determining whether an applicant is eligible for refugee status and offers a basis to screen for possible links with terrorism and other serious criminal activity. There were no additional accessions to the 1951 Refugee Convention during the period under review. United Nations human rights mechanisms continue to raise concerns that

the principle of non-refoulement has not been fully respected and that, in some instances, States have removed refugees and others to States where they would be at serious risk of torture or persecution.

Shortfalls in practical implementation of border control measures require increased investment in human and physical resources; as well as capacity-building. Moreover, the need for cooperation in border management through information-sharing, the pooling of resources and the use of joint approaches in reinforcing capacities is emphasized in almost all the above subregional assessments. Cooperation and coordination in border controls among contiguous States are especially important in providing effective surveillance and coverage along extensive open and porous borders. In many cases, States lack the necessary resources or are insufficiently active in patrolling, inspection and joint operations with neighbouring States, as well as in implementing community policing at the local levels. The introduction of such measures along open borders and the application of innovative forms of cooperation and assistance in addressing these concerns would help increase the effectiveness of border controls. The Counter-Terrorism Committee Executive Directorate has facilitated workshops on border control management in a number of regions and plans to continue this practice in the future.

## RECOMMENDATIONS FOR PRACTICAL WAYS TO IMPLEMENT THE RESOLUTION

### Member States should:

- (a) Implement more active prevention, inspection and detection procedures, relying on risk assessments, the exchange and analysis of intelligence and international cooperation at official border crossings and along open or porous borders;
- (b) Take steps to ensure the integrity of “breeder” documents and the security of their issuance processes in the production of machine-readable travel documents, and install the equipment needed to read such documents at entry/exit border checkpoints;
- (c) Increase their connectivity to national and international law enforcement databases and watch lists in order to screen individuals for possible connections to criminal and terrorist organizations at border crossings.

### The Counter-Terrorism Committee and its Executive Directorate should:

- (a) Continue to promote States’ adoption and implementation of international standards and recommended practices for customs, arms control, aviation security and maritime security;
- (b) Encourage regional cooperation in border management through information-sharing and cooperative efforts and, to the extent possible, more comprehensive controls at open borders, including joint initiatives with neighbouring States;
- (c) Continue to work with international and regional organizations and States to promote greater access and connectivity among law enforcement agencies to national and international criminal and counter-terrorism databases at entry/exit border checkpoints.

## International cooperation

An important component of international cooperation in the field of counter-terrorism is the ratification of the 16 international counter-terrorism instruments and their transposition into national laws and practices. Since the previous survey, an additional 65 ratifications have taken place. The 1999 Terrorist Financing Convention now has 173 State parties (four more than previously). The international instruments related to nuclear material have also seen a notable increase in the number of ratifications since the previous survey: the 1980 Convention on the Physical Protection of Nuclear Material now has 145 States parties (four more than previously). During the period under consideration, 17 States parties ratified the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material, which has now 45 States parties. The 2005 International Convention for the Suppression of Acts of Nuclear Terrorism now has 77 States parties (23 more than previously). Ratification rates are still low in respect of two instruments: only 19 States have ratified the 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and only 15 States have ratified the 2005 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. A significant majority of Member States have become parties to 10 or more instruments. However, there are regional discrepancies in the level of ratification. In order to make the instruments fully effective, States should adopt domestic legislation that specifically criminalizes the offences set forth in the international counter-terrorism instruments, sets appropriate penalties, and establishes jurisdiction over the defined offences in order to ensure that suspects are either extradited or prosecuted.

Effective international cooperation is central to the implementation of resolution 1373 (2001), in which the Council calls upon Member States to cooperate with one another in the exchange of information, mutual legal assistance and extradition requests; and in denying safe haven to terrorists. Most States, in most regions, now have legal and administrative measures in place to grant legal assistance to other States upon request and enable extradition, especially on the basis of reciprocity. However, several States of South America, Western Asia, South Asia and Africa have yet to enact the relevant laws. Many States still need to enact laws allowing them to cooperate in more advanced modes of judicial and administrative cooperation.

One area in which many States face challenges is cooperation in mutual legal assistance in criminal matters. Even where there is a legal basis for cooperation in counter-terrorism-related matters among States, achieving practical cooperation continues to be a challenge. The reasons are both technical and political in nature.

Some regions have developed effective and advanced regional instruments and mechanisms for facilitating mutual legal assistance. Western Europe has developed an advanced information-exchange system through the use of tools such as joint investigation teams between States. Eurojust, the judicial cooperation organization of the European Union, is one example of an advanced judicial cooperation network. However, others have been or are being developed elsewhere in the world. These include the Ibero-American Legal Assistance Network, the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition of OAS, the Commonwealth Network of Contact Persons, and judicial regional platforms for cooperation in the Indian Ocean region and in the Sahel. The development of such mechanisms varies considerably from one region to another,



(c)



The Security Council, in its resolution 1963 (2010), reaffirms that States must ensure that any measures taken to counter terrorism comply with all their obligations under international law, in particular international human rights, refugee, and humanitarian law. The Council also stresses that all human rights issues relevant to the implementation of the resolution should be addressed consistently and even-handedly. In many States, the question of how to effectively counter terrorism while complying with human rights obligations has continued to be the subject of debate and, in some cases, controversy. This is not necessarily a matter of concern, since counter-terrorism poses special challenges and may require innovative responses that deserve public scrutiny. Nonetheless, while it is true that human rights law affords some flexibility in addressing security challenges, States must respect certain core principles in all circumstances, including the principles of necessity, proportionality, legality and non-discrimination. States are also obliged at all times to respect rights that are non-derogable under international law or that have attained the status of *jus cogens*, such as the right of all persons to be free from torture and the prohibition against enforced disappearances.

Some States have heeded the calls of the Security Council and other international and regional bodies concerning human rights and counter-terrorism and have taken steps in response, such as reviewing the compliance of their legal framework with human rights obligations, strengthening training and awareness-raising initiatives, and creating oversight mechanisms to help to ensure respect for human rights in the practices of law enforcement and intelligence bodies. Many States have also moved to strengthen the role and effectiveness of their judiciaries, which are central to guaranteeing a rule-of-law-based response to the terrorism threat. Other measures, such as considering the ratification of additional international human rights instruments, adopting community-policing models, and involving communities in the development of appropriate policies, can form part of a comprehensive counter-terrorism strategy with human rights at its core.

Despite these positive signs, serious human rights concerns in the counter-terrorism context persist in all parts of the world. An issue that has recently drawn attention is the application of states of emergency or other states of exception in some States, purportedly on the basis of the terrorism threat. For States that are parties to the International Covenant on Civil and Political Rights or relevant regional instruments, the application of emergency measures is subject to strict requirements and may in no case infringe on non-derogable rights, such as those set out in article 4 of the Covenant. In its dialogue with States that have imposed emergency measures, the Counter-

may not comply with States' international human rights obligations. In the case of special investigative techniques, for example, concerns have been expressed that such techniques are not always subject to adequate limits and judicial oversight and may infringe on the right to privacy. Respect for the right to fair trial has also been a subject of attention, especially in cases involving use of intelligence information or evidence claimed to be linked to State security. Serious concerns have also been raised over the use of preventive or administrative detention, as well as control orders, all of which involve restrictions on the right to liberty without criminal conviction.

In some States, vague or overly broad definitions of terrorist offences continue to pose a challenge to effective implementation of resolution 1373 (2001). Terrorism-related accusations or criminal charges have reportedly been directed at times against persons for acts that are protected by international human rights law, such as the exercise of freedom of expression, conscience and assembly. United Nations mechanisms, regional courts and other bodies have also raised questions over terrorist designations, asset-freezing and other measures said to have been taken on unclear or unfair legal grounds, in some cases without adequate and effective remedies. The challenge of more precisely defining terrorist acts, including ancillary offences, so as not to offend the principle of legality or infringe on human rights has remained a subject of discussion between the Committee and some States.

Counter-terrorism measures in some States take place in the context of armed conflict, raising questions of compliance with international humanitarian law. The use of deadly force in such situations must respect the principles of dis-



- (c) Strive to ensure that human rights training is incorporated as appropriate into professional development and awareness-raising programmes for all officials involved in the implementation of counter-terrorism measures at all stages, including prevention, investigation, detention and prosecution.

 The Counter-Terrorism Committee and its Executive Directorate should:

- (a) Continue to take account of relevant human rights concerns in their assessment of States' implementation of resolution 1373 (2001) and include discussion of such concerns in their dialogue with States;
- (b) Continue to identify States' needs in relation to enhancing institutions and strengthening the rule of law, and incorporate human rights and rule of law in a proactive manner into their technical assistance recommendations to States with a view to strengthening national systems for bringing terrorists to justice and improving international cooperation;
- (c) Incorporate human rights more effectively into their communications strategies in order to dispel the misconception that human rights are not taken into account in the Committee's work.



- Convention on Offences and Certain Other Acts Committed On Board Aircraft, 1963
- Convention for the Suppression of Unlawful Seizure of Aircraft, 1970
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971 (replaced by the Convention on the Suppression of Unlawful Acts Relating to Civil Aviation, 2010)
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973
- International Convention against the Taking of Hostages, 1979
- Convention on the Physical Protection of Nuclear Material, 1980
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988 (replaced by the Convention on the Suppression of Unlawful Acts Relating to Civil Aviation, 2010)
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, 1991
- International Convention for the Suppression of Terrorist Bombings, 1997
- International Convention for the Suppression of the Financing of Terrorism, 1999
- International Convention for the Suppression of Acts of Nuclear Terrorism, 2005
- Amendment to the Convention on the Physical Protection of Nuclear Material, 2005
- 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- 2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf
- United Nations Global Counter-Terrorism Strategy (General Assembly resolution 60/288)
- Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (2001)
- Convention on International Civil Aviation, 1944 (Chicago Convention) (notably, annex 17 and related security provisions of annex 9)
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Counter-Terrorism Committee  
Executive Directorate

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