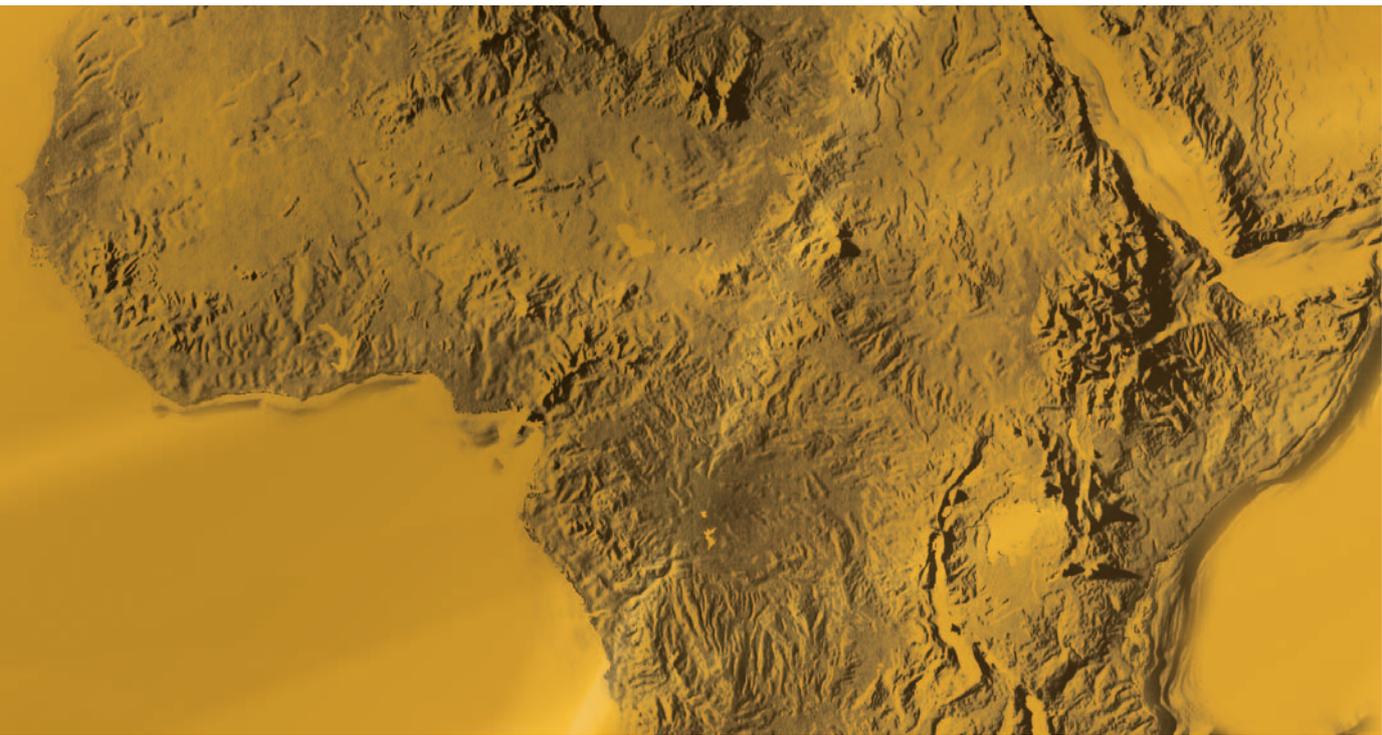




UNODC

United Nations Office on Drugs and Crime



A REVIEW OF THE LEGAL REGIME AGAINST TERRORISM IN WEST AND CENTRAL AFRICA:

**Angola, Benin, Burkina Faso, Burundi, Cameroon,
Cape Verde, Central African Republic, Chad, Congo,
Côte d'Ivoire, Democratic Republic of the Congo,
Equatorial Guinea, Gabon, Gambia, Ghana, Guinea,
Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria,
Rwanda, Sao Tome and Principe, Senegal,
Sierra Leone and Togo**

WORKING DOCUMENT

TERRORISM PREVENTION BRANCH

**UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna**

**A REVIEW OF THE LEGAL REGIME
AGAINST TERRORISM IN WEST AND CENTRAL AFRICA:**

**Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde,
Central African Republic, Chad, Congo, Côte d'Ivoire,
Democratic Republic of the Congo, Equatorial Guinea, Gabon,
Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania,
Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal,
Sierra Leone and Togo.**

**Based on a Background Paper submitted at the
Madrid Ministerial Round Table of West and Central African Countries
on Counter-Terrorism Legal Framework, 25-26 May 2006,
organized by UNODC and hosted by the Kingdom of Spain**

**WORKING DOCUMENT
October 2008**

Terrorism Prevention Branch



**UNITED NATIONS
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PREFACE

This review, jointly prepared by the Regional Office of West and Central Africa and the Terrorism Prevention Branch (TPB) of the United Nations Office on Drugs and Crime (UNODC), examines the status of compliance with the universal framework against terrorism in relation to 27 West and Central African countries: Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone and Togo.

This review is a synthesis of national papers prepared for the Madrid Ministerial Round Table, supplemented by additional information available to the Secretariat, especially from the country reports to the Counter-Terrorism Committee and the Committee established pursuant to resolution 1267 (1999) concerning Al-Qaeda and the Taliban and associated individuals and entities, of the Security Council, as well as UNODC/TPB mission reports, United Nations declarations and resolutions and information provided by the relevant countries.

Furthermore, this review also reflects the measures taken so far by the participating countries to implement the Madrid Declaration and Plan of Action, which were adopted at the Madrid Ministerial Round Table of West and Central African Countries on Counter-Terrorism Legal Framework (25-26 May 2006). On this occasion, participating countries expressed their commitment to: ratify and implement the universal instruments against terrorism; enhance international cooperation; afford each other mutual legal assistance in terrorist-related criminal investigations; and seek technical support from UNODC/TPB and other specialized organizations in these areas. Thus, it provides background information for the implementation of the Plan of Action and should serve as a support document to measure the progress achieved in relation to the commitments agreed upon in Madrid.

This review contains a preliminary analysis of the counter-terrorism legislation and relevant documents of 27 African countries but it is not a comprehensive examination of all national legal provisions related to the ratification and implementation of the universal instruments against terrorism. This document is a work in progress and any corrections or comments to improve it are welcome. UNODC/TPB would like to thank the Kingdom of Spain for providing financial contribution to undertake this publication.

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CHAPTER I.

INTRODUCTION

The United Nations Office on Drugs and Crime (UNODC) has for many years been addressing issues pertaining to international terrorism and the necessity of international cooperation against terrorism. The Terrorism Prevention Branch (TPB) has been mandated to provide assistance to requesting countries in the ratification and implementation of the universal legal instruments against terrorism, incorporating their provisions into national legislation and assisting in the implementation of new legislation. Through the global project – Strengthening the Legal Regime Against Terrorism – assistance was provided to 158 States between January 2003 and the end of September 2008, of which more than 114 received direct assistance while indirect assistance was provided through subregional and regional activities. Approximately 7,400 national officials have been trained on the ratification and implementation requirements and provisions of the universal legal instruments relating to terrorism and requirements pursuant to Security Council resolution 1373 (2001). TPB has developed several technical assistance tools aimed at assisting countries to strengthen their legal regimes against terrorism, while new technical assistance tools are being continuously developed.

The Madrid Ministerial Round Table of West and Central African Countries on Counter-Terrorism Legal Framework, attended by Ministers of Foreign Affairs and Heads of Delegation of 26 West and Central African countries, took place in Madrid, Spain, from 25 to 26 May 2006. The Round Table was aimed at reinforcing related counter-terrorism initiatives in West and Central African States by *building on activities* already successfully carried out by UNODC/TPB in the region.

The political engagement to combat and prevent terrorism was expressed again in the Madrid Declaration and Plan of Action by the Heads of delegation of the participating countries. Two years later, TPB highlights in this working document how and to which extent each of the 27 West and Central African countries have progressed in the fulfilment of their international obligations against terrorism.

The Ministerial Round Table and the Review of the Legal Regime Against Terrorism in West and Central Africa are directly related to UNODC/TPB's ongoing technical assistance activities in support of the Member States' efforts towards the ratification and legislative implementation of the universal instruments against terrorism. It provides valuable background information and review for the planning and implementation of these activities.

CHAPTER II.

LEGAL FRAMEWORK OF WEST AND CENTRAL AFRICAN COUNTRIES ON COUNTER-TERRORISM

a. Overview

i. Status of ratification

Only Mauritania has ratified 13 instruments and seven States have ratified 12 instruments: Burkina Faso, Cape Verde, Ghana, Guinea, Mali, Senegal and Togo.

Thirteen States have ratified more than 6 and less than 12 instruments: Benin, Cameroon, Central African Republic, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Liberia, Niger, Nigeria, Rwanda, Sao Tome and Principe and Sierra Leone.

In contrast, six States have ratified no more than 6 instruments: Angola, Burundi, Chad, Congo, Gambia and Guinea-Bissau.

None of the 27 States analysed has ratified or acceded to all universal instruments against terrorism.

A detailed analysis of the status of ratification of each instrument in the subregion follows:

- 26 States have ratified the Convention on offences and Certain Other Acts Committed on Board Aircraft (1963);
- 26 States have ratified the Convention for the Suppression of Unlawful Seizure of Aircraft (1970);
- 27 States have ratified the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);
- 22 States have ratified the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- 20 States have ratified the International Convention against the Taking of Hostages (1979);
- 16 States have ratified the Convention on the Physical Protection of Nuclear Material (1980);
- 19 States have ratified the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 15 States have ratified the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988);
- 13 States have ratified the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988);
- 11 States have ratified the Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991);

- 21 States have ratified the International Convention for the Suppression of Terrorist Bombings (1997);
- 23 States have ratified the International Convention for the Suppression of the Financing of Terrorism (1999);
- 5 States have ratified the International Convention for the Suppression of Acts of Nuclear Terrorism (2005);
- 3 States have ratified the Amendment to the Convention on the Physical Protection of Nuclear Material (2005);
- None has signed or ratified the Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005) and the Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005).

ii. Status of legislative implementation

A general assessment shows that the implementation of the universal instruments on counter-terrorism in West and Central African States is far from complete. On the contrary, this is the most urgent task ahead if the region wants to build an efficient legal regime capable of preventing and suppressing terrorism.

Only four States have adopted counter-terrorism legislation – Gambia, Mali, Mauritania and Niger. Yet, Gambia's Anti-Terrorism Act of 2002, Mali's counter-terrorism law of July 2008, Mauritania's counter-terrorism law of July 2005, and Niger's counter-terrorism law of April 2008 received proposals for amendments during TPB workshops in 2004, 2006, 2005 and 2006, respectively, in order to put national legislation in line with the aforementioned instruments.

In total, among the 27 West and Central African States, twenty-three have initiated a review process of their legislation: Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Côte d'Ivoire, Central African Republic, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Ghana, Guinea, Guinea-Bissau, Mali, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal and Togo. Nevertheless, the situation is very diverse in each country, e.g. Côte d'Ivoire has started a review process by a National Committee to follow up the implementation of Security Council resolution 1373 (2001); Cameroon has created a Committee to elaborate draft laws; Equatorial Guinea also established a Commission to review the reform of the Penal Code in conformity with the universal legal framework against terrorism; Guinea has prepared two draft laws with TPB assistance and will soon have submitted them to parliament for approval and Senegal had prepared two drafts already in 2002 but they have not yet been submitted to parliament.

With regard to Angola, Liberia and Sierra Leone, no information is available concerning the status of the criminal legislation.

There are also various subregional and regional legal instruments applicable to West and Central African States that address terrorism-related issues:

- **The Member States of the Central African Economic and Monetary Union (CAEMU/CEMAC)**¹ have adopted the following instruments:
 - Regulation 01/03-CEMAC-UMAC-CM of 4 April 2003² on prevention and suppression of money laundering and financing of terrorism in Central Africa, whose provisions are automatically incorporated into the legal systems of States Parties;
 - Extradition Agreement (2004) and Judicial Cooperation Agreement (2004);
 - Convention on the fight against terrorism in Central Africa by way of Regulation No. 08/05-UEAC-057-CM-13 of 7 February 2005. According to its Article 7, the Convention will enter into force as soon as 5 Member States have completed the procedures required by national law and the Union has been notified.

- **The Member States of the Economic Community of Central African States (ECCAS/CEEAC)**³ have adopted the following instrument:
 - Convention on Cooperation and Mutual Legal Assistance, done in Brazzaville on 18 March 2006.

- **The Member States of the West African Economic and Monetary Union (WAEMU/UEMOA)**⁴ have adopted the following instruments:
 - Regulation No. 14/2002/CM on the freezing of funds linked to terrorist activities, adopted on 19 September 2002 by the Council of Ministers;
 - Regulation No. 15/2002/CM/UEMOA relating to payment systems in the Member States of the West African Economic and Monetary Union, adopted on 19 September 2002 by the Council of Ministers;
 - Directive No. 07/2002/CM/UEMOA on the fight against money laundering, , adopted on 19 September 2002 by the Council of Ministers, establishing a 'Financial Intelligence Unit' (FIU) and imposing an obligation on Member States to adopt a uniform law against money laundering.

- **The Member States of the Economic Community of West African States (ECOWAS/CEDEAO)**⁵ have adopted the following instruments:
 - Convention A/P1/7/92 on Mutual Assistance in Criminal Matters, signed in Dakar on 29 July 1992;

¹ CAEMU/CEMAC is based in Bangui and composed of 6 Member States: Cameroon, Central African Republic, Chad, Congo, Equatorial Guinea and Gabon.

² This Regulation has established a Central African Anti-Money Laundering Group (Groupe d'Action contre le Blanchiment d'Argent en Afrique Centrale, GABAC) that has facilitated the creation within each Member State of national bodies called "National Agencies of Financial Investigation".

³ ECCAS is based in Libreville, Gabon, and composed of 11 Member States: Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Rwanda and Sao Tome and Principe.

⁴ WAEMU/UEMOA is based in Ouagadougou, Burkina Faso, composed of 8 States: Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo.

⁵ ECOWAS/CEDEAO is based in Nigeria, and composed of 15 States: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

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- Extradition Convention A/P.1/8/94, signed in Abuja on 6 August 1994;
 - Moratorium on the illicit trafficking of arms and light weapons signed in Abuja, on 31 October 1998;
 - On 12 November 1999, the ECOWAS Heads of State and Government established the Inter-Governmental Action Group Against Money Laundering in Africa (GIABA)⁶. Initially in charge of coordinating actions against money laundering and assisting Governments to enact legislation accordingly, GIABA now has extended its mandate to the area of counter-terrorism financing.⁷
 - Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, signed in Lomé on 10 December 1999;
- **The Member States of the African Union (AU)**⁸ have adopted the following instrument:
- Convention on the Prevention and Combating of Terrorism at the 35th Assembly of the Heads of State and Government in Algiers on 14 July 1999.⁹
- **The Member States of the Organization of the Islamic Conference (OIC)**¹⁰ have adopted the following instrument:
- Convention of the Organization of the Islamic Conference on Combating International Terrorism, in Ouagadougou, Burkina Faso, on 1 July 1999.

Among other organizations involved in counter-terrorism in the region are: the African Development Bank Group, the Arab Maghreb Union¹¹, the Common Market

⁶ Decision A/DEC.6/12/2000 of 16 December 2000 adopting the statutes of the Inter-Governmental Action group against money-laundering in West Africa.

⁷ The 29th ordinary Summit of Heads of State and Government, of ECOWAS held on 12 January 2006 in Niamey has approved the revised Regulation of GIABA which will expand the mandate of the ECOWAS institution to include responsibility for leading the regional effort to combat terrorism in addition to its other functions of combating drug trafficking and money laundering.

⁸ The AU is composed of 53 African States, based in Addis Ababa, Ethiopia. It was formerly known as Organization of the African Unity (OAU).

⁹ In the Dakar Declaration against Terrorism, adopted by the African Summit of October 2001, Member States of the African Union reaffirmed their unequivocal rejection of terrorism and recognized its destructive effects as well as the obstacle it poses to development and stability on the African Continent. An inter-governmental meeting held in Algeria in September 2002 adopted the African Union Plan of Action for the Prevention and Combating of Terrorism. The African Union has established a Peace and Security Council, one of its main objectives being to coordinate and harmonize the continent's efforts in the prevention and combating of terrorism. The New Partnership for African Development (NEPAD) identified 'the fight against terrorism' as one of its core functions. Also, the African Centre for the Study and Research on Terrorism, based in Alger, aims at reinforcing the cooperation among African States in the prevention and suppression of terrorism and at supporting full compliance with the universal instruments against terrorism.

¹⁰ OIC/OIC, based in Morocco, is composed of the following West and Central African States: Benin, Burkina Faso, Cameroon, Chad, Côte d'Ivoire, Gabon, Gambia, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone and Togo.

¹¹ The Arab Maghreb Union (of which Mauritania is a member) has established the Middle East and North Africa Financial Action Task Force (MENAFATF), an intergovernmental organization similar to the Financial Action Task Force (FATF), composed of the States from North Africa and the Middle East.

of Eastern and Southern Africa (COMESA)¹², the Commonwealth Secretariat, the Community of Portuguese-Speaking Countries (CPLP)¹³ and the International Organization of the Francophonie¹⁴.

iii. Status of submission of reports to the United Nations Security Council committees dealing with counter-terrorism

Security Council resolution 1373 (2001) established the Counter-Terrorism Committee (CTC), made up of all 15 members of the Security Council, to monitor States' implementation of the resolution and, where necessary, to facilitate the provision of relevant technical assistance to Member States.

On 14 September 2005, during the UN World Summit, the Security Council adopted resolution 1624 (2005), which deals with the issue of incitement to commit acts of terrorism, and expanded the Committee's mandate to include monitoring its implementation. Since its inception, the Committee has engaged in an ongoing dialogue with Member States and has worked to promote closer cooperation and coordination within the United Nations system and among international, regional and sub-regional bodies. With the adoption of Security Council resolution 1535 (2004), which established the Counter-Terrorism Committee Executive Directorate (CTED), the Committee expanded its activities to include visits to Member States.

Pursuant to paragraph 6 of resolution 1373, the Security Council calls upon all States to report to the Counter-Terrorism Committee on the steps that they have taken to implement the resolution (Note verbale SCA/20/01(6)). These reports formed the basis of the Committee's work with Member States. Currently, new reporting procedures, namely the Counter-Terrorism Committee's Preliminary Implementation Assessments (PIAs), are in place through which further information and updates are submitted. The Committee's Executive Directorate (CTED) advises the Committee on technical aspects of States' reports, including criminal, financial, customs, immigration and extradition law and practice; police and law enforcement issues; and illegal arms trafficking. .

iv. Status of technical cooperation with UNODC

As of today, West and Central African States have requested and received technical assistance from UNODC for the ratification and legislative implementation of the universal instruments against terrorism as well as the training of criminal justice

¹² COMESA is based in Lusaka, Zambia, and its membership includes: Angola, Burundi, Democratic Republic of the Congo and Rwanda. COMESA convened a Regional Seminar on International Cooperation against Terrorism and its Financing, for its Member States, co-organized with UNODC and the Central Bank of Djibouti from 14 to 16 March 2006. This training seminar dealt among other things with mutual legal assistance and extradition, particularly in the exchange of information among Member States of COMESA.

¹³ CPLP is based in Lisbon, Portugal, and its membership includes: Angola, Cape Verde, Guinea-Bissau and Sao Tome and Principe.

¹⁴ The 21 West and Central African Member States of the International Organization of the Francophonie are: Benin, Burkina Faso, Burundi, Central African Republic, Cameroon, Cap Verde, Chad, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Gabon, Guinea, Guinea-Bissau, Equatorial Guinea, Mali, Mauritania, Niger, Rwanda, Sao Tome and Principe, Senegal and Togo.

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officers on international cooperation in criminal matters related to terrorism, as follows:

On a bilateral level, all 27 States have benefited from UNODC direct assistance for the:

- Ratification and legislative implementation: Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Gambia, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone, Togo.
- Training: Burkina Faso, Cameroon, Cape Verde, Chad, Gabon, Gambia, Guinea, Guinea-Bissau, Mali, Niger, Rwanda and Senegal.
- Drafting of CTC reports: Cape Verde, Côte d'Ivoire, Equatorial Guinea, Guinea, Liberia, Mali, Niger, Rwanda and Togo.

On a subregional or regional level:

- 21 States have benefited from UNODC direct assistance for the ratification and legislative implementation of the universal instruments against terrorism: Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Congo, Gabon, Gambia, Ghana, Guinea, Mali, Niger, Nigeria, Central African Republic, Democratic Republic of the Congo, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone and Togo (Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols, Bamako, Mali, 25-28 November 2003).
- 25 States have benefited from UNODC direct assistance for the drafting of reports to the CTC: Angola, Benin, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Liberia, Mali, Mauritania, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone and Togo (Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council, Praia, Cape Verde, 8-10 December 2004; Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism, Dakar, Senegal, 25-27 September 2007; Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism, Gaborone, Botswana, 28-29 November 2007).

UNODC has also undertaken the following activities to promote the ratification and the legislative incorporation of the universal instruments against terrorism as well as to follow-up on previous technical assistance activities:

- Specifically with Western African countries:

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- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006).
- Specifically with Central African countries:
 - Subregional Workshop for criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States in cooperation with the UNODC Anti-Money Laundering Unit, Libreville, Gabon, 7-9 April 2008.
- Specifically with francophone African countries¹⁵:
 - Five Annual Conferences of the Ministers of Justice of African francophone countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008).
 - Two Videoconferences with Benin, Burkina Faso, Guinea, Mali, Niger and Senegal (25 October 2005), and with Burundi, Cameroon, Chad, Côte d'Ivoire, Madagascar and Rwanda (27 October 2005) on the fight against terrorism and corruption, organized by TPB and the International Organization of the Francophonie (IOF).
- Specifically with lusophone countries¹⁶:
 - Five Study Tours for Portuguese-speaking countries on the ratification and implementation of the universal instruments against terrorism and transnational crime and related topics (Lisbon, Portugal, 3-7 November 2003; Lisbon, Portugal, 2-6 November 2004; Lisbon, Portugal, 31 October - 4 November 2005; Maputo, Mozambique, 13-16 November 2006; and Lisbon, Portugal, 22-25 October 2007).
- Specifically in relation with the financing of terrorism:
 - Regional Workshop on Financing of Terrorism, organized by UNODC with the Governments of Japan and Tunisia, and the IMF (Tunisia, 15 December 2003).

¹⁵ The West and Central African francophone countries are: Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Rwanda, Sao Tome and Principe, Senegal and Togo.

¹⁶ The West and Central African lusophone countries are: Angola, Cape Verde, Guinea-Bissau and Sao Tome and Principe.

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- Subregional Training Workshop on international cooperation in criminal matters relating to terrorism and its financing for experts of the Common Market of Eastern and Southern Africa (COMESA), to which Angola, Burundi, Democratic Republic of the Congo and Rwanda are Member States (Djibouti, 14-16 March 2006).
 - Sensitization Workshop on the fight against money laundering and financing of terrorism, organized by GIABA together with UNODC, IFM and WB (Cotonou, Benin, 1 June 2006). The participants recommended their Governments to include in their internal legal system laws in conformity with the international norms and standards by the end of 2006 and to ensure that a seminar is convened to deal with the development of an ECOWAS harmonized law to fight terrorism financing that should be effectively implemented by States by the end of 2007 with the support and assistance of developments partners.
 - Subregional Workshop for criminal justice officials on the financing of terrorism and money laundering for the member States of the Economic and Monetary Community of Central Africa (CEMAC) and the Economic Community of Central African States (CEEAC), organized in cooperation with the UNODC Anti-Money Laundering Unit (Libreville, Gabon, 7-9 April 2008).
- Round Table for Africa gathering all African States on ‘Crime and drugs as impediments to security and development in Africa: strengthening the rule of law’ (Abuja, Nigeria, 5-6 September 2005). A number of actions were proposed in order to attain key priorities such as to promote and support the ratification and implementation of the anti-terrorism instruments, to strengthen national criminal justice institutions, to establish national central authorities for handling mutual legal assistance and extradition matters, and to provide support to the Algeria-based African Centre for the Study and Research on Terrorism.
- Madrid Ministerial Round Table of 27 West and Central African Countries on Counter-Terrorism Legal Framework, organized by UNODC jointly with the Kingdom of Spain (Madrid, Spain, 25-26 May 2006). Participants adopted the Madrid Declaration and Plan of Action.

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, the 27 West and Central African States undertook 135 ratifications or accessions to the universal instruments against terrorism, a description of which follows:

- 3 States have ratified the Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963);
- 1 State has ratified the Convention for the Suppression of Unlawful Seizure of Aircraft (1970);
- 2 States have ratified the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);
- 11 States have ratified the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- 12 States have ratified the International Convention against the Taking of Hostages (1979);
- 13 States have ratified the Convention on the Physical Protection of Nuclear Material (1979);
- 12 States have ratified the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 12 States have ratified the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988);
- 11 States have ratified the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988);
- 7 States have ratified the Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991);
- 20 States have ratified the International Convention for the Suppression of Terrorist Bombings (1997);
- 23 States have ratified the International Convention for the Suppression of the Financing of Terrorism (1999);
- 5 States have ratified the International Convention for the Suppression of Acts of Nuclear Terrorism (2005);
- 3 States have ratified the Amendment to the Convention on the Physical Protection of Nuclear Material (2005);
- No State has ratified the Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005) and the Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005).

CHAPTER III.

COUNTRY BY COUNTRY ANALYSIS

1. Angola
2. Benin
3. Burkina Faso
4. Burundi
5. Cameroon
6. Cape Verde
7. Central African Republic
8. Chad
9. Congo
10. Côte d'Ivoire
11. Democratic Republic of the Congo
12. Equatorial Guinea
13. Gabon
14. Gambia
15. Ghana
16. Guinea
17. Guinea-Bissau
18. Liberia
19. Mali
20. Mauritania
21. Niger
22. Nigeria
23. Rwanda
24. Sao Tome and Principe
25. Senegal
26. Sierra Leone
27. Togo

1. ANGOLA

a. Overview

i. Status of ratification (4)

Angola has ratified/acceded to the following universal instruments against terrorism:

- 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);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988).

ii. Status of legislative implementation

In its 2003 report to the CTC (S/2003/1210), Angola affirmed that it is a dualist State which requires the legislative incorporation of bilateral or multilateral treaties into national law, in order for them to be directly enforceable before national courts.

Criminal Legislation:

In its reports to the CTC, Angola has recognised the fact that its existing criminal legislation does not effectively incorporate many of the norms contained within the universal instruments against terrorism.

Angola has also recognized the importance of enacting measures against terrorism and has declared that it is in the process of initiating a law reform process in order to better address the issue of terrorism by incorporating the universal instruments against terrorism into its national law (S/2003/402). However, given Angola's difficult history, the Government has also stated that the country's ability to move ahead with the ratification and legislative incorporation of these instruments is conditional upon its ability to first build up its democratic institutions and to bolster their capacity (S/2003/1210).

Despite the fact that terrorism is not recognised as such in the Angolan Penal Code, Angola has noted that several existing provisions can be used to prosecute acts of terrorism. As identified by the Angolan Government (S/2003/402), these include:

- 'Associations of malefactors' and 'illicit organizations' (Articles 263 and 282);
- 'Unauthorised associations' and 'secret associations' (Article 283);
- 'Rebellion' (Article 19); 'armed rebellion, riots or outbreaks' (Article 20);
- 'Sabotage' (Article 21);
- 'Illegal weapons and explosives' (Article 22);
- 'Instigation, provocation and fomentation of crimes against State Security' (Article 27);

The 1978 *Law on Crimes against State Security*, punishes other criminal acts generally associated with terrorist activities (S/2003/1210), such as:

- Offences affecting the safety of civil aviation and maritime navigation (Article 15, Crimes of piracy):

Any person who, by violent means, commits the crime of piracy by taking over the command or managing the crew of a ship or aircraft to commit theft or any violent acts against that or any other ship or aircraft, or against any person or goods aboard such ship or aircraft or to endanger the safety of the State or a friendly country shall be sentenced to a prison term of 16 to 20 years.

Any of the following facts shall be deemed to be a crime of piracy:

a) Taking possession of, by deceitful or violent means, a ship or aircraft for the purposes mentioned in this Article;

b) The illegal acts of violence, deceit, withholding or plundering committed for personal gain by members of the crew in the airspace or territorial space against its own or another ship or aircraft or against the people or goods on board such ship or aircraft;

c) Usurping or taking the command of a national ship or aircraft or of a ship or aircraft chartered by a national company, followed by its navigation against the fundamental rules of traffic freedom and safety or against national interests;

d) Land, sea or air signals that constitute deceitful manoeuvres of sinking, docking, sailing to sea or landing of aircraft or ships, for purposes of endangering such aircraft or ship or against people or goods on board.

- Offences against internationally protected persons including diplomatic agents (Article 12):

Any person who threatens the life, physical integrity, freedom or honour of a foreign Head of State, member of a foreign government, diplomatic representatives accredited to the country, representatives of international organizations or their families in Angolan territory shall be liable to the sentence applicable to such crime augmented in terms of Article 93 of the Penal Code.

In addition, Part III of the same law could be used to prosecute acts of terrorist bombing:

Article 22 (Armaments, prohibited devices and substances)

Any person who, without due authorization, manufactures, brings into the country, buys, sells, transfers, transports or is in the possession of flammable, explosive, asphyxiating or toxic materials, substances or devices, chemical or biological agents shall be liable to a prison sentence of 8 to 12 years.

Any crime committed by the means mentioned above shall be punished according to the corresponding crime, aggravated in general terms.

Existing Angolan Criminal legislation does not criminalize terrorist financing. The Organic Law of the National Bank of Angola, Law No. 6/97 of 1 July 1997 regulates

the Central Bank of Angola which is entrusted with supervising, monitoring and inspecting the money, financial and economic markets, as well as rulings aimed at identifying financial networks linked to suspicious activities. Only a decision by the *Procuradoria Geral* (Attorney General) and by magistrates can order the freezing of accounts, in cases other than those concerning persons and entities identified in lists issued by the Sanctions Committee of the Security Council. However, at the time of submission of its third report, Angola admitted that these provisions have never been used (S/2003/1210).

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

According to Angola's third report to the CTC (S/2003/1210), the application of the Penal Code is ruled by the principle of territoriality, complemented with the principles of 'safeguard of national interests' as can be inferred from Article 53 of the Penal Code:

'In the absence of treaties to the contrary, the penal law is applicable to:

- 1.º – All infractions committed on Angolan territory, regardless of the nationality of the perpetrator;*
- 2.º – All crimes committed on board of an Angolan ship in the sea; on board of an Angolan war ship at a foreign port, or on board of an Angolan commercial ship at a foreign port, provided that only the crew has been involved in the crime and the tranquility at the port has not been disturbed;*
- 3.º – All crimes committed by an Angolan citizen against the internal or external security of a foreign State, or of falsification of public seals, of Angolan currency, of public credit documents, of notes from the national bank, or from companies or businesses legally authorized to issue such notes, provided that the perpetrators have been subjected to a legal trial in the country where they committed the crime;*
- 4.º – All foreigners who commit any of the above-mentioned crimes and who enter Angolan territory, or whose surrender can be obtained;*
- 5.º – Any crimes or infractions committed by Angolans on foreign territory, provided that the following conditions are present:*
 - a) The criminal or perpetrator is found in Angola;*
 - b) The legislation of the country where the crime was committed also classifies such an action as a crime or infraction;*
 - c) The criminal or delinquent has not been subject to trial in the country where the crime or infraction was committed.'*

- Applicable extradition and mutual legal assistance mechanisms

The Republic of Angola claims in its report to the CTC S/2003/1210 that it is in the process of developing a systematic action plan to reinforce international cooperation on terrorism in accordance with the Declaration of the Community of Portuguese-Speaking Countries (CPLP) on the fight against international terrorism (31 October 2001).

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Angola has also indicated that it has subscribed to the following relevant international Agreements and Conventions:

- ‘a. PALOP (African Portuguese-Speaking Countries)
 - Agreement on Judicial Cooperation;
 - Agreement on Judicial Cooperation with Cape Verde.

- b. CPLP (Community of Portuguese-Speaking Countries)
 - Agreement on the prevention of undue use of Drugs, combat against the production, and narcotic trafficking psychotropic substances;
 - Agreement on Judiciary Cooperation with the Republic of Portugal.

- c. AU (African Union)
 - OUA Convention on Terrorism Prevention and Combat;

- d. SADC (Southern African Developing Countries)
 - SADC Convention on narcotic trafficking.’

In addition, the Constitution states that ‘extradition of foreign citizens based on political motivations is not permitted’ (Article 27).

iii. Status of submission of reports to the United Nations Security Council committees dealing with counter-terrorism

Angola has submitted three reports to the CTC (S/2002/116, 24 January 2002, S/2003/402 of 31 March 2003 and S/2003/1210 of 22 December 2003).

Angola has submitted its report to the Al Qaida and Taliban Sanctions Committee (S/AC.37/2003/(1455)/3 of 11 April 2003), pursuant to Security Council resolution 1455 (2003). Angola has not submitted its checklist pursuant to Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Angola received the following bilateral technical assistance from UNODC/TPB:

- National Workshop to promote the ratification and legislative implementation of the universal instruments against terrorism and the United Nations Convention against Transnational Organized Crime (24 January - 2 February 2003);
- National Workshop on International Treaties, providing institutional training for the ratification of the international treaties against corruption, terrorism and transnational organized crime (4-5 May 2006).

Angolan representatives participated in the following regional conferences:

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- Five Study Tours for Portuguese-Speaking countries on the ratification and implementation of the universal instruments against transnational organized crime, terrorism and corruption (Lisbon, Portugal 3-7 November 2003; Lisbon, Portugal, 2-6 November 2004; Lisbon, Portugal, 31 October - 4 November 2005; Maputo, Mozambique, 13-16 November 2006; and Lisbon, Portugal, 22-25 October 2007);
 - Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
 - Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
 - Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
 - Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Gaborone, Botswana, 28-29 November 2007).
- b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Angola has ratified/acceded to one universal instrument against terrorism:

- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988).

Angola has agreed to organize jointly with UNODC/TPB a Training Workshop for criminal justice officials on international cooperation in criminal matters related to terrorism , foreseen to take place in December 2008.

2. BENIN

a. Overview

i. Status of ratification (11)

Benin has ratified/acceded to the following universal instruments against terrorism:

- 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);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

ii. Status of legislative implementation

Criminal Legislation:

At the Fourth Conference of the Ministers of Justice of Francophone African countries (Ouagadougou, 20-22 March 2007), the Representative from Benin noted that the incorporation of the universal instruments against terrorism has progressed. Two draft laws adopting a new Penal Code and a new Criminal Procedure Code will be presented to the next session of Parliament. The new Penal Code criminalizes act of terrorism at Articles 90 ss;

Article 90 — Constitute acts of terrorism, when they are related to an individual or collective action for the purpose of either; forcing a person, a government, a national or international organization to act or to abstain from acting, or; seriously undermining public order through intimidation or terror,; the offences set out at Articles 100; 392, 560-568 of the present Code, as well as any of the following offences:

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1. *Voluntary attacks on life, integrity of the person, abduction and kidnapping, hijacking of an aircraft, ship or any other means of transport;*
2. *Theft, extortion, destruction, degradation and damage, as well as computer-related offences;*
3. *The manufacture or possession of lethal or explosive machines or devices;*
4. *The production, sale, importation or exportation of explosive substances;*
5. *The acquisition, possession, transport or illicit carriage of explosives or explosive devices;*
6. *Possession, carriage or transport of weapons of war and munitions;*
7. *The development, manufacture, possession, stockpiling, acquisition and transfer of biological or toxic weapons.*
8. *The hijacking of aircraft, ships or any other means of transportation*

Article 91 provides for the criminalization of the financing of terrorism as well as the seizure, freezing or confiscation of any funds intended to be used or resulting from a terrorist act:

Article 91- Commits an act of terrorism or an act assimilated to terrorism, everyone who, by whatever means, directly or indirectly, knowingly, provides or collects funds, with the intent that they be used, or knowing that they will be used, in whole or in part, for the purpose of committing one of the infractions set forth at:

i. Articles 90 and 93 of the present Code;

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.

Any funds used or intended to be used to commit one of the offences listed in the Article, as well as the financial product of these offences, will be subject to freezing, seizure and confiscation.

The question of complicity is dealt with at Article 92 of the Penal Code in the following manner:

Article 92- Anyone who enters into an agreement with one or more persons for the purpose of committing one of the offences set out at articles: 90, 91, 93, 98 to 100, 388 and 565 of the present Code or who organizes or plans the commission of any one of these offences

including recruitment of other individuals or for the provision of weapons shall be sentenced to a five to ten year term of imprisonment.

Additional acts of terrorism are criminalized by Article 93 of the Penal Code:

Article 93 — Also constitutes a terrorist act when it is related to an individual or collective action for the purpose of either; forcing a person, a government, a national or international organization to act or to abstain from acting, or; seriously undermining public order, the act of introduction into the atmosphere, soil or subsoil or waters, including territorial waters, of a substance that can endanger the health of humans or animals or the environment also constitutes an act of terrorism when it is linked to an individual or collective endeavour to cause serious disruption to public order through intimidation or terror.

At Article 94, the new draft Penal Code of Benin establishes the applicable penalties for the terrorist offences set forth at Articles 90 and 93 which range from: capital punishment in cases where one or more people have been killed as a result of the act, to five to ten years imprisonment, in cases where the act was intended to force the State or any of its organs to accomplish or abstain from accomplishing any act falling within its prerogative.

The Penal Code states that where an individual having attempted to commit a terrorist act has alerted the authorities about the perpetration of this act and has thereby enabled the thwarting of the realisation of this crime, that individual shall be exempt from punishment (Article 95).

The Penal Code also establishes the criminal liability of moral/legal persons involved in the perpetration of acts of terrorism at Article 96 and provides for the imposition of fines, in addition to other administrative sanctions including closure and the prohibition to engage in certain activities.

Article 97 of the Code recognises ‘abandonment’ as a factor mitigating punishment: where a perpetrator or accomplice, by alerting the relevant authorities to the commission of the crime, has made possible the cessation of the incriminated act or has avoided the loss of life or the causing of permanent infirmity and to identify accomplices to the acts commission.

In addition to repressing acts of terrorism, the new Beninese Penal Code contains provisions incorporating some of the universal instruments against terrorism, such as:

- Acts committed against the safety of civil aviation and maritime navigation (Articles 98-100);
- Taking of hostages (Articles 386-389);
- Crimes against internationally protected persons including diplomatic agents (Articles 119-120);
- Acts related to the physical protection of nuclear material (Article 587);

- Acts committed by means of explosives or other lethal devices (Articles 560-568.)

Through Decree No. 2004-359 of 24 June 2004, the Government of Benin submitted to the National Assembly the *Anti Money-Laundering Bill*, which, on the basis of Directive No. 07/2002/CM of West African Economic and Monetary Union of which Benin is a Member, imposes an obligation upon Member States to adopt a uniform law against money laundering as well as to establish a 'Financial Intelligence Unit' (FIU). The Bill covers the definition, prevention, detection and suppression of money-laundering and will enable close cooperation between the FIU and administrative and judicial bodies in seeking evidence regarding money-laundering activities, the imposition of administrative and disciplinary measures and criminal penalties (S/2005/277). The repressive provisions of the Act concern investigative measures, the lifting of professional secrecy, administrative and disciplinary sanctions, interim measures of protection by the State (seizure or confiscation of assets relating to the violation), freezing of assets and financial operations concerning such assets, prison sentences of three to seven years and fines equal to three times the amount of the assets or funds that were the subject of the money-laundering operation. Attempted money laundering is punishable by the same penalty and, in the presence of aggravating circumstances, these penalties are doubled.

As outlined in Benin's third report to the CTC (S/2006/174), Benin is in the process of adopting additional legislation on the suppression of money laundering in order to 'prevent the recycling of proceeds of crime through economic channels'. This legislation, which will apply to physical and legal/moral persons, provides for further mechanisms aimed at detecting instances of money laundering. Another important feature of this Act is the creation of a National Financial Information Processing Unit [*Cellule Nationale de Traitement des Informations financières*], a permanent administrative agency whose mandate is to receive and process information of financial transactions reported as suspicious, to draw up reports to be submitted to the Minister of Finance as well as to issue recommendations aimed at heightening the efficiency of anti-money laundering efforts (S/2006/174). The Unit has already been created but it is not yet operational.

At the Subregional level, it is also important to note that the West African Economic and Monetary Union (WAEMU/UEMOA) has adopted Regulation No. 14/2002/CM on the freezing of funds linked to terrorist activities, and which is directly applicable in all Member States including Benin.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The jurisdiction of courts regarding acts committed outside Benin by a citizen or permanent resident of Benin and acts committed by foreigners finding themselves in Benin is covered in Title IX 'Crimes and offences committed abroad' of the Code of Criminal Procedure at Articles 580 and following:

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Article 580. Any citizen of Benin who, outside the territory of the Republic has committed an act considered to be criminal under Beninese law may be tried and sentenced in Beninese courts. Any citizen of Benin who, outside the Republic has committed an act considered to be criminal under Beninese law may be tried and sentenced in Beninese courts, if the act is punishable under the laws of the country where it was committed. In the case of an offence against the security of the State, counterfeiting of the State seal or the national currency in circulation, the offence committed outside the territory of the Republic shall be punishable on the same basis as an offence committed in its territory. The provisions of paragraphs 1 and 2 are applicable to persons who have acquired Beninese citizenship only after the commission of the offence with which they are charged.

Article 581. Anyone who, in the territory of the Republic, has acted as an accomplice to a crime or offence committed abroad may be tried and sentenced by Beninese courts, if the act is punishable under both Beninese and foreign law, if the criminal act has been certified by a final judgement issued by a foreign court.

- Applicable extradition and mutual legal assistance mechanisms

Extradition is governed by bilateral and multilateral agreements:

- Bilateral agreements on Judicial Assistance, Letters Rogatory and Extradition between Benin and another country (ex: Agreement on Cooperation in Justice Matters between France and Dahomey; Agreements with Ghana, Togo and Nigeria of 10 December 1984);
- Multilateral agreements such as Convention A/P 1/792 concerning Mutual Legal Assistance in Criminal Matters (ECOWAS).

iii. Status of submission of reports to the United Nations Security Council committees dealing with counter-terrorism

Benin has submitted three reports to the CTC (S/2002/435 of 17 April 2002, S/2005/277 of 28 April 2005 and S/2006/174 of 15 March 2006).

Benin has submitted its report to the Al Qaida and Taliban Sanctions Committee (S/AC.37/2004/(1455)/30 of 31 March 2004) pursuant to Security Council resolution 1455 (2003). Benin has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Benin received the following bilateral technical assistance from UNODC/TPB:

- National Expert Workshop on the legislative implementation of the universal instruments against terrorism and of Security Council resolution 1373 (16-20 October 2006).

Representatives from Benin have also participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by UNODC/TPB and the International Organization of the Francophonie (25 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Benin has ratified/acceded to the following instruments against terrorism:

- Convention on offences and Certain Other Acts Committed on Board Aircraft (1963);
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);

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- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

Benin is in the process of adopting a new Penal Code as well as a new Code of Penal Procedure including the incorporation of the universal instruments against terrorism, as noted by the Beninese representatives at the Fourth and Fifth Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism.

3. BURKINA FASO

a. Overview

i. Status of ratification (12)

Burkina Faso has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

ii. Status of legislative implementation

According to Article 151 of the Constitution of Burkina Faso, '*international treaties or agreements duly ratified have, from the date of their publication, a superior authority to that of national legislation, pending reciprocity*'.

Criminal Legislation:

As stated by the Government in its report to the CTC (S/2003/385), Burkina Faso plans to introduce specific provisions into its legislation regarding international terrorism. A workshop was held from 6 to 8 November 2007 with the participation of the National Commission in charge of legislative drafting and UNODC/TPB in order to incorporate the universal instruments against terrorism into national law. The National Codification Committee is currently working on a Draft Law amending the Penal Code.

In the interim, according to Burkina Faso's 2002 CTC report (S/2002/444) certain provisions of the Penal Code can be used to prosecute terrorist acts:

- Acts committed against the safety of civil aviation and maritime navigation:

Section 11 – Unlawful acts against civil aviation, ships and all other means of collective transport:

Article 532- Whoever, while on board an aircraft, ship or any other means of collective transport, by force or threat thereof, seizes or exercises control of that aircraft, ship or means of transport, shall be punished by five to ten years imprisonment.

Article 533- Shall be liable to between five to ten years' imprisonment whoever:

- *Destroys an aircraft, either in or out of service, in an airport serving civil aviation or causes damage to such aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;*
- *Places or causes to be placed, on an aircraft in or out of service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or which is likely to endanger its safety in flight;*
- *Destroys or damages air navigation facilities of an airport or interferes with their operation, if any such act is likely to endanger the safety of aircraft in service or of civil aviation.*

The same penalties are applicable if the above-mentioned acts are committed on board vessels or other means of collective transport.

Article 534 - If injury or ill health results from the acts described in articles 532 and 533, the penalty shall be 10 to 20 years' imprisonment. If death is the result, then the death penalty shall be incurred.

Article 535 - An aircraft is considered to be in flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for persons and property on board.

An aircraft is considered to be in service from the moment where the ground personnel or the cabin crew begin to prepare it for a determined flight until a period of twenty four hours has elapsed following landing; the period of service shall encompass the entire period during which the aircraft is in flight for the purpose of the preceding paragraph.

Article 536- Shall be punished by a sentence of imprisonment from one to five years and to a fine between 300,000 to 1,500,000 francs, anyone who, by disseminating information he knew to be false, imperils the security of an aircraft in flight, of a ship, or of any other means of transportation in service.

- Taking of hostages:

Chapter II – Crimes and Misdemeanours Against Persons

Section 4 – Violations to the Right to Individual Freedom and the Inviolability of the Home

Article 356 – Shall be punished by a term of imprisonment from five to ten years, anyone who, without orders from the competent authorities and outside the circumstances permitted or ordered by the law, abducts, arrests, detains, sequesters a person or knowingly provides a location to be used for the purposes of sequestering a person.

Where the detention or sequestration lasts more than one month, the penalty shall be a term of imprisonment of ten to twenty years.

Article 357 – The maximum sentence provided for at the second paragraph of the preceding article shall be applied, if the arrest or abduction is perpetrated either through the wearing of a uniform or of an official insignia, namely under a false name or false order from the public authorities.

The same sentence shall apply, where the arrest or abduction was carried out with the aid of a motorised means of transport or if the victim was threatened with death.

Article 358 – If convicted, the accused shall be punished with life imprisonment where the abducted, arrested, detained or sequestered person is subject to corporal torture.

Where the torture has resulted in death, the mutilation of an organ or any permanent infirmity, those convicted shall be sentenced to death.

Article 359 - Shall benefit from a mitigating excuse, any perpetrator who without being compelled to do so, ends the detention or sequestration.

- Acts committed by means of explosives or other lethal devices:

Chapter I – Crimes and Misdemeanours against the Security of the State

Article 116 – Shall be punished to life imprisonment, anyone who sets fire to or destroys by means of an explosive device, buildings, stores, arsenals or other property belonging to the State.

Where the act has caused the death of a person, the perpetrator shall be sentenced to death.

Chapter III – Crimes and Misdemeanours against Property

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Article 520 – Shall be punished with death, anyone who knowingly destroys or deteriorates a residential home, a wagon or car containing persons, where the offence is committed by means of an explosive or incendiary substance, a fire or any other means so as to endanger the safety of these persons and which result in the death of any of them.

The Penal Code of Burkina Faso also contains provisions, which can be used to criminalize membership in a terrorist group:

Article 222 - Criminal Association

Any association, regardless of its duration or the number of members, formed or established with the aim of preparing or committing crimes against people or property constitutes the crime of criminal association that is based solely on the act of resolving to and initiating a crime.

In addition, according to Burkina Faso's first CTC report (S/2002/444), the Government has created two bodies, in seeking to control the ownership of firearms and other weapons:

- The National Commission Against the Proliferation of Light Weapons [*Commission nationale de lutte contre la prolifération des armes légères*] whose mandate includes the elaboration of effective strategies in order to limit the proliferation and illicit availability of light weaponry as well as to collect, disseminate and exploit all information with respect to the production of such weapons as well as their circulation.
- The High Authority on the Control of Weapons and Munitions [*Haute autorité de contrôle de l'importation des armes et de leurs munitions*] whose purpose is to regulate imports of weapons and munitions.

In Burkina Faso, the manufacture, remodelling, acquisition, possession, transfer, bearing or transport of working firearms and ammunition are regulated by inter-ministerial Decree No. 2001-268/PRES/MATD/MEF/DEF/MJPDHY of 8 June 2001. The provisions of this decree state that, no one may buy a firearm, or receive it as barter, gift, inheritance or bequest, unless he holds an authorization to purchase a firearm.

Failure to abide by the provisions of the firearms decree is punishable by the Burkina Faso Penal Code:

Article 537- A person who, without having obtained legal authorization, manufactures, imports, possesses, transfers, sells or buys a firearm or ammunition is subject to one to five years' imprisonment and a fine of 300,000 to 1,500,000 CFA francs or to one of these two penalties.

With regards to the financing of terrorism, Burkina Faso is a member of West African Economic and Monetary Union (WAEMU), which has adopted two norms:

- Directive No. 07/2002/CM/UEMOA on the fight against money laundering, adopted in Cotonou, Benin, on 19 September 2002. The Directive imposes an obligation on Member States to adopt a uniform law against money laundering as well as to establish a 'Financial Intelligence Unit' (FIU);
- Regulation No. 14/2002/CM on the freezing of funds linked to terrorist activities, adopted in 2002, is directly applicable in Burkina Faso.

Procedural Criminal Legislation:

Criminal Procedure is regulated in Burkina Faso by the Law No. 10-93-ADP of 17 May 1993.

- Applicable grounds for jurisdiction

Article 4 of the Penal Code of Burkina Faso establishes the Code's scope of applicability:

Article 4- The law applies to any offence committed within the national territory regardless of the author's nationality

The penal law also applies to offences committed by a national or against a national outside of the national territory where the acts are punishable pursuant to the laws of the country in which they were committed. In such cases, the commencement of proceeding shall be pursuant to a complaint by the victim or an official denunciation from the competent authority in which the acts have been committed.

- Applicable extradition and mutual legal assistance mechanisms

The legislation regulating extradition dates from 1927 (Law on extradition of foreign nationals).

Burkina Faso has signed a Convention on Mutual Legal Assistance, including extradition, with France on 24 April 1961. Burkina Faso has also concluded the following multilateral agreements:

- Convention on Mutual Assistance in Criminal Matters of the Economic Community of West African States (ECOWAS), signed in Dakar, Senegal, on 29 July 1992;
- Convention on Assistance and Cooperation on Security Matters between the Council of the Entente Member States, signed in Kara, Togo, on 15 February 1996;
- Convention on Mutual Cooperation in the field of Justice between the Council of the Entente Member States, signed in Yamoussoukro, Côte d'Ivoire, on 20 February 1997.

iii. Status of submission of reports to the United Nations Security Council committees dealing with counter-terrorism

Burkina Faso has submitted two reports to the CTC (S/2002/444 of 12 April 2002 and S/2003/385 of 24 March 2003). Burkina Faso has also submitted its report to the CTC (S/2006/473 of 30 June 2006) on the implementation of Security Council resolution 1624 (2005).

Burkina Faso has submitted its report to the Al-Qaida and Taliban Sanctions Committee (S/AC.37/2005/(1455)/1 of 12 January 2005). Burkina Faso has not submitted its checklist pursuant to Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Burkina Faso received the following bilateral technical assistance from UNODC/TPB:

- National Workshop on the legislative incorporation of the universal instruments against terrorism and transnational organized crime as well as for the training of criminal justice officials on international cooperation against terrorism (5-7 January 2005);
- Specialized Training of five judges and prosecutors on international cooperation in criminal matters related to terrorism (27 February-17 March 2006);
- National Workshop for the legislative incorporation of the universal instruments against terrorism (6-8 November 2007).

Burkina Faso has participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by UNODC/TPB and the International Organization of the Francophonie (25 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);

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- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Burkina Faso has ratified/acceded to the following instruments against terrorism:

- 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 (1979);
- 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).

The National Workshop organized by UNODC (5-7 January 2005) concluded with a Plan of Action in which the Government of Burkina Faso made a commitment to incorporate the universal instruments against terrorism into its national legislation. The National Commission of Codification is currently working to reform the Penal Code to incorporate the above-mentioned instruments and it finalized a draft law with UNODC during a workshop from 6 to 8 November 2007 in Ouagadougou.

4. BURUNDI

a. Overview

i. Status of ratification (3):

Burundi has ratified/acceded to the following instruments against terrorism:

- Convention on offences and Certain Other Acts Committed on Board Aircraft (1963);
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973).

ii. Status of legislative implementation

The Government of Burundi acting through a decree adopted in 2001, has initiated the creation of a National Commission against Terrorism headed by the Minister of Interior and Public Security whose mandate includes: to make proposals for the harmonisation of national legislation with the universal instruments against terrorism ensuring its application; to ensure the implementation of General Assembly and Security Council resolutions on the matter; and to draft reports on the implementation of those resolutions. A copy of the Decree creating the Commission was appended to Burundi's first report to the CTC (S/2001/1322 of 31 December 2001); however, the Commission has not yet been created.

Criminal Legislation:

In its 2001 report to the CTC (S/2001/1322), the Government of Burundi stated that it is in the process of taking legislative steps aimed at implementing the universal instruments against terrorism: a law against terrorism which would amend the Penal Code by defining and criminalizing various acts of terrorism is currently before Parliament. However, given the lengthy process set forth in the Constitution of Burundi for the enactment of new legislation, the Government has opted to promulgate a decree defining and criminalizing certain acts of terrorism as well as the financing of terrorism. This decree is intended as an interim measure pending final enactment of more comprehensive legislation. (CTC report S/2001/1322). However, the decree itself has not yet been implemented.

In the same report, Burundi also noted that its current Penal Code (Decree-Law No. 1/006 of 4 April 1981) although not explicitly addressing the issue of terrorism, does contain certain penal provisions, which, may be used to prosecute such acts. According to Burundi, these include; any offence committed for the purpose of killing, destroying property [Article 417], an act aimed at changing or destroying the constitutional order [Article 412]; conspiring to perpetrate an act aimed at changing or destroying the constitutional order [Article 413]; an offence against the territorial integrity of Burundi [Article 414]; the raising, employment or enlisting of a militia

without governmental authorisation or the provision of weapons to such a militia [Article 415]; the taking up of any form of military command without authorisation from the State [Article 416].

Burundi's second report to the CTC (S/2005/33) discussed the provisions of the Draft Decree of December 2001 on the Repression of Terrorist Financing and all Forms of Facilitation of Acts of International Terrorism, which sought to fill the gaps left by the current Penal Code through its explicit focus on terrorism. The provisions of this decree are discussed in Burundi's second report to the CTC (S/2005/33). It must be noted that the Law No. 1/02 against Money Laundering and Financing of Terrorism was adopted on 4 February 2008.

According to this CTC report, the Draft Decree defines 'terrorist acts' at Article 1:

Article 1- For the purpose of this Decree:

The term 'terrorist act' designates the following:

- a) any act or threat of an act, in violation of the law, which is likely to endanger the life, the physical integrity, the freedoms of a person or of a group of persons, which causes or may cause injury to private or public property, to natural resources, to the environment or to cultural property, an which is committed with intent to:*
 - (i) intimidate, provoke a situation of terror, to force, to exert pressure or to compel any Government, organization, institution, population or group, to carry out an act, to refrain from carrying out an act, to abandon a particular position or to act according to certain principles; or*
 - (ii) to disrupt the normal functioning of public services, the administration of essential services to the population, or to create a crisis situation within the population; or*
 - (iii) to create a situation of general insurrection within a State*
- b) any promotion, financing of, contribution or order to, assistance, incitement, encouragement, attempt, threat of, conspiracy, organization, or provision of equipment to any person with intent to commit any act set out at paragraphs a) (i) to (iii); and*
- c) an act which constitutes an offence with regard to, and within the meaning given, in international treaties relating to terrorism;*
- d) any other act intended to kill or severally injure a civilian or any other person not taking a direct part in the hostilities in an armed conflict situation, where as per its nature or its context, this act is intended to intimidate a population or to compel a government or international organization to accomplish or refrain from accomplishing a given act.*

No political, philosophical, ideological racial, ethnic religious or other consideration may be used as justification for the commission of the terrorist acts listed above.

The Draft Decree also addresses the question of the financing of terrorism at Article 3

Article 3- Without prejudice to the provisions of the Penal Code, shall be sentenced to life imprisonment, anyone who intentionally makes available funds, assets or financial services to one of the following persons or entities:

- a) any person, whom for valid reasons, may be suspected of preparing or of committing an infraction set out at Articles 1 or 2;*
- b) any entity belonging to the suspect over which the suspect yields a significant influence; or*
- c) any person or entity acting on behalf of or at the direction of the suspect or entity described at paragraph b).*

Moreover, Article 4 of the Draft Decree establishes the power of the Public Prosecutor to freeze all financial assets belonging to any person suspected of terrorism, to any entity belonging to that individual or over which that individual has a significant influence or of any person or entity acting on behalf of or pursuant to instructions given by the suspect or by the entity in question.

The Draft Decree also addresses the issue of secondary participation in the preparation and perpetration of acts of terrorism:

Article 5 - Without prejudice to the provisions of the Penal Code, whoever, intentionally and knowingly, facilitates, promotes, aids, shelters, harbours, recruits, supplies financial means or weapons, delivers or falsifies identification or travel documents of individuals, groups, entities or associations of terrorists, shall be punished to life imprisonment.

In addition, a draft law of November 2006 reforming the Penal Code is currently before Parliament and contains a Chapter IV entitled “Acts of terrorism”. The relevant provisions of this Chapter are:

Article 605 - Shall also constitute acts of terrorism:

-the introduction into the atmosphere, on land, underground or into waterways, including territorial seas of Burundi, a substance of a nature as to imperil the health of human or animal populations of with the aim of undermining public order through intimidation or terror;

-participation in a group or an agreement established for the purpose of the preparation , characterised by one or more material acts, of one of the terrorist acts set forth at Article 604.

Article 606- Shall also constitute acts of terrorism the financing of a terrorist enterprise through the provision, collection or managing of funds, assets or goods of whatever nature or by providing advice to this end with the intent of for these funds, assets or goods used, or knowing that they are destined to be used, in whole or in part, for the commission

of one of the acts of terrorism set forth in the present chapter, whether or not such an act is actually committed.

Article 607- Acts of terrorism shall be punished by a sentence of imprisonment of ten to twenty years and of a fine of 200,000 to 1,000,000 francs.

Where this act has caused the death of one or more persons, it shall be punished by life imprisonment.

During the 2007 UNODC mission to Burundi (30 July – 2 August 2007), the Ministry of Justice and UNODC prepared additional amendments to this Chapter in order to incorporate the universal instruments against terrorism into national law, which will also be submitted to Parliament for approval.

Procedural Criminal Legislation:

a. Applicable grounds for jurisdiction

The applicable grounds for jurisdiction are set out in the Draft Penal Code of Burundi at Article 8 ss.:

Article 8 - Any offence committed on the territory of Burundi by a national or foreigner shall, subject to international treaties with respect to diplomatic and consular immunities, be punished in accordance with the penal law of Burundi.

Article 9 - Offences committed onboard boats, ships or aircraft registered in Burundi or against them, shall be punished in accordance with the penal law of Burundi.

Article 10 – Any misdemeanour or crime committed outside of the national territory by a Burundian or a foreigner shall be, subject to the relevant treaties governing extradition, punished by the penal law of Burundi if the author is present in Burundi or if the victim has Burundian citizenship and the act is punished in the State where it was committed.

For offences other than those relating to the falsification of the State Seal and of national currencies, those pertaining to acts of torture, to terrorism, to genocide, to crimes against humanity and to war crimes, the prosecution and the judgement of crimes committed abroad is subject to the filing of a complain by the injured party or an official denunciation by the authorities of the country where the offence was committed.

- Applicable extradition and mutual legal assistance mechanisms

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According to Burundi's reports to the CTC (S/2001/1322 and S/2005/33), mutual judicial assistance and extradition agreements have been concluded with the following neighbouring countries: the Democratic Republic of the Congo, Rwanda (21 June 1975) and Tanzania (27 April 1988). In addition, draft conventions on judicial cooperation and extradition have been drawn up between Burundi and the following countries: Namibia, Russian Federation, Uganda and Zambia.

In a report dated 28 April 2006 that Burundi addressed to UNODC in preparation of the Madrid Ministerial Round Table, the country has reaffirmed its intent to sign the Convention on cooperation and mutual legal assistance among State Parties to the Economic Community of Central African States (CEEAC) which was adopted in Brazzaville on 18 March 2006 in the coming months.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Burundi has submitted two reports to the CTC (S/2001/1322 of 27 December 2001 and the corrigendum S/2001/1322/corri.1 of 1 April 2002, and S/2005/33 of 6 January 2005).

Burundi has also submitted its report to the Al-Qaida and Taliban Sanctions Committee (S/AC.37/2005/(1455)/2 of 6 January 2005). Burundi has not submitted its checklist pursuant to Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Burundi received the following bilateral technical assistance from UNODC/TPB:

- National Workshop to promote the ratification and legislative implementation of the universal instruments against terrorism and the United Nations Convention against Transnational Organized Crime (2-7 June 2003);
- Videoconference to promote the ratification and legislative incorporation of the universal instruments against terrorism (24 August 2006);
- National Workshop on the ratification and legislative implementation of the universal instruments against terrorism (30 July – 2 August 2007).

Representatives from Burundi participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);

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- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by TPB/UNODC and the International Organization of the Francophonie (27 October 2005);
- Subregional Training Workshop on international cooperation in criminal matters relating to terrorism and its financing for experts of the Common Market of Eastern and Southern Africa (COMESA) (Djibouti, 14-16 March 2006);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop for criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States (Libreville, Gabon, 7-9 April 2008);
- Specialized Training Workshop for judges and prosecutors on counter-terrorism, organized jointly with the French Ecole Nationale de la Magistrature (Paris, France, 30 June – 3 July 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

As previously mentioned, the Government of Burundi has initiated a legislative reform process aimed at amending the Penal Code in order to ensure the explicit inclusion of terrorist acts within the catalogue of punishable offences. In addition to this, Burundi has adopted a Law 1/02 against Money-Laundering and Financing of Terrorism on 4 February, 2008.

Burundi has signed the following universal instruments against terrorism but has yet to ratify them:

- Convention for the Suppression of Unlawful Seizure of Aircraft (1970);
- 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).

Burundi has prepared a Draft Penal Code containing a Chapter IV relating to acts of terrorism; the Ministry of Justice and UNODC have prepared amendments to the Draft Penal Code for the legislative incorporation of the universal instruments against terrorism.

5. CAMEROON

a. Overview

i. Status of ratification (10)

Cameroon has ratified/acceded to the following instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

ii. Status of legislative implementation

In accordance with Article 45 of Act No. 96/06 of 18 January 1996 amending the Constitution of 2 June 1972 of Cameroon, '*duly approved or ratified international treaties or agreements, once promulgated, take precedence over laws subject to reciprocity*'.

Criminal Legislation:

In its 2002 report to the CTC (S/2002/277), the Government of Cameroon stated that it has a general legal framework that enables it to respond to terrorism, pending the adoption of more extensive and specific legislation on terrorism.

In its reports to the CTC, Cameroon has outlined certain legislative provisions in its Penal Code (1967), which although not explicitly aimed at acts of terrorism, may be used to prosecute such acts. According to Cameroon, these include:

- Attacks, plots or other acts committed with the goal of undermining state authority or the territorial integrity of Cameroon (Articles 103 and 114)
- Crimes punishable within the general framework of attacks on:

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- public safety (arson, setting fire to land, sea or air vehicles containing persons, or the explosion of mines - Article 227); or
- property (destruction of buildings, structures, ships or installations - Article 316-2);
- Acts of terrorism within the general framework of attacks on the physical safety of individuals:
 - Article 275 (Murder)
 - Article 276 (Capital murder)
 - Article 277 (Grievous harm)
 - Article 278 (Assault causing death)
 - Article 279 (Assault causing grievous harm)
 - Article 280 (Simple harm)
 - Article 281 (Slight harm)
- Conspiracy:

Article 9 – A conspiracy exists when the intention to commit an offence is concerted and decided upon by two or more persons ... The conspiracy to commit a crime or an offence — unless suspended or unless it had no effect, owing to circumstances independent of the will of the authors — is itself regarded as a crime or an offence

Article 95 Conspiracy – (1) Conspiracy shall mean the resolved concerted and determined between two or more persons to commit an offence.

- Attempt is covered in the Penal Code:

Article 94 Attempt – (1) An attempt to commit a felony or misdemeanour shall mean the performance of any act towards its commission unambiguously indicating an irrevocable intention to commit it, and shall be treated, where execution has been arrested or has failed solely by reason of circumstances independent of the offender's will, as the commission of the felony or misdemeanour attempted.

[...]

- Explosive substances are addressed in the Penal Code at Article 229:

Article 229 Explosive Substances – Whomsoever breaches the regulations concerning the production, conservation, transport, importation, exportation and trade of explosive substances will be punished by imprisonment of one month to one year and a fine of 2000 to 100000 francs, or of one of these punishments alone.

In its report to the CTC (S/2006/918), Cameroon has indicated that Decree No. 73/658 of 22 October 1973 regulates the acquisition, import, sale and transfer, possession and carrying of firearms for commercial purposes.

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In addition, Cameroonian law contains provisions incorporating some of the universal instruments against terrorism, such as:

- Acts committed against the safety of civil aviation

Law No. 2001-19 of 18 December 2001 criminalizes offences and acts against the safety of civil aviation and incorporates the provisions of CEMAC Regulation (No. 10/00-CEMAC-0660CM-04).

Section 2 - For the purpose of implementing this law and the regulatory instruments arising therefrom, the following definitions shall apply:

- Act of unlawful interference: act by which a person,

- a) commits an act of violence against another person found on board an aircraft in flight where such act can jeopardize the safety of the aircraft;*
- b) destroys an operating aircraft or damages the said aircraft such that it is no longer able to fly or it can jeopardize its safety in flight;*
- c) places or ensures placement on operating aircraft, by any means whatsoever of a device or substances which can destroy the aircraft or damage it, such that it is unable to fly or can jeopardize its safety in flight;*
- d) destroys or damages air navigation facilities or services or disrupts the functioning, where any such act jeopardize the safety of an aircraft in flight;*
- e) knowingly communicates false information thereby jeopardizing the safety of an aircraft in flight;*
- f) unlawfully and wittingly, using a device, substance or weapon;*

1) commits against a person, at an airport used for civil aviation purposes, an act of violence which causes or can cause serious injury or death;

2) destroys or seriously damages the facilities of an airport used for international civil aviation purposes or aircraft which are not operational and are found at the airport, or disrupts the services of the airport, where such acts jeopardizes or can jeopardize safety at the said airport

Section 3 - The provisions of this law shall apply to whomever:

- a) commits any offence against civil aviation;*
- b) commits or attempts to commit any act which is an offence or is contrary to regulations in force and which may jeopardize or jeopardizes the safety of aircraft in flight or on the ground, as well as the safety of persons and goods on board, or sound order and discipline on board.*

Section 4

- a) unlawfully and through violence or threat of violence:*
 - seizes an aircraft in service or out of service or takes control thereof;*
 - is an accomplice of a person who commits or attempts to commit any such acts;*
- b) unlawfully and knowingly:*

- *destroys or seriously damages facilities at a national or international airport used for civil aviation;*
 - *destroys or seriously damages aircraft parked at an airport in Cameroon or in service;*
 - *disrupts services at an airport;*
 - *makes threats of any kind or acts unlawfully against passengers, crew members, ground personnel, or the public;*
 - *commits, against a person and/or property at an airport, an act of violence, which causes or is likely to cause serious injuries, death or destruction of such property, where such act jeopardizes or is likely to jeopardize security in the airport;*
 - *destroys or damages aids to air navigation*
 - *communicates false information likely to jeopardize the safety of an aircraft in flight;*
 - *boards or helps another person to board an aircraft with weapons or substances that can destroy or damage the aircraft or jeopardize the safety of the flight;*
 - *makes or transports unmarked explosives except for authorized military weapons by the Convention on the marking of explosives in plastic and sheets for purpose of detection;*
- shall be deemed to have committed an offence against civil aviation.*

Section 10 - The offences and acts referred to in Section 3 and 4 above shall be brought before ordinary law courts.

- (1) Such offences shall be punishable by life imprisonment.*
- (2) Where such acts result in the loss of life, the punishment shall be death.*
- (3) Any attempted offences and acts shall be punishable as the offences and the acts themselves.*
- (4) Joint action and complicity shall be punishable in conformity with the relevant provisions of the Penal Code.*

- Acts committed against the safety of maritime navigation

Cameroon's Code of Merchant Marine criminalizes the unlawful seizure of a ship (Article 295). As Cameroon is a Member State of CEMAC, Regulation No. 03/01-UEAC is also directly applicable and incorporates the offences set forth in the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation* (1988) and the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf* into national law (Section III – '*Unlawful Acts against the Safety of Maritime Navigation*' and Section IV - '*Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*').

- Taking of hostages (Article 29, Penal Code)

Article 291: Arrest and Detention

- 1) *Whoever deprives another, in whatever manner, of his liberty shall be punished with five to ten years imprisonment and a fine of 20.000 to 1 million francs*
- 2) *The length of imprisonment shall be extended to ten to twenty years if:*
 - a. *The deprivation of liberty last more than one month;*
 - b. *If physical or mental abuse occurs;*
 - c. *If the arrest is made either pursuant to a false authorization from the public authority or through the illegal use of uniforms or under false representation.*

- Financing of terrorism

Cameroon's first CTC report (S/2002/277) states that, in general, the prohibition and suppression of the financing of terrorist acts in Cameroon would rely on a combination of Article 97 of the Penal Code, concerning complicity, and other provisions of national legislation that punish terrorist acts as such or acts that can be assimilated to such acts.

Under Article 97, *anyone who:*

- (a) *Incites others in any way to commit an offence or gives instructions for the commission of an offence;*
- (b) *Assists or facilitates the preparations for or the commission of an offence is an accomplice to a violation categorized as a crime or an offence.*

Paragraph 2 specifies that attempted complicity receive the same treatment as complicity.

However, this provision is not in accordance with the 1999 *International Convention for the Suppression of the Financing of Terrorism* because according to this Convention, in order for an act to constitute the offence of terrorism financing it is not necessary that an offence actually be committed or attempted.

With regard to legislation and procedures for the freezing of assets, Article 19 of the Penal Code establishes certain additional measures (forfeiture, closure of the establishment, and confiscation). Articles 118, 119 and 120 of the Penal Code provide for special confiscation measures when State security is threatened. Law No. 2003/004 of 21 April 2003 regulates matters related to money laundering and bank secrecy.

According to Cameroon's third CTC report (S/2006/918), the country has initiated a legislative reform process aimed at the adoption of new legislation for the prevention and suppression of terrorist acts. Through Decree No. 264/DL/MJ of 17 September 2004, the Minister of State responsible for Justice Affairs created a Technical Inter-Ministerial Commission in order to incorporate the universal instruments against terrorism into national legislation and a Workshop has been organized with UNODC during which legislative changes have been drafted in order to put national legislation in line with the universal instruments.

At the subregional level, Regulation No. 01/03-CEMAC-UMAC-CM (4 April 2003) on the prevention and suppression of Money-Laundering and Financing of Terrorism in Central Africa contains an offence criminalizing the financing of terrorism as well as penalties, and is directly applicable to Cameroon. This regulation also calls, *inter alia*, for the creation of a Financial Intelligence Unit in every Member State. In keeping with this requirement, Cameroon established the National Financial Intelligence Unit on 31 May 2005 through Decree No. 2005/187.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The applicable provisions with respect to the exercise of jurisdiction by Cameroonian Courts are provided for at the following articles:

- Offences committed within the national territory (Article 7);
- Offences committed in whole or in part abroad (Article 8);
- Complicity, conspiracy, attempt (Article 9);
- Offences committed abroad by a citizen or resident (Article 10);
- International crimes (Article 11);
- General jurisdiction of the Courts of the Republic (Article 12).

Furthermore, Sections 636 and 637 of the new Code of Penal Procedure of 18 October 2005 state that:

Section 636 - Whoever is found in the national territory to be an accomplice to a felony or misdemeanour committed abroad may be tried in Cameroon according to the foreign law and Cameroonian law on condition that the principal act has been established by a final decision emanating from a competent foreign court.

Section 637 - Cameroonian courts shall also have jurisdiction to try anyone who while abroad, has acted as accomplice to a felony or misdemeanour committed in Cameroon.

- Applicable extradition and mutual legal assistance mechanisms

The new Cameroonian Code of Penal Procedure contains Part XI, which sets forth a detailed set of provisions governing extradition (Article 635- 675).

At the bilateral level:

Cameroon has established bilateral judicial cooperation agreements, with:

- Benin, Burkina Faso, the Central African Republic, Chad, Côte d'Ivoire and France (21 February 1974);
- Gabon, Guinea, Madagascar, Mali (6 May 1964);
- The Democratic Republic of the Congo, the Federal Republic of Nigeria, Mauritania, Niger, Senegal (11 March 1977).

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According to Cameroon's second CTC report (S/2003/489), the negotiation of bilateral judicial cooperation agreements with Romania and Russia are underway.

At the subregional level, Cameroon is party to:

- Tananarive Convention on judicial cooperation, which covers all the French-speaking countries of West and Central Africa, including Madagascar, of 1961;
- The Agreement on Judicial Cooperation on Criminal Police Matters among Central African States (Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon and Sao Tome and Principe) of 1999;
- The Judicial Cooperation Agreement among the Member States of the Central African Economic and Monetary Union (CAEMU/CEMAC) of 2004;
- The Extradition Agreement among the Member States of the Central African Economic and Monetary Union (CAEMU/CEMAC) of 2004.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Cameroon has submitted four reports to the CTC (S/2002/277 of 14 March 2002, S/2003/489 of 31 March 2003, S/2005/225 withdrawn by corrigendum S/2005/225/Corr.1 of 2 December 2005 and S/2006/918 of 27 November 2006).

Cameroon has also submitted its report to the Al-Qaida and Taliban Sanctions Committee (S/AC.37/2006/(1455)/2 of 11 October 2005). Cameroon has not submitted its checklist pursuant to Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Cameroon received the following bilateral technical assistance from UNODC/TPB:

- National Workshop on the ratification and legislative implementation of the universal instruments against terrorism and Security Council resolutions 1373 (2001) and 1624 (2005) (6-8 February 2007);
- National Training Workshop for criminal justice officials on international cooperation in criminal matters related to terrorism (25-27 March 2008).

Cameroon representatives have participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September

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2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);

- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Round Table for Africa on ‘Crime and drugs as impediments to security and development in Africa: strengthening the rule of law’ (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by UNODC/TPB and the International Organization of the Francophonie (27 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);
- Subregional Workshop for criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States (Libreville, Gabon, 7-9 April 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Cameroon has ratified/acceded to the following instruments against terrorism:

- Convention on the Physical Protection of Nuclear Material (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

At the end of the UNODC/TPB National Workshop in 2008, the participants adopted an Action Plan, which recommended *inter alia* “the ratification and legislative incorporation of the universal legal instruments against terrorism on the basis of comment and analysis made during the workshop”.

6. CAPE VERDE

a. Overview

i. Status of ratification (12)

Cape Verde has ratified/acceded to the following instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

ii. Status of legislative implementation

The Constitution of Cape Verde regulates the reception of international treaties and agreements in the domestic legal order in its Article 11.2: *“The international treaties and agreements, validly approved or ratified, shall be in force in the Cape Verdean legal order after their official publication and their entry into force in the international legal order, and for the time that they are internationally binding on the State of Cape Verde.”*

Criminal Legislation:

As the Cape Verdean Minister of Justice noted at the Fourth Conference of the Ministers of Justice of Francophone African countries (Ouagadougou, 20-22 March 2007), Cape Verde adopted a new Penal Code in 2003 in order to modernise its legislation and to harmonise it with the universal instruments against terrorism to which Cape Verde is party. A draft law against terrorism has been prepared in consultation with UNODC/TPB.

Although the new Penal Code does not contain a definition of terrorism *per se*, Article 315 defines the concept of 'terrorist organizations', criminalizes the founding, leading, membership in such groups and sets out the applicable penalties for these offences.

Article 315 (Terrorist organizations)

1. A penalty of 8 to 15 years' imprisonment shall be imposed as punishment upon anyone who founds a terrorist organization or group.

2. *A penalty of 10 to 15 years' imprisonment shall be imposed upon anyone who leads or directs a terrorist organization.*

3. *A penalty of six to 12 years' imprisonment shall be imposed as punishment upon anyone who joins a terrorist organization or group and becomes a member of it.*

4. *In order to be considered a terrorist organization or group, a group must fulfil the following criteria:*

(a) concerted action by two or more individuals;

(b) the object of destroying, altering or subverting the democratic rule of law as ordained in the Constitution or national institutions, or attacking or endangering the country's independence or territorial integrity, or creating a climate of social unrest or upheaval;

the utilization, as instruments of action, of crimes against the life, physical integrity or freedom of individuals, crimes against the security of transport or communications, crimes that with wrongful intent create public danger, in particular through the setting of fires, the release of toxic or asphyxiating gases, the contamination of food products or of water intended for human consumption, or the spreading of diseases or plagues, crimes of sabotage, or crimes involving the use of firearms, bombs, explosives, inflammable substances, letter or parcel bombs or incendiary devices of any kind.

In addition, the 2003 Penal Code contains provisions, which incorporate elements of the universal instruments against terrorism:

- Acts committed against the safety of civil aviation and maritime navigation:

Article 301 (Commandeering or diversion of a vessel or aircraft)

A penalty shall be imposed upon anyone who takes over or diverts a vessel sailing on its normal route or an aircraft in flight. The penalty shall be of five to 12 years' imprisonment if there are passengers on board at the moment the deed is carried out, or of two to eight years' imprisonment if there are no passengers on board.

Article 302 (Attack on security of transport)

1. *A penalty of two to eight years' imprisonment shall be imposed as punishment upon anyone who carries out any deed intended to undermine or seriously diminish the security of any means of transport, thereby effectively endangering life, placing in serious danger the physical*

integrity of others or placing in danger other people's assets having a high value.

2. If the danger referred to in the preceding paragraph came about as a result of negligence, the penalty shall be of one year's to four years' imprisonment.

3. If the actions described in paragraph 1 were carried out with negligence, the penalty shall be of up to three years' imprisonment or of 80 to 200 days' fine.

- Taking of hostages:

Article 138 (Abduction)

1. A penalty of six months' to three years' imprisonment shall be imposed as punishment upon anyone who unlawfully abducts a person, or detains him or holds him captive in such a way as to deprive him of his liberty.

2. If the deed described in paragraph 1 was committed by means of violence or a threat, with the intention of

(a) facilitating the flight of the author of or accomplice in a crime, or ensuring that such author or accomplice is not punished, or obtaining the execution of an order or of a conditional provision,

(b) obtaining a ransom or other payment,

(c) coercing a national government, an international organization, a company or other legal entity, an individual or the public authorities to perform an act of commission or of omission, or to support an action, the penalty shall be three to eight years' imprisonment.

3. The minimum and maximum penalties referred to in the preceding paragraphs shall be increased by one third if the following circumstances apply with respect to the depriving of the person of his liberty:

(a) if it results in a serious offence against the integrity of the victim, in the lasting illness of the victim or in the suicide of the victim as a consequence of the deed, of the conditions in which the victim is held or of the withholding of care by the perpetrator;

(b) if it lasts for more than five days;

(c) if it is preceded or accompanied by torture or other cruel, degrading or inhuman treatment;

(d) if it is committed against a person referred to in subparagraph (b) or (c) of Article 124;

(e) if, in carrying out the deed, the perpetrator impersonates a public official, or acts in gross abuse of the authority inherent in the holding of a government post;

(f) if it is carried out by an organized gang.

- Acts committed against internationally protected persons including diplomatic agents:

Article 265 (Attack upon a foreign entity)

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1. *A penalty of two to eight years' imprisonment shall be imposed as punishment upon anyone who makes an attack upon the life, the physical integrity or the liberty of a head of state, head of government or foreign minister on official business in Cape Verde, or a representative or official of a foreign government or of an international organization who, at the time of the crime, enjoys special protection under international law, unless some more severe penalty applies pursuant to some other legal provision.*
2. *The provisions of the preceding paragraph shall also apply if such deeds are committed against the members of the families of such individuals who travel or live with them, as the case may be.*
3. *For purposes of the provisions of this article, an attack shall be deemed to mean either an attempted attack or an attack actually carried through to completion.*

- Acts committed by means of explosives or other lethal devices:

Article 123 (Aggravated homicide)

If the homicide is committed

(a) using poison, torture, asphyxiation, fire, explosives or any other insidious means, or in any way that transforms the crime into a crime of public imperilment, or using any other act of cruelty to increase the victim's suffering,

[...]

(d) for the purpose of preparing, carrying out or concealing another crime, or facilitating the flight of the perpetrator of a crime or ensuring that the perpetrator of a crime is not punished, or

(e) out of racial, religious or political hatred, the penalty shall be 15 to 25 years' imprisonment.

Article 294 (Prohibited weapons and explosives)

1. *A penalty of six months' to three years' imprisonment or of 80 to 200 days' fine shall be imposed as punishment upon anyone who possesses prohibited weapons or weapons that have been substantially modified from the standard manufacturing characteristics of regulated weapons.*

2. *A penalty of one year to four years' imprisonment shall be imposed as punishment upon anyone who possesses any explosive, inflammable, incendiary, toxic or asphyxiating substance or device other than in accordance with legal provisions, or in violation of the regulations established by the competent authority.*

3. *A penalty of two to six years' imprisonment shall be imposed as punishment upon anyone who manufactures, sells, transports, possesses or establishes stockpiles of weapons or munitions of war.*

4. *A penalty of one year's to five years' imprisonment shall be imposed as punishment upon anyone who manufactures, sells, transports or establishes stockpiles of the substances or devices referred to in paragraph 2 of this article other than in accordance with legal*

provisions, or in violation of the regulations established by the competent authority.

- Acts of nuclear terrorism:

Article 296 (Fires, floods and other dangerous actions)

- 1. A penalty of four to ten years' imprisonment shall be imposed as punishment upon anyone who causes a fire, and in particular anyone who sets fire to a building, structure, means of transport, forest or vegetation, thereby effectively endangering life, placing in serious danger the physical integrity of others or placing in danger other people's assets having a high value.*
- 2. The same penalty shall apply to anyone who causes an explosion, the release of toxic or asphyxiating gases, the release of radiation or of radioactive substances, flooding or the collapse of a structure, thereby creating the danger described in the preceding paragraph.*
- 3. If the danger described in paragraphs 1 and 2 came about as a result of negligence, the penalty shall be of two to six years' imprisonment.*
- 4. If the actions described in paragraphs 1 and 2 of this article were carried out with negligence, the penalty shall be of up to two years' imprisonment or of 60 to 150 days' fine.*

In addition to the Penal Code, the National Assembly of Cape Verde has adopted Law No. 17/VI/2002 on Money-Laundering which criminalizes the laundering of the proceeds of various forms of criminality including terrorism and provides for various legal countermeasures such as the seizure of assets. The definition of the offence of money-laundering is set forth at Article 3 of the Law:

Article 3- Laundering of money and other assets

1. Any person who, knowing that property or proceeds derive from the commission, however perpetrated, of crimes of trafficking in drugs or psychotropic substances as provided for in Law No. 78/IV/93 of 12 July 1993, terrorism, abduction, trafficking in minors, sexual abuse of minors, child pornography, pimping, trafficking in firearms, extortion, corruption, embezzlement, public sector maladministration, unlawful appropriation of cooperative or public sector property or fraudulent obtaining or diversion of subsidies, grants or credits, or economic or financial crimes:

(a) Performs, transfers, converts or aids or abets any operation for the conversion or transfer of such property or proceeds wholly or partly, directly or indirectly, with the aim of concealing or disguising the illicit origin thereof or assists any person involved in the commission of any such offence to evade the legal consequences of his or her actions shall be liable to imprisonment from four to twelve years;

(b) Conceals or disguises the true nature, source, location, disposition, movement or ownership of or rights with respect to such property or proceeds shall be liable to imprisonment from two to ten years;

(c) *Acquires or receives on any terms or possesses or uses such property or proceeds shall be liable to imprisonment from one to five years.*

2. *The punishment for offences indicated in the preceding paragraph shall not be below the minimum or above the maximum limits laid down for the related predicate offence.*

3. *The punishment for offences provided for in paragraph 1 shall be imposed even if the acts constituting the predicate offence were committed outside national territory.*

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The legal regime with regard to the exercise of jurisdiction by Cape Verdean Courts is established by Article 3 ss. of the 2003 Penal Code.

Article 3 (Territorial scope of application: general principle)

Except as otherwise provided by international agreement, Cape Verdean penal law shall apply to deeds committed within Cape Verdean territory or aboard vessels or aircraft that are registered in Cape Verde or fly the Cape Verdean flag, irrespective of the nationality of the perpetrator.

Article 4 (Deeds committed outside Cape Verdean territory)

1. *Except as otherwise provided by international agreement, Cape Verdean penal law shall apply to deeds committed outside Cape Verdean territory in the following cases:*

(a) *if the deeds constitute the crimes referred to in Articles 244 to 263 and 307 to 328;*

(b) *if the deeds constitute the crimes referred to in Article 138, paragraphs 2 and 3, or in Articles 268 to 279, if the perpetrator is found in Cape Verde and cannot be extradited;*

(c) *if the deeds are committed against Cape Verdeans, provided that the perpetrator is customarily resident in Cape Verde and is found in Cape Verde;*

(d) *if the deeds are committed by Cape Verdeans, or by foreign nationals against Cape Verdeans, provided that the perpetrator is found in Cape Verde, that the deeds are also punishable under the legislation of the place where they were committed, and that they constitute a crime for which the law permits extradition but for which extradition cannot be granted;*

(e) *if it is a case of crimes which are the responsibility of the Cape Verdean State to try pursuant to an international agreement.*

2. *The provisions of the preceding paragraph shall apply only if the perpetrator has not been tried in the country in which the deed was committed or, if convicted in that country, has avoided fulfilling any penalty imposed.*

3. *Wherever Cape Verdean law applies pursuant to this article, the deed shall be tried in accordance with the law of the country in which the*

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deed was committed if that regime is more favourable to the perpetrator. Any penalty shall be converted to the corresponding penalty under the Cape Verdean system or, if there is no direct correspondence, to such penalty as Cape Verdean law may provide for the deed.

Article 5 (Place where the deed is committed)

The deed shall be deemed to have been committed at the place where the perpetrator committed the act, in whole or in part, and in any form of co-participation, or, in the case of an act of omission, at the place where the perpetrator should have committed the act, as well as at the place where the result as an element of the offence came about, or where some other result of the offence is identified that the legislator sought to prevent.

- Applicable extradition and mutual legal assistance mechanisms

The legislative regime governing extradition is set out at Article 35 of the Constitution of Cape Verde, which provides as follows:

Article 35 (Extradition and expulsion)

1. No Cape Verdean citizen shall be extradited or expelled from his country.

2. Aliens or stateless persons shall not be extradited for political or religious reasons or on account of offence of opinion.

3. The extradition for crimes punishable by the law of the requesting State with death penalty or life imprisonment or in situation in which there is substantial reason to believe that the person to be extradited could be subjected to torture, inhumane, degrading or cruel treatment, shall not be allowed.

4. The expulsion from the national territory of aliens and stateless persons authorized to reside in the country or that have requested asylum shall only take place through judicial decision.

5. The extradition shall only be allowed in case where it is expressly provided for by law or by an international convention.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Cape Verde has submitted two reports to the CTC (S/2001/1329 of 27 December 2001 and S/2007/573 of 27 September 2007).

Cape Verde has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003) and has not submitted the checklist as required by Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Cape Verde received the following bilateral technical assistance from UNODC/TPB:

- National Workshop on the legislative implementation of the United Nations Convention against Transnational Organized Crime and its protocols and of the universal instruments against terrorism (Praia, Cape Verde, 11-16 November 2002);
- National Workshop on the ratification and legislative implementation of the universal instruments against terrorism, for the drafting of reports to the Security Council Committees as well as for the raising of awareness among Parliamentarians (Praia, Cape Verde, 29 January- 2 February 2007);
- National Training Workshop for criminal justice officials on international cooperation in the fight against terrorism, in cooperation with Interpol and practitioners from Brazil and Italy, and the participation of officials from Guinea-Bissau (Praia, Cape Verde, 29-31 October 2007).

Representatives from Cape Verde also participated in the following regional and subregional activities:

- Three Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Sharm El-Sheikh, Egypt, 7-9 February 2006; and Ouagadougou, Burkina Faso, 20-22 March 2007);
- Four Meetings for Portuguese-Speaking Countries on the ratification and implementation of Conventions and Protocols against Organized Crime, Terrorism and Corruption (Lisbon, Portugal, 3-7 November 2003; Lisbon, Portugal, 31 October - 4 November 2005; Maputo, Mozambique, 13-16 November 2006; and Lisbon, Portugal, 22-25 October 2007);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);

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- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Cape Verde has ratified/acceded to the following instruments against terrorism:

- Convention on the Physical Protection of Nuclear Material (1979);
- 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);

A new Penal Code has been adopted which incorporates elements of the universal instruments against terrorism. The participants to the Training Workshop organized in October 2007 recommended “to speed up the process of incorporation of the universal instruments against terrorism in Cape Verde’s domestic law, in particular by submitting to the Council of Ministers the draft law against terrorism prepared with technical assistance of UNODC in February of the same year”.

7. CENTRAL AFRICAN REPUBLIC

a. Overview

i. Status of ratification (10)

The Central African Republic has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

ii. Status of legislative implementation

Article 69 of the Constitution states that: “*international treaties or agreements duly ratified have from the date of their publication a superior authority to that of national legislation, pending reciprocity*”.

Criminal Legislation:

As the Minister of Justice stated at the Fourth Conference of the Ministers of Justice of Francophone African countries (Ouagadougou, Burkina Faso, 20-22 March 2007), the Central African Republic is in the process of moving ahead with the ratification of the universal instruments against terrorism and the incorporation of these instruments into domestic law. In order to reach this objective, draft laws modifying the Penal Code and Code of Penal Procedure have been prepared with the assistance of UNODC/TPB and would be submitted to the Council of Ministers in August 2007. These draft laws are currently in the process of proofreading for submission to the National Assembly.

The draft law amending the Penal Code provides for the insertion of a new Chapter on “Terrorism” into the Penal Code, containing provisions, which incorporate the universal instruments against terrorism by criminalizing the following acts:

- Unlawful seizure of aircraft (Article 64)
- Offences against the safety of civil aviation (Art.65)
- Offences against the safety of airports (Art.66)
- Offences against the safety of maritime navigation and fixed platforms (Art.67)
- Taking of hostages (Art.68)
- Offences against internationally protected persons (Art.69)
- Offences committed with explosives or other lethal device (Art.70)
- Offences on the physical protection of nuclear material (Art.71)
- Nuclear terrorism (Art.72)
- Financing of terrorism (Art.73)
- Supplementary provisions (Art.74-77)
- Liability of legal persons (Art.78)

At the subregional level, the Central African Republic is also a member of CEMAC which has adopted Regulation No. 01/03-CEMAC-UMAC-CM adopted on 4 April 2003 on the prevention and suppression of Money-Laundering and Financing of Terrorism in Central Africa, and which contains provisions criminalizing the financing of terrorism as well as penalties and which is directly applicable in Central African Republic. Both offences in the draft Penal Code and the CEMAC regulation are identical, which will not pose difficulties for their application. In application of Article 25 of this Regulation, the Government adopted Decree No. 05042, of 22 February 2005, establishing the Financial Intelligence Unit, which aims at fighting money laundering and terrorism financing.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

At the Madrid Ministerial Round Table, the Government of the Central African Republic indicated that a draft Code of Penal Procedure would be prepared in order to incorporate the jurisdictional requirements set forth in the universal instruments against terrorism.

According to Articles 290 ss. of the existing Code of Penal Procedure, National Courts have jurisdiction to try offences stemming from international treaties once they are legally ratified unless those treaties establish a different regime.

The current rules with regard to the jurisdiction of Central African Courts are set out at Book 3, Chapter 10 of the Central African Code of Penal Procedure of 1962:

Article 249

a) Any Citizen of the Central African Republic who has, outside of the national territory committed an offence considered a crime pursuant to Central African law may be prosecuted and judged by Central African Courts;

b) Any Citizen of the Central African Republic who has, outside of the national territory committed an offence considered a misdemeanour pursuant to Central African law may be prosecuted and judged by Central African Courts where the act is punishable by the legislation of the State in which it has been committed;

c) The provisions set forth at paragraphs a) and b) shall apply to the presumed author of the impugned acts who has acquired Central African citizenship following the commission of the acts he is alleged to have committed

I. Article 250

Whoever has, from within the national territory, acted as accomplice to a crime or misdemeanour committed abroad, may be prosecuted and judged by Central African Courts, if the alleged fact is punishable by virtue of both the foreign law and that of the Central African Republic, as long as the crime of misdemeanour has been established by a final judgement by the foreign jurisdiction.

Article 253

Shall be deemed to have been committed on the territory of the Republic, any offence for which a constituent act was committed in the Central African Republic.

Article 254

Any foreigner who, outside the territory of the Republic and acting as either perpetrator or accomplice, has committed a crime or misdemeanour jeopardizing the Security of the State or of counterfeiting the State Seal, national currencies having legal tender, may be prosecuted according to the laws of the Central African Republic if he is arrested in the Central African Republic or if the Government secures his extradition.

- Applicable extradition and mutual legal assistance mechanisms

As a Member of CEMAC, the Central African Republic is party to the Agreement on Extradition among CEMAC Member States (Cameroon, Central African Republic, Chad, Congo, Gabon and Equatorial Guinea). According to this agreement, every Member State may refuse the extradition of its nationals (Article 5(1)). However, any Member State refusing the extradition of one of its nationals must upon demand from the Requesting State, submit the matter to the competent authorities for prosecution (Article 5(4)) thus enshrining the principle *aut dedere aut judicare*. In addition, according to Article 24 of the Agreement, any contrary provisions of bilateral agreements governing extradition between Member States shall be deemed to be without effect.

The Central African Republic is also party to the 1999 CAEMU/CEMAC Agreement on Judicial Cooperation on Criminal Police Matters among Central African States

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(Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon and Sao Tome and Principe).

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

The Central African Republic has submitted one report to the CTC (S/2003/15 of 19 December 2002).

The Central African Republic has not yet submitted its report to the Al Qaida and Taliban Sanction Committee pursuant to Security Council resolution 1455 (2003) and has also yet to submit a checklist as required by Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

The Central African Republic received the following bilateral assistance from UNODC/TPB:

- National Workshop on the ratification and implementation of the universal instruments against terrorism (9-11 February 2004);
- Two UNODC Videoconferences with the support of the World Bank to follow-up the 2004 National Workshop and to finalize the draft new Penal Code to incorporate the universal instruments against terrorism into national legislation (14 June and 7 July 2006).

The Central African Republic has participated in the following regional conferences:

- Four Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);

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- Subregional Workshop for criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States (Libreville, Gabon, 7-9 April 2008).

b. Progress made since the beginning of the Global Project on Strengthening the Legal Regime against Terrorism (1 January 2003)

Since that date, the Central African Republic has ratified/acceded to the following instruments against terrorism:

- 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 (1979);
- 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).

Two draft laws modifying the Penal Code and Code of Penal Procedure have been prepared with the assistance of UNODC/TPB. These draft laws are currently in the process of proofreading for submission to the National Assembly.

8. CHAD

a. Overview

i. Status of ratification (4)

Chad has ratified/acceded to the following universal instruments against terrorism:

- 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);
- International Convention against the Taking of Hostages (1979).

ii. Status of legislative implementation

Article 222 of the Constitution states that “international treaties or agreements duly ratified have since the date of their publication a superior authority to that of national legislation, pending reciprocity”.

Criminal Legislation:

Although Chadian criminal law does not explicitly criminalize terrorism as such, certain general provisions of the Penal Code (1967) have integrated elements of some of the offences set forth in the universal instruments against terrorism. These include:

- Acts committed against the safety of civil aviation:

Article 340 - Anyone who, finding themselves onboard an aircraft in flight, and who by force or threat thereof seizes or takes control of the aircraft or attempts to seize or exercise control thereof shall be sentenced to 5- 10 years imprisonment [Regulation 15 of 23 September 1971]

- Acts committed by means of explosives or other lethal devices:

Article 337 – The voluntary destruction through a mine or any other explosive substance, of any inhabited premises or any premises destined for habitation, of buildings, vehicles, of public or private roadways and generally of all moveable or immovable objects shall be punished by [a life sentence of manual labour or in the case where the act has lead to the death of one or more persons, to death].

Article 338 – The placing, with criminal intent, on a public or private roadway of an explosive device shall be considered equivalent to attempted murder with premeditation. The persons guilty of the offences mentioned in the present article shall be exempt from punishment, if, before the consummation of these

offences, and prior to the initiation of any prosecution, they have informed the relevant authorities of the offence's planned commission and have divulged the identity of the perpetrators to these authorities or where prosecution has already been initiated, they have enabled the arrest of the other co-perpetrators.

- Taking of hostages:

Article 149 - Shall be punished with a term of forced labour those who, without orders issued by the competent authorities and outside the cases provided by law for the arrest of suspects, have taken custody of, detained or sequestered any persons whatsoever. Whoever has provided the use of a location to enable the detention or sequestration shall be liable to the same punishment.

- General provisions of the Penal Code (such as those relating to offences against persons) can be used to prosecute other acts of terrorism.

In addition, at the subregional level, 3 CEMAC regulations on terrorism financing and maritime navigation identify the applicable penalties and are directly applicable in all member states of CEMAC. Consequently, the offences contained in these regulations have to be regarded as an integral part of the national legal system.

- CEMAC Regulation No. 01/03-CEMAC-UMAC on the “prevention and repression of money laundering and terrorist financing in Central Africa” incorporating the offence of terrorist financing into national law;
- CEMAC Regulation No. 03/01-UEAC-088-CM-06 adopting a revised Community Code of Merchant Marine (adopted on 3 August 2001) incorporating the offences related to SUA Convention and Protocol of 1988 into national law;
- CEMAC Regulation No. 10/00/CEMAC-0626-CM-04 creating a Civil Aviation Code (adopted on 21 July 2000) incorporating the offences related to the safety of civil aviation into national law.

Finally, Chad elaborated a draft law to incorporate all universal instruments against terrorism during a UNODC/TPB Workshop in September 2008, which will undergo a process of validation before submission to the National Assembly.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The conditions for the exercise of jurisdiction by Chadian courts are set out by the Code of Criminal Procedure at Article 438:

Article 438 - Any Chadian, who has committed an offence outside the national territory which is qualified as a crime under Chadian law, may be prosecuted and sentences in Chadian jurisdictions.

Any Chadian, who has committed an offence outside the national territory which is qualified as a misdemeanour under Chadian law, may be prosecuted and sentences in Chadian jurisdictions if the act constitutes an offence under the law of the country in which it was committed. In the case of an offence against the security of the State, counterfeiting of the State seal or the national currency in circulation in Chad, the offence committed outside the territory of the Republic shall be punishable on the same basis as an offence committed in its territory. The provisions of this article are applicable to persons who have acquired Chadian citizenship only after the commission of the offence with which they are charged.

Article 439- Anyone who, in the territory of the Republic, has acted as an accomplice to a crime or offence committed abroad may be prosecuted and tried by Chadian courts, if the act is punishable under both Chadian and foreign law, if the criminal act has been certified by a final judgment issued by a foreign court.

Article 440- Any foreigner who outside of Chadian Territory has committed or has acted as accomplice to a crime or a misdemeanour which constitutes an offence against the security of the State, or of counterfeit of the State Seal, of currencies having legal tender in Chad, of national documents or of Chadian bank notes, may be prosecuted and tried according to the laws of Chad, if he is arrested in Chad or if the Government is able to secure his extradition.

Article 442- Is reputed to have been committed in Chad, any offence for which an act characterized as a defining constituent element has been accomplished in Chad.

- Applicable extradition and mutual legal assistance mechanisms

Title VI of the Code of Criminal Procedure establishes the legal regime applicable to extradition in Chad. One of the most relevant provisions within this Title with respect to the universal instruments against terrorism can be found at Article 443 which States:

Article 443- Notwithstanding contrary provisions stemming from treaties or diplomatic conventions, the conditions, the procedure and the effects of extradition are determined by the conditions set forth in this Title.

In circumstances not calling for the application of Article 443, the general provisions governing extradition is set out at Article 445:

Article 445- Pursuant to a request, the Government of Chad may surrender any non-citizen found within the national territory to a foreign government, where criminal proceedings have been initiated against that individual by the requesting State, or a conviction has pronounced against him by that State's

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courts. However, extradition shall only be granted if the offence giving rise to the request was committed:

Either on the territory of the requested State, whether by one of its nationals or a foreigner, or; Outside of its territory by one of its nationals, or; outside of its territory by a non-national of that State where the offence is one for which the laws of Chad authorize the exercise of jurisdiction by Chad, even where the offence was committed abroad by a non-national.

Chad is party to the following conventions and agreements regarding extradition:

- Convention of Tananarive of 1962;
- Agreement on Judicial Cooperation on Criminal Police Matters among Central African States (Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Gabon, Equatorial Guinea and Sao Tome and Principe), 1999;
- Convention on Mutual Legal Assistance among the members of the Central African Economic and Monetary Union (CAEMU-CEMAC), 2004;
- Convention on Extradition among members of the Central African Economic and Monetary Union (CAEMU-CEMAC) of 2004;
- Agreement on Mutual Legal Assistance with France on 6 March 2006.

Article 130 of the Code of Criminal Procedure provides the legal basis for Chadian authorities to transmit a request for legal assistance to foreign authorities according to international conventions.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Chad has submitted one report to the CTC (S/2003/388 of 25 March 2003).

Chad has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Chad has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Chad received the following bilateral assistance from UNODC/TPB:

- National Workshop on the ratification and implementation of the universal instruments against terrorism (6-10 June 2004);
- National Workshop on the ratification and legislative implementation of the universal instruments against terrorism (8-9 September 2008);
- National Training Workshop on international cooperation in criminal matters related to terrorism and on the implementation of obligations pursuant to Security Council resolution 1267 (10-12 September 2008).

Chad has participated in the following regional seminars:

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- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism, (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Workshop for criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States (Libreville, Gabon, 7-9 April 2008);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law', (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by UNODC/TPB and the International Organization of the Francophonie (27 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries, (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);
- Subregional Workshop for the training of criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States (Libreville, Gabon, 7-9 April 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

- Chad has ratified the International Convention against the Taking of Hostages (1979).

Finally, Chad elaborated a draft law to incorporate all universal instruments against terrorism during a UNODC/TPB Workshop in September 2008, which will undergo a process of validation before submission to the National Assembly.

9. CONGO (REPUBLIC OF THE)

a. Overview

i. Status of ratification (4)

The Republic of the Congo has ratified/acceded to the following universal instruments against terrorism:

- 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);
- International Convention for the Suppression of the Financing of Terrorism (1999).

ii. Status of legislative implementation

Article 184 of the Constitution of the Republic of the Congo states that “*international treaties or agreements duly ratified have since the date of their publication a superior authority to that of national legislation, pending reciprocity*”.

Criminal Legislation:

The Republic of the Congo has not yet enacted specific counter-terrorism legislation defining terrorist acts as a separate crime. However, in its first report to the Counter-Terrorism Committee (S/2002/1001), the Government claims that draft legislation to combat terrorism-related criminality has been prepared, including the following measures:

- Regulation of currency transfers;
- Monitoring of all transfers abroad;
- Prevention and suppression of terrorist acts;
- Implementation of all international conventions dealing with terrorism;
- Strengthened cooperation in combating terrorism; and
- Improved cooperation between the Department of Credit and Financial Affairs and other bodies involved in the fight against terrorism, such as the customs and tax authorities, the police and the judiciary.

Furthermore, in its second report to the CTC (S/2003/670), the Congo stated that measures are currently being taken for the establishment of a Standing National Counter-Terrorism Commission. It has been established since then under the name of National Committee of the Fight against Terrorism.

According to the report, this Committee will be the cornerstone of counter-terrorism measures and its principal tasks will be:

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- To draw up special counter-terrorism legislation through the preparation of draft laws on terrorism to introduce the provisions of the international conventions relating to terrorism into the Congolese legal system;
- To propose administrative standards to the Government;
- To follow up terrorism issues at the national and international levels;
- To draft national reports on counter-terrorism measures;
- To establish a legal database relating to terrorism.

At the Fourth Annual Conference of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism, in Ouagadougou, Burkina Faso (20-22 March 2007), the Congolese representative reiterated the importance of the Committee's ongoing work in the modernization and reform of the Congo's penal code in general as well as with specific regard to the incorporation of the universal instruments against terrorism.

Existing legislation in the Congo does contain a limited number of provisions which can be used to prosecute terrorist acts, specifically in the area of offences against civil aviation and maritime navigation.

- Act No. 007-90 of 30 August 1990, which establishes the applicable regulations for the safety of air transport;
- Decree No. 91-461 of 20 March 1991, which regulates conditions of access to and movement in Congolese airports;
- Decree No. 96-230 of 14 May 1996, which establishes and regulates the National Civil Aviation Safety Committee.

A number of aviation-related offences are also implemented through Law No. 006/91 of 16 May 1991 on the suppression of unlawful acts against the safety of civil aviation in the Republic of the Congo:

Article 10 - The following shall be considered accomplices in an offence against the safety of civil aviation and punished as such:

- *Anyone who, through gifts, promises, threats, abuse of authority or of power, plots or unlawful artifice commits such an offence or issues instructions for the commission thereof;*
- *Anyone who knowingly procures weapons and ammunition, instruments or any other object to be used in the commission of such an offence; and*
- *Anyone who knowingly aids or abets the perpetrator or perpetrators of the offence in the preparation or facilitation thereof."*

Such persons shall receive the same punishment as the main perpetrator of the offence.

The Penal Code also contains other provisions which can be used to prosecute terrorist acts:

- Association of malefactors (Article 265);
- Crimes against persons (Article 295 ss.);
- Destruction, degradation, damages (Article 434 ss.).

Similarly, the Code of Merchant Marine contains a series of provisions dealing with offences against maritime navigation.

In addition, according to the report submitted by the Congo to the CTC in 2002 (S/2002/1001), the recruitment to terrorist groups is a punishable offence in the Republic of the Congo, pursuant to Article 96 of the Penal Code:

Article 96 - Anyone who assumes command of an armed group or who plays any leadership or other role therein in order to invade the domains, properties, treasuries, squares, fortified towns, forts, warehouses, arsenals, ports, vessels or buildings belonging to the State; to steal from or divide property belonging to the public, the State or a group of citizens; or to attack or resist Government forces taking action against the persons responsible for these offences shall be sentenced to death.

The same sentence shall be imposed on anyone who commands such a group; recruits or orders recruitment to it; organizes or orders the organization thereof; knowingly or deliberately furnishes or procures weapons, ammunition or criminal instruments or sends supply convoys; or colludes in any other way with the leaders or commanders of such groups.

At the sub-regional level, the Congo is also a member of CEMAC/UMAC which has adopted Regulation No. 01/03-CEMAC-UMAC-CM 4 April 2003 on the prevention and suppression of Money-Laundering and Financing of Terrorism in Central Africa, and which contains provisions criminalizing the financing of terrorism as well as penalties, and which is directly applicable to the Congo.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The legal regime with respect to the exercise of jurisdiction by Congolese Courts is set out in the 1963 Code of Penal Procedure at Articles 610 ss.:

Article 610

- 1) Any Citizen of the Congo who has, outside of the national territory committed an offence considered a crime pursuant to Congolese law may be prosecuted and judged by Congolese Courts;*
- 2) Any Citizen of the Congo who has, outside of the national territory committed an offence considered a misdemeanour pursuant to Congolese law may be prosecuted and judged by Congolese Courts where the act is punishable by the legislation of the State in which it has been committed. With respect to misdemeanours jeopardizing the Security of the State or of counterfeiting the State Seal, national currencies having legal tender outside the national territory shall be punishable in the same manner as those committed within the national territory;*

- 3) *The provisions set forth at paragraphs 1) and 2) shall apply to the presumed author of the impugned acts who has acquired Congolese citizenship following the commission of the acts he is alleged to have committed*

II. Article 611

Whoever has, from within the national territory, acted as accomplice to a crime or misdemeanour committed abroad, may be prosecuted and judged by Congolese courts, if the alleged fact is punishable by virtue of both the foreign law and that of the Congo, as long as the crime of misdemeanour has been established by a final judgement by the foreign jurisdiction.

Article 614

Shall be deemed to have been committed on the territory of the Republic, any offence for which a constituent act was committed in the Republic of the Congo.

Article 615

Any foreigner who, outside the territory of the Republic and acting as either perpetrator or accomplice, has committed a crime or misdemeanour jeopardizing the Security of the State or of counterfeiting the State Seal, national currencies having legal tender, may be prosecuted according to the laws of the Republic if he is arrested in the Republic of the Congo or if the Government secures his extradition.

- Applicable extradition and mutual legal assistance mechanisms

Concerning the extradition of foreign nationals, Act No. 25/82 of 7 July 1982 (enacted on 19 October 1983) provides that: *'In the absence of a treaty or convention, the conditions, procedure and effects of extradition shall be determined by the provisions of this Act. This Act shall also apply to matters not regulated by treaties or conventions'*.

The legal foundation for judicial cooperation by the Congo is governed by both bilateral and multilateral legal instruments. Bilaterally, the Congo has concluded agreements with the Democratic Republic of the Congo, Cuba and France, with respect to legal and judicial cooperation. Similar agreements are in negotiation with Angola and the Russian Federation.

As a Member of CEMAC, Congo is party to the Agreement on Extradition among CEMAC Member States (Cameroon, Central African Republic, Chad, Congo, Equatorial Guinea and Gabon). According to this agreement, every Member State may refuse the extradition of its nationals (Article 5(1)). However, any Member State refusing the extradition of one of its nationals must upon demand from the Requesting State, submit the matter to the competent authorities for prosecution (Article 5(4)). In addition, according to Article 24 of the Agreement, any contrary provisions of

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bilateral agreements governing extradition between Member States shall be deemed to be without effect.

Congo is also party to the Tananarive Convention on Judicial Cooperation of 12 September 1961, which governs judicial cooperation between the Congo and the other African countries.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

The Congo has submitted four reports to the CTC (S/2002/1001 of 30 August 2002, S/2003/670 of 16 June 2003, S/2005/367 of 26 May 2005 and S/2006/282 of 12 April 2006).

The Congo has not submitted its report to the Al Qaida and Taliban Sanctions Committees pursuant to Security Council resolution 1455 (2003). The Congo requested an extension for the submission of the checklist required by Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

The Congo received the following bilateral assistance from UNODC/TPB:

- National Workshop on the ratification and legislative incorporation of the United Nations Convention against Transnational Organized Crime and its Protocols and the universal instruments against terrorism (5-9 July 2004);
- Videoconference for Congolese experts in charge of the reform of the penal legislation in order to finalize the legislative incorporation of the universal instruments against terrorism (12 May 2006).

Representatives from Congo participated in the following subregional and regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports

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to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);

- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);
- Subregional Training Workshop for criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States (Libreville, Gabon, 7-9 April 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, the Congo has ratified one universal instrument against terrorism:

- International Convention for the Suppression of the Financing of Terrorism (1999).

The Congo has established a National Committee with the mandate of reforming the Congolese Penal Code, in order to carry out the legislative incorporation of the universal instruments against terrorism. The Congo has also established the National Committee on the Fight against Terrorism.

10. CÔTE D'IVOIRE

- a. Overview
- i. Status of ratification (7)

Côte d'Ivoire has ratified/acceded to the following universal instruments against terrorism:

- 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);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

- ii. Status of legislative implementation

Pursuant to Article 87 of the Ivoirian Constitution, international conventions and treaties, once duly ratified, have a superior authority to national laws.

Criminal Legislation:

In its first report to the CTC (S/2002/75), the Ivoirian government itself acknowledged the fact that existing Ivoirian penal law, does not adequately address the issue of terrorism and underscored the necessity of sweeping legislative reform in order to rectify this problem in a manner that reflects what it termed the 'multifaceted and complex nature of terrorism'. In particular, in its second report to the CTC (S/2003/493), the Government of Côte d'Ivoire indicated its intent to enact comprehensive anti-terrorist legislation which defines terrorist offences and sets forth applicable sanctions. During a National Workshop in Abidjan (14-18 May 2007), with the assistance of UNODC, the drafting of a Law on the Repression of Terrorist Acts was initiated. The Draft Law was finalized on 26 July 2007.

Côte d'Ivoire has stated that it has been impeded in the ratification and legislative incorporation process by the political tensions that have affected the country in recent years. Ivoirian legal experts have however observed during UNODC workshops, that existing legislation does allow for the prosecution of certain terrorist acts identified in the universal instruments against terrorism. These measures, as identified by Côte d'Ivoire, are as follows:

- Art. 415 of the Penal Code of 31 August 1981 (P.C.) which prohibits the hijacking of aircraft, as well as attempted hijacking;

- Art. 423 ss. P.C. which criminalize the ‘degradation or destruction’ by any means of a building, ship, aircraft, bridge, roadway, construction, installation, and which may partially be used to prosecute unlawful acts committed against civil aviation, maritime navigation and terrorist bombings; acts of nuclear terrorism;
- Art. 373 P.C. which applies to the taking of hostages;
- Titles II (‘sentences and security measures’) and III (‘Of Penal Responsibility’) P.C. dealing with murder, assassination and assault against ‘persons in general’ may be used for offences committed against diplomatic agents (without however specifically recognizing the fact that the crime is committed against a diplomat as an aggravating factor);
- Art. 97 P.C. provides the possibility for legal/moral persons to be held criminally responsible but only where specific legal provisions to this effect exist;

Ivoirian Law recognises incitement at Article 28 P.C.: ‘Anyone who, knowingly and without ambiguity, incites a third party through one of the means enumerated at Article 27 to commit a crime of a misdemeanour, shall be punished as the primary author of this crime or misdemeanour even if it has not been attempted or committed.’

- Article 27 of the Penal Code, which makes the co-perpetrator and accomplice to an assault liable to the same punishment as the primary or actual perpetrator, stipulates that an accomplice to a criminal offence is a person who, without playing a direct or decisive role in its realization:
 - Issues instructions for its commission or is involved in its realization by means of gifts, promises, threats, abuse of authority or power or illicit plotting or ruses;
 - Procures any item for the purposes of the act, such as a weapon, tool or piece of information;
 - Knowingly aids or abets the perpetrator or co-perpetrator of the offence, whether directly or indirectly.
- Law No. 98-749 of 1998-12-23 *on the Repression of Violations to Applicable Legislation Governing Firearms, Ammunition and Explosives* of 23 December 1998, which criminalizes the production of weapons and ammunition without administrative authorization and sets out the corresponding penalties.

Paragraph 1(c) of resolution 1373 (2001) requires UN Member States to enact measures which enable them to freeze funds and other financial assets or economic resources of persons who ‘commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts [...]’. Although, Côte d’Ivoire’s existing legislation does not specifically provide for the freezing of assets, the Country has declared its readiness to do so on the basis of its international obligations (S/2003/493). In addition, as a member of WAEMU, Côte d’Ivoire is also bound at the regional level by Regulation No. 14/2002/CM on the freezing of funds linked to terrorist activities, adopted in 2002, which is directly applied in all its Member States.

In addition, Côte d'Ivoire is bound by Directive No. 07/2002/CM/UEMOA on the fight against money laundering, adopted in Cotonou, Benin, on 19 September 2002 (particularly Articles 36, 37, 39, 40, 41, 42 and 43), imposing an obligation on Member States to adopt a uniform law against money laundering as well as to establish a 'Financial Intelligence Unit' (FIU).

Also, banks and financial institutions are required to report monthly to the Ministry of the Economy and Finance and BCEAO on transactions affecting the monitored accounts under Article 42 of the Banking Act (No. 90-589 of 25 July 1990). Failure to fulfil this reporting obligation constitutes a violation of Article 42 of the Act and carries the penalties established in Articles 52 and 54 thereof.'

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The grounds for jurisdiction under Ivoirian criminal law are set out at Articles 15 ss. of the Ivoirian Penal Code which stipulates that the Code applies to infractions committed: (1) within the territorial borders of the Republic; (2) within the territorial waters of Côte d'Ivoire; (3) in the airspace directly above either the territory or the territorial waters; (4) onboard naval vessels and airplanes registered in Côte d'Ivoire.

This territorial jurisdiction is however subject to an important caveat applicable to offences committed in Ivoirian territorial waters or airspace. Thus, in order for the Penal Code to apply to members of the crew or passengers for crimes committed aboard a foreign ship or aircraft, one of the following conditions must be met: (1) intervention on the part of the Ivoirian authorities must have been requested; (2) the offence must have disrupted public order, or; (3) the author or the victim of the offence must be Ivoirian nationals.

Pursuant to Article 16, the Penal Code also applies to offence committed partially or fully abroad under the conditions provided for by the Code of Criminal Procedure (CCP). The relevant provisions of the CCP are Articles 658-665.

According to Article 658 of the CCP, Ivoirian Courts may exercise jurisdiction over any Ivoirian national having committed an act which constitutes a crime according to the Criminal law of Côte d'Ivoire. This rule also applies to the prosecution of misdemeanours but only in cases where the impugned act is also punishable under the laws of the country where it was committed (double criminality).

Pursuant to Article 659, Ivoirian courts may exercise jurisdiction over any individual who has acted as an accomplice in Côte d'Ivoire for an offence committed abroad, if the alleged conduct was also illegal in the country in which it was actually committed and where the existence of the offence has been subject to a final decision by the competent courts of that jurisdiction.

In addition, Article 662 of the CCP establishes that an offence is reputed to have been committed in Côte d'Ivoire if one of the offence's constituent elements has been carried out in Côte d'Ivoire.

In accordance with Article 663 of the CCP, a foreign national who while abroad has engaged in an offence against Ivoirian State Security or an act of forgery of the State Seal or of national currency can be prosecuted according to the laws of Côte d'Ivoire or those applicable in Côte d'Ivoire, if that individual has been arrested in Côte d'Ivoire or if the Ivoirian Government has been able to secure his extradition.

- Applicable extradition and mutual legal assistance mechanisms

The exchange of information and cooperation in administrative and judicial matters are carried out in accordance with the conventions on mutual assistance in judicial matters as well as in the context of diplomatic courtesy. Côte d'Ivoire has signed a series of sub-regional bilateral and multilateral conventions in the field of administrative and judicial assistance that allow it to assist other States to combat acts of terrorism:

- The 1962 Convention among the 12 members of the African and Mauritian Common Organization (OCAM);
- The 1964 Convention on cooperation in judicial matters between France and Côte d'Ivoire;
- The 1994 ECOWAS Conventions on Mutual Assistance in Criminal Matters and on Extradition.

All of these instruments contain provisions which forbid extradition for politically motivated offences. Similarly, the general legal framework in Ivoirian law with regard to extradition is governed by the Law of 10 March 1927 which also contains a political offence exception to extradition. Despite this, Côte d'Ivoire stated in its second report to the CTC (S/2003/493) that any person suspected of having committed terrorist acts would nevertheless be extradited.

According to its 2002 report to the CTC (S/2003/493), Côte d'Ivoire has also established a mechanism for rapid information exchange with other States. In 1997, it concluded a cooperation agreement with the United States of America, which led to the creation of a counter-terrorist unit.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Côte d'Ivoire has submitted two reports to the CTC (S/2002/75 of 3 January 2002 and S/2003/493 of 8 April 2003).

Côte d'Ivoire has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Côte d'Ivoire has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Côte d'Ivoire received the following bilateral assistance from UNODC/TPB:

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- Videoconference on the ratification and legislative implementation of the universal instruments against terrorism (24 January 2007);
- National Workshop on the ratification and implementation of the universal instruments against terrorism into Ivoirian law and the drafting of Côte d'Ivoire's third report to the CTC (15-17 May 2007) .

Representatives from Côte d'Ivoire have participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7 -9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004,);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by UNODC/TPB and the International Organization of the Francophonie (27 October 2005);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since 1 January 2003, Côte d'Ivoire has not ratified any further universal instruments against terrorism. However, Côte d'Ivoire has signed the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988) as well as the Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991) but has yet to ratify these instruments.

In its reports to the CTC as well as in its declarations on the occasion of the Ministerial Conferences of African Francophone Countries, the Government of Côte d'Ivoire has repeatedly reaffirmed its commitment to ratify all universal instruments

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against terrorism as well as to give full effect to this legal framework through the legislative incorporation of these instruments into Ivoirian law. Despite the political climate that has affected Côte d'Ivoire since 2002, legislative reform has been undertaken and there are efforts to complete the ratification and incorporation of the remaining universal instruments against terrorism.

11. DEMOCRATIC REPUBLIC OF THE CONGO

a. Overview

i. Status of ratification (7)

The Democratic Republic of the Congo has ratified/acceded to the following universal instruments against terrorism:

- 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);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- Convention on the Physical Protection of Nuclear Material (1979);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

ii. Status of legislative implementation

Article 215 of the Constitution of the Democratic Republic of the Congo states that: *'Regularly concluded international treaties and agreements have, from the time of their publication, greater authority than the law, on condition of reciprocity.'*

Criminal Legislation:

The Government of the Democratic Republic of the Congo acting through Legislative Decree no. 070/2001 of 26 December 2001 established a National Committee for Coordinating Efforts to Counter International Terrorism. This committee includes various Ministries such as Foreign Affairs and International Cooperation, Public Order, Interior, Justice and Defence.

The definition of terrorist acts according to Democratic Republic of the Congo law can be found in several distinct legislative texts. One of these texts is Act No. 04/016 of 19 July 2004 on money laundering and the financing of terrorism. In addition to creating a Financial Intelligence Unit, the main purpose of this Act is to define and criminalize the financing of terrorism, which it describes as follows at Article 2:

Article 2 – Constitutes the offence of the financing of terrorism the act of providing, collecting, amassing or managing in any manner whatsoever, whether directly or indirectly, funds, assets or property with the intent of seeing them used or with the knowledge that they will be used, in whole or in part, in order to commit an act of terrorism, whether or not such an act indeed occurs.

In addition to defining the offence of ‘the financing of terrorism’, Act No. 04/016 also contains a broader definition of ‘Terrorism’ contained at Article 3(8):

Article 3

[...]

(8) the term ‘terrorism’ designates acts which are committed through an individual or joint enterprise and which aim to seriously undermine public order through intimidation or terror, such as:

- (a) willful attacks on human life or physical integrity, abduction and confinement of persons and the hijacking of aircraft, ships or any other means of transport;*
- (b) theft, extortion, destruction, degradation and damage;*
- (c) the making, possessing, storing, acquiring and transferring lethal or explosive devices and appliances or other toxic biological weapons or weapons of war;*
- (d) the introducing into the atmosphere, on or beneath the surface of the ground or in the water of the Republic a substance that may endanger the health of human beings or animals or the natural environment.*

As the Democratic Republic of the Congo noted in its 2005 report to the CTC (S/2005/260), Act No. 024/2002 of 18 November 2002 on the Military Penal Code contains an enumeration of ‘terrorist offences’ at Articles 157 to 160 which reproduces verbatim, the definition given at Article 3(8) of Act No. 04/016.

In its report to the CTC S/2003/386 the Democratic Republic of the Congo also listed several provisions of its Penal Code, which can be used to prosecute acts of terrorism. These include:

- *conspiracy formed with the aim of committing an offence against persons or property (Article 156, Book II);*
- *murder and assassination (Article 45, Book II);*
- *arson (Articles 103 to 109) ;*
- *willful destruction (Articles 10 to 113) .*

Concerning the supply of weapons to terrorists, the S/2003/386 report to the CTC highlights that Article 2 of the Decree of 21 February 1950 incorporated in the supplementary penal provisions of the Penal Code, Title II, section 1, establishes a control by government agencies on imports and exports of weapons.

Article 2 – ‘Importing, storing in public warehouses, State powder magazines and general warehouses, removing from such premises, transporting, trafficking in, possessing, lending or leasing, giving, abandoning or selling firearms or their parts and components or ammunition or its parts or components shall require the prior authorization of the President of the Republic or of an official to whom the power is delegated. The conditions under which authorization is granted shall be determined by the President of the Republic, subject to the provisions of this decree.’

In addition, according to the Minister of Justice of Democratic Republic of the Congo speaking at the Fourth Conference of the Ministers of Justice of African Francophone Countries on the ratification and legislative implementation of the universal instruments against terrorism (Ouagadougou, Burkina Faso, 20-22 March 2007), the Constitution of the Democratic Republic of the Congo has been modified to criminalize terrorist activities on the territory of the Republic.

Article 52 (b) No individual or group of individuals, may use any part of the national territory as a base for subversive or terrorist activities against the Democratic Republic of the Congo or any other State.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The legal framework governing the exercise of jurisdiction by the Courts of the Democratic Republic of the Congo is set forth at Article 3 of the Penal Code, which provides that:

Article 3- Anyone who has committed an offence, outside the territory of the [the Democratic Republic of the Congo] and for which [Democratic Republic of the Congo] law provides a sentence of imprisonment exceeding tow months, may be prosecuted and judged in [the Democratic Republic of the Congo], except with regard to legal provisions governing extradition.

[...]

Except where provided for by title VIII and the two first sections of Title of the Second Book of the penal Code, the prosecution can only proceed if the indicted individual is present on the national territory.

- Applicable extradition and mutual legal assistance mechanisms

The current rules with regard to extradition are set out at Articles 57 ss. of the Act no. 04/016 of 19 July 2004 on money laundering and financing terrorism:

Article 57 – [...] In the absence of an extradition treaty or of any applicable legal provisions, extradition shall be carried out according to the procedure and in conformity with the principles defined in the ‘Model Extradition Treaty’ adopted by the General Assembly in its resolution 45/116.

Article 58 – For the application of the current law, extradition shall only be carried out if the offence concerned is defined and punished by the law

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of the requesting States and in that of the Democratic Republic of the Congo.

According to Article 59, extradition will not be granted in the following circumstances:

- If the offence for which extradition was requested is political in nature or if the request was made for political reasons;
- If there are serious reasons to believe that the extradition request was submitted with the aim of prosecuting or punishing someone because of his race, religion, citizenship, ethnic origin, political opinions, sex or status;
- If a final judgment has been rendered before one of the courts of the Democratic Republic of the Congo with respect to the offence underlying the request;
- If the offence can no longer be prosecuted in either the requested or the requesting State due to the passage of time, the granting of an amnesty or for any other reason;
- If the requested individual would be subject to torture or other forms of cruel, inhuman or degrading treatments or if he would not be granted the minimum rights set forth at Article 14 of the International Covenant on Civil and Political Rights;
- If a judgment rendered in the requesting State was made in the absence of the requested individual and if that individual was not notified within a time frame which would allow him to make suitable arrangements to ensure his defense.

At the subregional level, the Democratic Republic of the Congo has signed judicial cooperation conventions with several countries in the region, in particular the Convention of 31 June 1975 with Burundi and Rwanda and the Convention of 12 April 1978 with the Republic of the Congo.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

The Democratic Republic of the Congo has submitted five reports to the CTC (S/2001/1331 of 27 December 2001, S/2003/386 of 6 March 2003, S/2005/260 of 28 March 2005, S/2008/58 of 20 February 2008 and S/2008/59 of 2 January 2008).

The Democratic Republic of the Congo has submitted its report to the Al Qaida and Taliban Sanctions Committee (S/AC.37/2005/(1455)/7 of 27 June 2005 and an addendum 1 of 6 February 2008) pursuant to Security Council resolution 1455(2003) and has also submitted its checklist on 28 February 2006 as required by Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

The Democratic Republic of the Congo received the following bilateral assistance from UNODC/TPB:

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- National Workshop on the ratification and implementation of the universal instruments against terrorism and the United Nations Convention against Transnational Organized Crime and its three Protocols (31 March- 4 April 2003);
- National Workshop to follow-up on the ratification and implementation of the universal instruments against terrorism (6-9 December 2005);
- Videoconference to follow-up on the legislative incorporation of the universal instruments against terrorism and to provide legal analysis of the counter-terrorism draft law (12 October 2006).

Representatives from the Democratic Republic of the Congo participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Subregional Training Workshop on international cooperation in criminal matters relating to terrorism and its financing for experts of the Common Market of Eastern and Southern Africa (COMESA) (Djibouti, 14-16 March 2006);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Regional Workshop for SADC Member States for the training of criminal justice officials on international cooperation in the fight against terrorism and its financing (Windhoek, Namibia, 5-7 December 2006);
- Subregional Workshop on the preparation of responses by Southern African countries to the United Nations Security Council Committees dealing with counter-terrorism (Gaborone, Botswana, 28-29 November 2007);
- Subregional Training Workshop for criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States (Libreville, Gabon, 7-9 April 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, the Democratic Republic of the Congo has ratified/acceded to the following instruments against terrorism:

- Convention on the Physical Protection of Nuclear Material (1979);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

In addition, the Democratic Republic of the Congo has adopted a law (No. 06/008 of 12 June 2006) authorizing the ratification of the *International Convention for the Suppression of Acts of Nuclear Terrorism*.

Furthermore, the Democratic Republic of the Congo has adopted Act No. 04/016 of 19 July 2004 relating to money laundering and the financing of terrorism, and has drafted a counter-terrorism bill, which was reviewed and finalized with UNODC on 12 August 2007.

12. EQUATORIAL GUINEA

a. Overview

i. Status of ratification (11):

Equatorial Guinea has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

ii. Status of legislative implementation

Criminal Legislation:

In its report to the CTC (S/2003/180), Equatorial Guinea noted that its existing criminal legislation is based on the Spanish Penal Code of 1963 as modified by law 3/1967 of 8 April 1967. According to the report, several articles in the Code can be used to prosecute terrorist acts. The examples cited by Equatorial Guinea are as follows:

- Article 260 ss., which incriminate the offence of terrorism, as well as contain definitions of offences constituting terrorist acts;
- Articles 554 and 547 which criminalize the destruction of aircraft, maritime vessels or trains;
- Article 480 criminalizes hostage taking;
- Article 254 sanctions the possession of firearms or ammunition without authorisation.

As noted by the Minister of Justice of Equatorial Guinea at the Fourth Conference of the Ministers of Justice of African Francophone Countries on the ratification and legislative implementation of the universal instruments against terrorism (Ouagadougou, Burkina Faso, 20-22 March 2007), the Government has created the National Commission for Codification with the mandate of modernising the country's penal law, including in the area of terrorism.

At the subregional level, Equatorial Guinea is bound by Regulation No. 01/03-CEMAC-UMAC-CM adopted on 4 April 2003 on prevention and suppression of money laundering and financing of terrorism in Central Africa that contains an offence criminalizing financing of terrorism as well as penalties and is directly applicable in Equatorial Guinea. In his address at the Ouagadougou Ministerial Conference, the Minister of Justice of Equatorial Guinea also noted that the country has taken steps to implement this Regulation, most notably through the creation of a Financial Intelligence Unit.

Procedural Criminal Legislation:

- Applicable extradition and mutual legal assistance mechanisms

As a Member State of CEMAC, Equatorial Guinea is party to the Agreement on Extradition among CAEMU/CEMAC Member States (Cameroon, Central African Republic, Chad, Congo, Gabon and Equatorial Guinea). According to this agreement, every Member State may refuse the extradition of its nationals (Article 5(1)). However, any Member State refusing the extradition of one of its nationals must, upon demand from the Requesting State, submit the matter to the competent authorities for prosecution (Article 5(4)). In addition, according to Article 24 of the Agreement, any contrary provisions of bilateral agreements governing extradition between Member States shall be deemed to be without effect.

Equatorial Guinea is also Party to the 1999 CAEMU/CEMAC Agreement on Judicial Cooperation on Criminal Police Matters among Central African States (Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Gabon, Equatorial Guinea and Sao Tome and Principe).

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Equatorial Guinea has submitted one report to the CTC (S/2003/180 of 11 February 2003).

Equatorial Guinea has not submitted its report to the Al Qaida Sanctions Committee pursuant to Security Council resolution 1455 (2003) and has also yet to submit its checklist pursuant to Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Equatorial Guinea has received the following bilateral assistance from UNODC/TPB:

- National Workshop on the legislative implementation of the universal instruments against terrorism and Security Council resolution 1373 (2001) and for the drafting of Equatorial Guinea's reports to the CTC (3-11 September 2005).

Representatives from Equatorial Guinea participated in the following regional and subregional activities:

- Three Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law', (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date Equatorial Guinea has ratified/acceded to the following instruments against terrorism:

- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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);

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- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

Equatorial Guinea stated in its report to the CTC (S/2003/180) that the Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991) had been ratified. However, it has not been deposited at the international level.

According to the statement made at the Madrid Ministerial Round Table by Equatorial Guinea, a National Commission in charge of reforming the Penal Code has been set up to incorporate the universal instruments against terrorism into national law. Furthermore, according to the statement made by the Minister of Justice of Equatorial Guinea as part of the Rabat Declaration, the reform of the Penal Code is currently under revision.

13. GABON

a. Overview

i. Status of ratification (11)

Gabon has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

ii. Status of legislative implementation

Criminal Legislation:

According to Gabon's first report to the CTC (S/2001/1219), the country's Council of Ministers adopted a decision in October 2001, to establish an *ad hoc* committee for the implementation of Security Council resolution 1373 (2001).

In this report, Gabon indicated that the Ministry of Foreign Affairs, Cooperation and the Francophonie recommended the initiation by the Government of a targeted legislative reform process aimed at amending the Criminal Code and the Code of Criminal Procedure to enable Gabon to suppress terrorism more effectively.

In its second report to the CTC in 2003 (S/2003/491), Gabon indicated that although the issue of terrorism was not addressed by its positive law, certain general provisions of existing Gabonese criminal law could nonetheless be used to prosecute acts of terrorism. The provisions invoked by Gabon in support of this affirmation are:

- Articles 61-74 which deal with offences against the State's internal and external security;

- Articles 193 and 194 which deal with conspiracy.

In addition to the above provisions cited by Gabon in its 2003 CTC report, it emerged during the UNODC workshop in 2006, that the Gabonese Penal Code also contains certain provisions including elements of the universal instruments against terrorism:

- Acts committed against the safety of civil aviation and maritime navigation (Book V, 'Crimes against Property'; Chapter XV, 'Destruction and Degradation of Goods', Article 328, 331 and 332);
- Taking of hostages (Book III, 'Of Crimes against Persons'; Chapter VI, 'Arbitrary Arrests and Detention', Article 250 ss.);
- Crimes against internationally protected persons including diplomatic agents (Book II, 'Crime against the Public Sphere', Chapter XI, 'Outrages and Acts of Violence committed against the depositories of Authority and Public Power, Article 159);
- Acts committed by means of explosives or other lethal devices (Book V, 'Of Crimes against Property'; Chapter XV, 'Destruction and Degradation of Goods', Article 327 ss.);
- General provisions can also be used to prosecute acts of terrorism(Book III 'Crimes against persons' and Book IV: 'Crimes against property').

In its 2003 report to the CTC (S/2003/491), Gabon specified that its legislation will be strengthened by two laws currently being drafted: the first bill on money laundering, and the second on combating the financing of terrorism.

In addition, at the subregional level, CEMAC regulations incorporate some of the offences set forth in the universal instruments against terrorism and identify the applicable penalties, and are directly applicable in all member states of CEMAC. Consequently, the offences contained in these regulations have to be regarded as an integral part of the national legal system:

- CEMAC Regulation No. 01/03-CEMAC-UMAC on the "prevention and repression of money laundering and terrorist financing in Central Africa" incorporating the offence of terrorist financing into national law;
- CEMAC Regulation No. 03/01-UEAC-088-CM-06 adopting a revised Community Code of Merchant Marine incorporating the offences related to Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation into national law;
- CEMAC Regulation No. 10/00/CEMAC-0626-CM-04 creating a Civil Aviation Code incorporating the offences related to the safety of civil aviation into national law.

In its 2001 report to the CTC (2001/1219), Gabon has indicated that that the Ministry for Economic and Financial Affairs has instructed banking establishments to monitor the movements of assets and currency with greater diligence, with the aim of tracking all types of direct or indirect financing of terrorist activities.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

In the report provided to UNODC in preparation for the Madrid Ministerial Round Table, Gabon stated that its courts have territorial jurisdiction as well as jurisdiction over offences committed by or against a Gabonese.

- Applicable extradition and mutual legal assistance mechanisms

According to its second report to the CTC (S/2003/491), Gabon has concluded bilateral agreements on extradition with France and Morocco (Convention on Mutual legal assistance, judgement exequatur and extradition, 1963). These two bilateral treaties are supplemented by the Tananarive Convention on judicial cooperation, which covers all the French-Speaking countries of West and Central Africa, including Madagascar, as well as the Extradition Agreement (2004) among the Member States of the Central African Economic and Monetary Union (CAEMU/CEMAC). Also in its 2003 CTC report, Gabon has noted that, the reference to “perpetrators of various offences” made in the above bilateral treaties would be interpreted so as to include acts of terrorism within the scope of application of the treaties despite the fact that none of these agreements make specific reference to terrorist acts.

With regard to mutual legal assistance, Gabon is party to:

- The Agreement on Judicial Cooperation on Criminal Police Matters among Central African States (Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Equatorial Guinea, Gabon and Sao Tome and Principe) of 1999;
- The Convention on Cooperation and Mutual Legal Assistance of 18 March 2006, adopted in Brazzaville by the Economic Community of Central African States (ECCAS/CEEAC);
- The Judicial Cooperation Agreement among the Member States of the Central African Economic and Monetary Union (CAEMU/CEMAC) of 2004.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Gabon has submitted three reports to the CTC (S/2001/1219 of 18 December 2001, S/2003/491 of 31 March 2003 and S/2007/163 of 15 March 2007).

Gabon has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Gabon has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Gabon received the following bilateral assistance from UNODC/TPB:

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- National Workshop on the ratification and implementation of the universal instruments against terrorism (14-16 November 2006);
- National Training Workshop for criminal justice officials on international cooperation in the fights against terrorism (10-11 April 2008).

Representatives from Gabon participated in the following regional conferences:

- Four Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius 25-27 October 2004; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by UNODC/TPB and the International Organization of the Francophonie (27 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);
- Subregional Training Workshop for CEEAC and CEMAC Member States for criminal justice officials on the financing of terrorism and money laundering (Libreville, Gabon, 7-9 April 2008).

b. Progress made since the beginning of the Global Project on Strengthening the Legal Regime against Terrorism (1 January 2003)

Since that date, Gabon has ratified/acceded to the following instruments against terrorism:

- International Convention against the Taking of Hostages (1979);
- Convention on the Physical Protection of Nuclear Material (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- International Convention for the Suppression of Terrorist Bombings (1997);

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- 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).

Gabon has finalized its draft law on counter-terrorism with the assistance of UNODC/TPB in October 2007.

14. GAMBIA

a. Overview

i. Status of ratification (6)

The Gambia has ratified/acceded to the following universal instruments against terrorism:

- 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);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988);
- Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991).

ii. Status of legislative implementation

Criminal Legislation:

The Gambia has enacted the Anti-Terrorism Act in 2002 and the Anti-Money Laundering Act in 2003 in order to implement Security Council resolution 1373. According to Gambia's 2003 report to the CTC (S/2003/434), the Anti-Terrorism Act of 2002 is intended to define and criminalize acts of terrorism as well as a wide range of support conducts, including the financing of terrorism.

'Acts of terrorism' are defined in the following general manner by Article 2 of the Anti-Terrorism Act:

Article 2:

[...]

"Act of terrorism" includes an act which -

- (a) may seriously damage a country or an international organization;*
- (b) is intended or can reasonably be regarded as having been intended to –*
 - (i) intimidate a population*
 - (ii) seriously destabilize or destroy the fundamental political, constitutional, economic or social structures of a country or any international organization, or*
 - (iii) otherwise influence a Government or an international organization;*
- (c) involves or causes, as the case may be –*
 - (i) attacks on a person's life which may cause death,*

- (ii) *attacks on the physical integrity of a person, including rape,*
- (iii) *forcible deprivation or taking of a person's property, with or without the use of arms, including armed robbery against an individual or group of persons;*
- (iii) *kidnapping of a person,*
- (iv) *extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss,*
- (v) *the seizure of an aircraft, a ship or other means of public or goods transport,*
- (vi) *the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons,*
- (vii) *the release of dangerous substance, or causing of fires, explosions or floods, the effect of which is to endanger human life, or*
- (viii) *interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;*
- (d) *is designed to disrupt any computer system or the provision of services directly related to communication infrastructure, banking and financial services, utilities, transportation or key infrastructure;*
- (e) *is designed to disrupt the provision of essential emergency services such as the police, civil defense and medical services; or*
- (f) *involves prejudice to public security or national defense;*

While the preceding Article broadly delineates the concept of ‘terrorist acts’, the individual offences are criminalized in subsequent provisions, which define them in greater detail and establish the applicable penalties.

Article 4 of the Anti-Terrorism Act criminalizes membership or participation in a ‘proscribed terrorist organization’, whereas the planning, participation and attendance of a ‘terrorist meetings’ are prohibited by Article 5 of Act.

In addition to direct perpetration, Article 66(1) and 66(2) of the Gambian Anti-Terrorism Act also recognize additional forms of participation in the commission of terrorist acts such as *conspiracy, attempt, aiding and abetting, incitement and abandonment*:

Article 66:

(1) A person who –

- (a) conspires to commit or attempts to engage in;*
- (b) aids, abets, counsels or procures, or is by an act or omission in any way directly or indirectly, knowingly concerned in, or party to; or*
- (c) incites any person to commit, or urges or encourages,*

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any conduct that constitutes an offence under this Act commits an offence and is liable on conviction to the same penalty as would be applicable if the person were convicted of the offence as a principal offender.

(2) For the purposes of subsection (1) –

- (a) a person is guilty of conspiracy if –*
 - (i) the person entered into an agreement with any other person or persons that one or more of them would commit the agreed offence, or*
 - (ii) the person and at least one other party to the agreement intended that the offence would be committed, and*
 - (iii) the person or at least one other party to the agreement committed an overt act pursuant to the agreement;*
- (b) a person is not guilty of conspiracy if the person –*
 - (i) withdrew from the agreement,*
 - (ii) made a reasonable effort to prevent the commission of the agreed offence, and*
 - (iii) as soon as possible after withdrawing, reported the matter to the Police;*
- (c) a person may be guilty of conspiracy even though commission of the principal offence was impossible.*

The financing of terrorism is also addressed by the 2002 Anti-Terrorism Act at Article 11:

Article 11: Financing international terrorism

(1) A person who, willfully and unlawfully, directly or indirectly, provides or collects funds with the intention, or knowledge, that they will be used, in full or in part, in order to -

- (a) commit an offence under section 10;*
 - (b) do any other act intended to cause death or serious bodily injury to a civilian or any other person not taking an active part in the hostilities in a situation of armed conflict, civil strife or any other related terrorist activity, when the purpose of the act, by its nature or context, is to -*
 - (i) intimidate a population, or*
 - (ii) compel a Government or an international organization to do or abstain from doing any act,*
- commits an offence.*

[...]

(3) For an act to constitute an offence under subsection (1), it shall be necessary that the funds were actually used to commit the offence.

Pursuant to the inclusion of the taking of hostages under the definition of ‘terrorist acts’ set forth at Article 2, the substantive offence of hostage taking established at Article 15 of the Anti-Terrorism Act :

Article 15: Hostages

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(1) *A person who –*
(a) *seizes or detains; or*
(b) *threatens to kill, injure or continue to detain,*
another person as hostage, in order to compel a third party to do or
abstain from doing an act, as an explicit or implicit condition
for the release of the hostage, commits an offence.

(2) *A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term of not less than ten years and not more than thirty years.*

(3) *In this section, "third party" means a State, an international Governmental Organization, a natural or juridical person or a group of persons.*

According to its 2003 report to the CTC, The Gambia has also enacted the following legislation:

- The Financial Institutions Act of 2003 contains provisions for the regulation of financial institutions which provides at Section 24, for the seizure of a financial institution having conducted illegal banking transactions which includes those contrary to the Anti-Terrorism Act and Money Laundering Act;
- The Drug Control Act of 2002 aims at controlling and preventing drug trafficking, but also arms and sensitive materials;
- The Central Bank Act of 1992 which empowers the Central Bank to demand information from financial institutions regarding their operations (Section 37);
- The NGO Affairs Decree of 1980 approves and supervises the activities of charitable organizations, including inspection of their books and regulation of their activities.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The Penal Code of The Gambia (1933) establishes the Territorial application of the Code, in its Chapter 2.

Article 4: Extent of jurisdiction of courts of The Gambia

(1) *The jurisdiction of the courts of The Gambia for the purpose of this Code extends to every place within The Gambia.*

(2) *When an act, which if done within The Gambia, would be an offence against this Code, is done by a person in the service of the Government of The Gambia or any statutory body beyond the territorial limits of The Gambia, such person may be tried and punished under this Code in the same manner as if such an act had been done within The Gambia.*

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(3) When an act which, if wholly done within the jurisdiction of the Court, would be an offence against this Code, is done partly within and partly beyond the jurisdiction, every person who within the jurisdiction does or makes any part of such act may be tried and punished under this Code in the same manner as if such act had been done wholly within the jurisdiction.

In addition, the conditions for the exercise of jurisdiction for conspiracy to commit any of the offences falling within the purview of the Anti-Terrorism Act are set out at Article 66(3) ss. of that Act which state:

(3) A person, who, while in the Gambia, conspires with any other person to do anything referred to in subsection (1) in a place outside The Gambia that is an offence under the laws of that place shall be deemed to have conspired to do that thing in the Gambia.

(4) A person who, while in a place outside the Gambia, conspires with another person to do anything referred to in subsection (1) in the Gambia shall be deemed to have conspired in the Gambia to do that thing.

(5) Where a person is alleged to have conspired to do anything that is an offence by virtue of subsection (3) or (4), proceedings in respect of that offence may, whether or not that person is in the Gambia, be commenced in the Gambia, and the accused may be tried and punished in respect of that offence in the same manner as if the offence had been committed in the Gambia.

(6) Where a person is alleged to have conspired to do anything that is an offence by virtue of subsection (3) or (4) and that person has been tried and dealt with outside the Gambia in respect of the offence in such a manner that, if the person has been tried and dealt with in the Gambia, he or she would be able to plead autrefois acquit, autrefois convict or pardon, the person shall be deemed to have been so tried and dealt with in the Gambia.

- Applicable extradition and mutual legal assistance mechanisms

The Anti-Terrorism Act contains provisions related to extradition and mutual legal assistance (Part VI. Sections 39 to 47). In particular, it allows the expeditious extradition of a person suspected of terrorism offences.

In its report to the CTC, Gambia has indicated the existence of a bilateral arrangement with Senegal on the exchange of information on security matters. In addition, Gambia has also mentioned cooperation agreements in judicial and criminal investigation matters with Algeria, France, Mauritania, Morocco, Nigeria, Senegal and the United States of America.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

The Gambia has submitted one report to the CTC (S/2003/434 of 10 April 2003).

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The Gambia has submitted its report (S/AC.37/2004/(1455)/12 of 8 March 2004) to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). The Gambia has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

The Gambia received the following bilateral assistance from UNODC/TPB:

- National Expert Workshop on the ratification and implementation of the universal instruments against terrorism, organized by UNODC/TPB in coordination with the Ministry of Interior (12-19 December 2004);
- National Workshop on training and capacity building to counter money laundering and financing of terrorism (15-17 June 2005).

Gambian representatives participated in the following regional conferences:

- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, no instrument has been ratified/acceded to by Gambia. In its statement at the Madrid Ministerial Round Table, Gambia reported that three instruments have been ratified; however, they have not yet been deposited. These instruments are the following:

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- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);
- International Convention for the Suppression of Terrorist Bombings (1997).

Gambia enacted an Anti-Terrorism Act in 2003, and has received suggestions for amendment by UNODC (15-17 June 2005).

15. GHANA

a. Overview

i. Status of ratification (12)

Ghana has ratified/acceded to the following instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

ii. Status of legislative implementation

Criminal Legislation:

In its 2002 CTC report (S/2002/708), Ghana committed itself to review its national legislation (including the Criminal Code 1960 Act 29) in order to incorporate the universal instruments against terrorism into domestic law; to expedite action on the proposed adoption of a draft Anti-Terrorism Law and to freeze funds and other financial assets or economic resources of persons who commit, or attempt to commit terrorist acts or facilitate the commission of terrorist acts.

In its second report to the CTC (S/2005/166), Ghana reported having initiated the legislative reform process mentioned in its 2002 report and that the Ghanaian Ministry of Justice was in the midst of drafting an Anti-Terrorism Bill.

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According to the Office of the Attorney General and Minister of Justice on 15 April 2006, the draft Anti-Terrorism Law has been brought before the Parliament for approval.

The draft Anti-Terrorism Law defines and criminalizes terrorist acts in Sections 1 and 2, *inter alia* through a referral to the universal instruments against terrorism ratified by Ghana:

1. *Prohibition of terrorist act*

(1) *A person shall not engage in a terrorist act.*

(2) *A person who engages in a terrorist act commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not exceeding twenty-five years.*

2. *Meaning of terrorist act*

(1) *A terrorist act is an act or threat of action in or outside the Republic, which constitutes an offence within the scope of an international counter terrorism convention to which the Republic is a party.*

(2) *Any of the following acts effected or performed in furtherance of a political, ideological, religious, racial, ethnic reason or for any other reason constitutes a terrorist act, these include, an action which*

(a) *involves serious bodily harm to a person;*

(b) *involves serious damage to property;*

(c) *endangers a person's life;*

(d) *creates a serious risk to the health or safety of the public;*

(e) *involves the use of firearms or explosives;*

(f) *involves the exposure of the public and the release into the environment of:*

i. *dangerous, hazardous, radioactive or harmful substances;*

ii. *toxic chemicals; or*

iii. *microbial or other biological agents or toxins;*

(g) *is prejudicial to national security or public safety;*

(h) *is designed or intended to disrupt a computer system or the provision of services directly related to communications, infrastructure, banking or financial services, utilities, transportation or other essential infrastructure; or*

(i) *is designed or intended to disrupt the provision of essential services.*

(3) *A terrorist act is also an act, which is intended or by its nature and context may reasonably be regarded as being intended to*

(a) *intimidate the public, or*

(b) *compel a person, a government or an international organization to do or refrain from doing an act, and is made to advance a political, ideological or religious cause.*

Additionally the draft Anti-Terrorism Law contains provisions addressing the following areas:

- Terrorist financing (Sections 6-8);

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- Provisions for the crime of support and incitement of terrorist offences (Sections 6-18);
- Incitement to commit a terrorist act (Section 16);
- Support of a terrorist group (Section 18);
- Specified terrorist entities (Section 19);
- Search, seizure and forfeiture of property of parties suspected of having committed offences under the Bill (Sections 24-33);
- Freezing, seizing and confiscation terrorist funds (Sections 26-33);
- The power to refuse refugee applications if there are reasonable grounds to believe the person has been or will be involved in the commission of terrorist acts (Section 37).

In its second CTC report (S/2005/166), Ghana noted that Anti-Money-Laundering and Proceeds of Crime legislation was in preparation by the Attorney General's Department of the Ministry of Justice in conjunction with the Ministry of Finance and the Ministry of Interior. The Anti-Money Laundering Act was adopted in March 2007.

According to its 2002 report to the CTC (S/2002/708), the Government of Ghana has also established a Counter-Terrorism Intelligence Centre, under the National Security Council in October 2001 with the mandate of conducting counter-terrorism intelligence activities and gathering information/intelligence received from all sources against all forms of criminal activity.

Procedural Criminal Legislation

- Applicable grounds for jurisdiction

The draft Anti-terrorism Law establishes in its Section 5 that:

The High Court has jurisdiction for an act which constitutes an offence committed outside the country if the act constitutes an offence in this country where:

- a) the person committing the act is:*
 - i. a citizen of Ghana;*
 - ii. not a citizen of Ghana but is ordinarily resident in this country;*
- b) the act is committed to compel the Government to do or refrain from doing an act;*
- c) the act is committed against a citizen of Ghana;*
- d) the act is committed against property outside the country that belongs to the Republic; or*
- e) the person who commits the act is after its commission, found present in Ghana.*

- Applicable extradition and mutual legal assistance mechanisms

At the bilateral level:

Ghana has an extradition treaty with the United States of America (originally concluded between the United States of America. and the United Kingdom in 1931).

At the subregional level:

- ECOWAS Regional Convention on Extradition 1/PI/8/94, signed on 6 August 1994 in Abuja (ECOWAS, 1/PI/8/94);
- ECOWAS Regional Convention on Judicial Mutual Legal Assistance on Criminal matters, signed on 29 July 1992 in Dakar (ECOWAS/A/P1/7/92).

iii. Status of submission of reports to the United Nations Security Council Committees dealings with counter-terrorism

Ghana has submitted two reports to the CTC (S/2002/708 of 27 June 2002 and its additional comments (add.1) of 25 September 2002 and S/2005/166 of 14 April 2005).

Ghana has not submitted its report to the Al-Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Ghana has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Ghana received the following bilateral assistance from UNODC/TPB:

- UNODC/TPB reviewed the draft *Anti-Terrorism Law*, with respect to its conformity with the universal instruments against terrorism and sent a detailed analysis of the draft law to Ghanaian authorities on 22 January 2007.

Ghana representatives participated in the following regional conferences:

- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);

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- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date Ghana has not ratified/acceded to any instrument against terrorism.

Ghana has adopted an Anti-Money Laundering Act in March 2007.

The Draft Law on Anti-Terrorism has been drafted and submitted to the Parliament for approval.

16. GUINEA

- a. Overview
- i. Status of ratification (12)

Guinea has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

- ii. Status of legislative implementation

Article 79 of the Guinean Constitution stipulates that: *“Treaties or agreements which have been duly approved and ratified shall have from their date of publication a superior authority to that of laws, subject to reciprocity”*.

Criminal Legislation:

As outlined by the Guinean Government in its 2003 report to the CTC (S/2003/258), Articles 505 and 506 of the Penal Code list the offences considered as “acts of terrorism”.

Article 505

The following offences are acts of terrorism when they are connected to an individual or collective enterprise having the purpose of disturbing public order by intimidation or terror:

1. *Willful infringements on life, willful infringements on the physical integrity of the person, abduction and unlawful detention as well as the hijacking of aircraft, ships or any other means of transport;*
2. *Larceny, extortion, property destruction, defacement or deterioration as well as offences with respect to computerized data;*
3. *The manufacture, possession and use of lethal or explosive machines or devices;*
4. *The production, sale, importation or exportation of explosive substances;*
5. *The acquisition, possession, transport or illegal carrying of explosive substances or devices manufactured with the assistance of such substances;*
6. *The possession, carrying or transport of weapons and munitions of the first and fourth categories, as defined in article 2 of Act L/96/008 of 22 July 1996.”*

Article 506 - The introduction into the atmosphere, onto the ground or into water, including the water of Guinea’s territorial sea, of a substance likely to endanger the health of humans or animals or the natural environment, is also an act of terrorism when it is connected to an individual or collective enterprise having the purpose of seriously disrupting public order by intimidation or terror.”

Article 507 - Any terrorist act shall be punished by a sentence of 10 to 20 years’ imprisonment. Should such an act result in the death of one or more persons, the person or persons responsible shall be sentenced to the death penalty. Attempting to commit the crime set forth in this article shall be punished in the same way as the crime itself.

The Guinean Penal Code also provides for the exemption from punishment or the mitigation of the penalty imposed, if one of the authors of the offence abandons its perpetration or allows the relevant authorities to halt its commission or minimize its impacts.

Article 508- Any person who has attempted to commit an act of terrorism shall be exempt from punishment where, having alerted the competent administrative or judicial authority, they have allowed for the perpetration of the offence to be avoided and for the identification, if applicable, of the other parties to the offence.

Article 509- The penalty incurred by the author or the accomplice of an act of terrorism shall be that of imprisonment for a term of 5 to 10 years where, having alerted the competent administrative or judicial authority, they have made possible the cessation of the incriminated acts or have averted the loss of human life or the infliction of permanent disability or, if applicable, the identification of the other culprits. Where a fixed term sentence is provided for by law, the sentence shall be reduced to 5 years imprisonment. Persons found guilty of an offence, may also be forbidden from being present in the country for a period of 5 to 10 years and shall be forbidden from the exercise of any rights they may be entitled to.

In addition to the general definition of terrorism set forth in these provisions, the Guinean Penal Code also criminalizes, at least partially, specific acts described in the universal instruments against terrorism such as the taking of hostages:

Article 336 – In any case where a person, regardless of their age has been held, detained or sequestered as a hostage, either in order to prepare the commission of a crime or a misdemeanor, or to facilitate flight or insure the impunity of the authors or accomplices of a crime or misdemeanor, or to demand the payment of a ransom, the execution of an order or the fulfillment of a condition, the author shall be sentenced to death.

However, a term of imprisonment of 10 to 20 years shall constitute the applicable sentence, if the person who is held, detained or sequestered as a hostage is voluntarily released, without there having been execution of any order or fulfillment of any conditions, before the fifth day has elapsed between the holding, detention or sequestration.

The Guinean Penal Code criminalizes the commission of acts through the use of bombs or other explosive devices at Article 479:

Article 479 – The sentence shall be the same as those provided at Articles 477 and 478 [5-20 years], with respect to persons having knowingly destroyed in whole or in part, or attempted to destroy through the use of a mine or another explosive device, buildings, dwellings, dykes, roadways, ships, aircraft, boats, vehicles of any kind, warehouse or sites or any attached structures, bridges, public or private roadways and generally, all moveable or immovable objects, of any nature whatsoever.

The act of placing explosives in a public or private place with criminal intent shall be assimilated to that of attempted premeditated murder.

Article 480 – The threat of fire or destruction through the use of a mine or another explosive substance [...] shall be punished in the same manner as that provided for the issuance of death threats.

Chapter 5 of Act No. L/96/008 of 22 July 1996 on weapons, ammunition, powders and explosives also contains provisions, which governs their acquisition, possession, import, export, control and classification.

Chapter 5- Powders and explosives

Article 26: The production, import, export, sale and possession of explosive powders and substances intended for military use shall be subject to the authorization and control of the Minister of Defence.

The production, import, export, use, trading and possession of explosive powders and substances intended for small-scale use shall be subject to the authorization and control of the Minister of the Interior.

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Article 27 - The production, import, export, trading, use, transport and storage of explosive powders and substances shall be subject to an authorization by joint order of the Ministers of the Interior, Trade and Industry.

Article 28- The following shall be liable to one to five years' imprisonment and/or a fine of 200,000 to 300,000 Guinean francs:

1. Anyone who sells, exports, produces or imports any explosive powders or substances without authorization.

2. Anyone authorized to manufacture, acquire, transport or store explosives who has not declared the disappearance of some or all of such products to the police or gendarmerie within 24 hours of learning of the event.

When the authorized party is a legal person, the same penalties shall apply to its directors if they knew of the disappearance but failed to declare it within the time limit stipulated in this article.

The penalties provided for in this article may be doubled in the case of reoffenders. At the request of the administrative authority, the same ruling may also order the confiscation of the products being manufactured, imported, exported or sold and their means of production.

In addition, Act No. L/96/008 of 22 July 1996 on weapons, ammunition, powders and explosives also governs the acquisition, possession, import, export, control and classification of weapons other than explosives at Chapters 1 and 2.

Chapter 1

Manufacture of and trade in weapons and ammunition

Article 3- Any natural or legal person wishing to engage in the manufacture of or trade in material in categories 1 to 4 and category 5, must make a prior declaration to the Ministry of Defence and to the Ministry of the Interior, respectively. In both instances, a receipt shall be issued for the declaration.

Article 6- The export, under any customs regime, without authorization, of war material and analogous material, is prohibited.

Article 8- Anyone who engages without authorization in the manufacture of or trade in war material or defence weapons and ammunition or who acts as an intermediary or publicity agent for enterprises not authorized to do so shall be liable to one year's imprisonment and a fine of 500,000 to 1 million Guinean francs. The offence may be reported by customs and excise officers, officers of the police and gendarmerie and compliance officers.

Chapter 2

Acquisition and possession of weapons and ammunition

Article 9- The acquisition and possession without authorization of weapons and ammunition in categories 1, 2, 3, 4 and 5 is forbidden.

Article 11- Category 1 weapons and ammunition and their spare parts are reserved for the armed forces and other services responsible for national defence.

The acquisition and possession by civilians of such weapons and ammunition

or spare parts is prohibited.

The acquisition, possession and use of such weapons, ammunition and spare

parts by military or paramilitary officers shall be governed by special provisions.

Article 12- The development, manufacture, possession, stockpiling, acquisition and transfer of biological agents, other agents and toxins whatever their origin and mode of production and in such types and in quantities as are not intended for preventive or protective purposes or for other peaceful purposes are prohibited.

It is forbidden to incite or assist in any manner any State, enterprise, organization, group or individual to engage in the acts referred to in paragraph 1. Violations of the provisions of this article shall be punishable by three to four years of imprisonment and/or a fine of 200,000 to 800,000 Guinean francs.

Upon conviction, the court shall order the confiscation, with a view to their destruction, of the agents or toxins listed in this article. It may also order the temporary or permanent, complete or partial closure of the establishment where such agents or toxins were developed, manufactured, held or stockpiled; and order the confiscation of the equipment used to develop, manufacture, hold or stockpile such agents or toxins. The court may ban, for a period not exceeding five years, the convicted person from engaging in the activity which served as a cover for the commission of the offence.

Guinea has also noted that several existing provisions of the Penal Code can be used to prosecute support conducts to terrorist acts. As identified by the Guinean Government (S/2002/276), these include:

- *Any person who by donations, promises, abuse of authority and power, intrigues or plots, incites a terrorist act or gives instructions for it to be committed (Article 54.2);*
- *Any person who obtains weapons, instruments or any other means that are used for the act, knowing that they are to be used for it (Article 54.3);*
- *Any person who, with full knowledge, helps or assists the main perpetrator or the perpetrators of the act directly, in preparing, facilitating or carrying it out, without prejudice to the penalties established in special texts (Article 54.4);*
- *Any person who, aware of the criminal conduct of those who carry out attacks or acts of violence against State security, the public order, individuals or property, provides them with accommodation, a meeting place or a place to hide (Article 54.5).*

Guinea has also initiated a process of legislative reform aimed at the legislative incorporation of the universal instruments against terrorism into national law and has prepared two draft bills amending the Penal Code and the Code of Penal Procedure and which are before the National Assembly.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The provisions relevant to the exercise of jurisdiction by Guinean Courts can be found at Article 625 ss. of the Guinean Code of Penal Procedure:

Article 625

Any Citizen of Guinea who has, outside of the national territory committed an offence considered a crime pursuant to Guinean law may be prosecuted and judged by Guinean Courts;

Any Citizen of Guinea who has, outside the national territory committed an offence considered a misdemeanor pursuant to Guinean law may be prosecuted and judged by Guinean Courts where the act is punishable by the legislation of the State in which it has been committed;

The provisions set forth at the preceding paragraphs shall apply to the presumed author of the impugned acts who has acquired Guinean citizenship following the commission of the acts he is alleged to have committed.

Article 626

Whoever has, from within the national territory, acted as accomplice to a crime or misdemeanour committed abroad, may be prosecuted and judged by Guinean Courts, if the alleged fact is punishable by virtue of both the foreign law and that of the Guinean, as long as the crime of misdemeanour has been established by a final judgement by the foreign jurisdiction.

Article 629

Shall be deemed to have been committed on the territory of the Republic, any offence for which a constituent act was committed in the Guinean.

Article 630

Any foreigner who, outside the territory of the Republic and acting as either perpetrator or accomplice, has committed a crime or misdemeanor jeopardizing the Security of the State or of counterfeiting the State Seal, national currencies having legal tender, may be prosecuted according to the laws of Guinea if he is arrested in Guinea or if the Government secures his extradition.

- Applicable extradition and mutual legal assistance mechanisms

The current rules with regard to extradition are set out at Articles 653 et sq. of the Code of Criminal Procedure, as follows:

Article 653 - In the absence of treaties, the conditions, procedure and effects of extradition shall be determined by the provisions of this Code, which shall also apply to aspects not expressly governed by the said treaties.

Article 654 - No one may be surrendered to a foreign Government if he has not been prosecuted or sentenced for one of the offences provided for in this Code.

Article 655 - The Guinean Government may, on the basis of reciprocity, surrender to foreign Governments at their request any non-Guinean in the territory of the Republic who is the subject of a proceeding instituted on behalf of the requesting State or an enforceable sentence handed down by its courts.

Article 656 - The acts which may give rise to the request for or granting of extradition are as follows:

- 1. All acts punishable by serious penalties under the law of the requesting State;*
- 2. Acts punishable by correctional penalties under the law of the requesting State where the minimum sentence is two or more years, or, if the person has already been convicted, where the sentence handed down by the court of the requesting State is two or more months' imprisonment. In no case shall extradition be granted by the Guinean Government if the act is not punishable under Guinean law by a serious or a correctional penalty. Acts constituting attempt or collusion shall be subject to the foregoing rules provided that they are punishable under the law of both the requesting and the requested State.*

Article 657

Extradition shall not be granted:

- 1. If the individual named in the request is a Guinean national and was recognized as such at the time of the offence for which extradition is requested;*
- 2. Where the offence is of a political nature or where it can be inferred from the circumstances that extradition is being requested for political purposes; Acts committed during an insurrection or a civil war by one or more of the parties to the struggle on behalf of their cause shall not give rise to extradition unless they constitute acts of abhorrent barbarism and vandalism which are prohibited under the laws of war, and then only after the civil war has ended;*
- 3. If the crimes or offences are committed in Guinea;*

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4. *If the crimes or offences, although committed outside Guinea, have been prosecuted there and final sentence has been pronounced;*
5. *If, under the laws of the requesting or the requested State, the right of action has become time-barred prior to the request for extradition or to the arrest of the person sought and, in general, whenever the public right of action is extinguished.*

Article 658

If extradition is requested concurrently by several States for a single offence, it shall be granted, with preference given to the State against whose interests the offence was committed or to the one in whose territory it was committed. If concurrent requests concern different offences, account shall be taken, in assigning priority, of all the circumstances, in particular, the relative seriousness of the offences and where they were committed, the respective dates of the requests and any commitment made by a requesting State to proceed with re-extradition.

Article 659

Subject to the exceptions provided for below, extradition shall be granted only on condition that the person extradited shall not be prosecuted or punished for an offence other than the one giving rise to extradition.

According to its 2003 CTC report (S/2003/258), Guinea has concluded bilateral treaties on extradition and mutual legal assistance with: Côte d'Ivoire, Liberia, Mauritania, Mali, Romania, Russian Federation, Senegal, Sierra Leone and Spain.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Guinea has submitted two reports to the CTC (S/2002/276 of 12 March 2002 and S/2003/258 of 3 March 2003).

Guinea has submitted the required report to the Committee concerning Al-Qaida and the Taliban pursuant to resolution 1455 (2003) of the Security Council (S/AC.37/2003/(1455)/78 of 20 October 2003). Guinea has not submitted the checklist pursuant to resolution 1617 (2005) of the Security Council.

iv. Status of technical cooperation with UNODC

Guinea received the following bilateral assistance from UNODC/TPB:

- National Workshop on the ratification and implementation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three additional Protocols (2-7 May 2004);

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- National Workshop to follow-up on the incorporation of the universal instruments against terrorism and transnational organized crime as well as the drafting of the third report to the CTC (8-10 November 2005);
- National Training Workshop for criminal justice officials on the international cooperation against terrorism (11-13 September 2007).

Representatives from Guinea participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by UNODC/TPB and the International Organization of the Francophonie (25 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Guinea has ratified/acceded to the following instruments against terrorism:

- 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 (1979);

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- 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 the Financing of Terrorism (1999).

Two draft laws amending the Penal Code and the Code of Penal Procedure in order to incorporate the universal instruments against terrorism are currently before the National Assembly.

17. GUINEA-BISSAU

a. Overview

i. Status of ratification (6)

Guinea-Bissau has ratified/acceded to the following universal instruments against terrorism:

- Convention for the Suppression of Unlawful Seizure of Aircraft (1970);
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- 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).

ii. Status of legislative implementation

Criminal Legislation:

In its report to the CTC (S/2003/361), Guinea-Bissau outlined the provisions in its criminal law, which can be used to prosecute acts of terrorism.

According to Guinea-Bissau, several of these provisions incorporate elements of the universal instruments against terrorism. The relevant provisions of the Penal Code of Guinea-Bissau (13 October 1993) quoted in the country's 2003 CTC report (S/2003/361) are as follow:

- Article 203, included within the Chapter on 'Crimes against Peace and Public Order', prohibits the promotion, establishment, financing and leading of a terrorist group or association and provides for a penalty of between 5 and 20 years imprisonment. In addition, 203(3) provides for a sentence of 3 to 15 years imprisonment for membership in terrorist groups or association or the commission or assistance in committing a terrorist act;
- Article 204 criminalizes the taking of hostages;
- Article 205 criminalizes the 'diversion or hijacking of a ship or aircraft';
- Article 206 criminalizes the illegal manufacturing, import, transport, selling or transfer of firearms, chemical weapons, ammunition or any form of explosives and establishes the appropriate penalty between 3 and 8 years imprisonment.

As further reported in Guinea-Bissau's 2003 CTC report, the competent authorities have prepared draft legislation on money-laundering and on trafficking in persons, which they consider as two potential sources of funding for terrorist acts. In her address at the Fifth Ministerial Conference of African francophone countries, the

Minister of Justice of Guinea-Bissau referred to these laws as having been approved, providing for 'administrative and judicial procedures that enable the freezing of bank accounts and other assets linked to persons suspect of connection with a terrorist network.' The Money-Laundering Law would further reverse the burden of proof in cases of suspicion that funds have been illegally obtained.

At the subregional level, Guinea-Bissau is bound by Directive No. 07/2002/CM/UEMOA on the fight against money laundering, adopted on 19 September 2002 (particularly Articles 36, 37, 39, 40, 41, 42 and 43), which imposes an obligation on Member States to adopt a uniform law against money laundering as well as to establish a 'Financial Intelligence Unit' (FIU). Regulation No. 14/2002/CM, on the freezing of funds linked to terrorist activities, adopted in 2002, is directly applicable in Guinea-Bissau.

Procedural Criminal Legislation:

- Applicable extradition and mutual legal assistance mechanisms

According to its report to the CTC (S/2003/361), Guinea-Bissau has signed bilateral agreements with several countries and was preparing to sign an agreement on legal and judicial cooperation within the framework of the Community of Portuguese-Speaking Countries (CPLP).

At the subregional level, Guinea-Bissau is also party to the following ECOWAS instruments:

- ECOWAS Regional Convention on Extradition 1/PI/8/94, signed on 6 August 1994 in Abuja (ECOWAS, 1/PI/8/94);
- ECOWAS Regional Convention on Judicial Mutual Legal Assistance on Criminal matters, signed on 29 July 1992 in Dakar (ECOWAS/A/P1/7/92).

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Guinea-Bissau has submitted one report to the CTC (S/2003/361 of 24 March 2003).

Guinea-Bissau has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Guinea-Bissau has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Guinea-Bissau has received the following bilateral assistance from UNODC/TPB:

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- Two National Workshops on the ratification and legislative implementation of the universal instruments against terrorism into national law (Bissau, 25 May-2 June 2002 and 17-20 November 2002);
- Videoconference to follow-up on the two national workshops held for the ratification and legislative implementation of the universal instruments against terrorism (12 January 2007);
- National Training Workshop for criminal justice officials on international cooperation in the fight against terrorism, in cooperation with Interpol and practitioners from Brazil and Italy, and the participation of officials from Guinea-Bissau (Praia, Cape Verde, 29-31 October 2007).

Representatives from Guinea-Bissau participated in the following regional conferences:

- Four Study Tours for Portuguese-speaking countries on the ratification and implementation of the universal instruments against transnational organized crime, terrorism and corruption (Lisbon, Portugal, 3-7 November 2003; Lisbon, Portugal, 31 October- 4 November 2005; Maputo, Mozambique, 13-16 November 2006; and Lisbon, Portugal, 22-25 October 2007);
- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

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Since that date, Guinea-Bissau has ratified/acceded to the following instruments against terrorism:

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- 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).

Furthermore, representatives of Guinea-Bissau have informed UNODC/TPB that the ratification at the international level of the Convention on the Physical Protection of Nuclear Material (1980) would be soon performed.

In October/2008, UNODC/TPB further facilitated the deposit of the Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963), Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988) and the Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991) with the International Civil Aviation Organization, as well as the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988) and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988) with the International Maritime Organization.

The Minister of Justice announced, during the videoconference which took place on 12 January, 2007, the creation of a committee to elaborate legislative projects and of an Inter-Ministerial Committee for the follow-up of international commitments.

At her address at the Fifth Conference of the Ministers of Justice of Francophone Countries (Rabat, Morocco, 12-16 May 2008), the Minister of Justice recognized the need to establish legal mechanisms to fight the financing of terrorism, to build capacity of criminal justice officials and to develop bilateral and multilateral mechanisms of cooperation in the area.

The Minister of Justice further noted that the Criminal Code and the Code of Criminal Procedure are under revision, above all for Guinea Bissau to adapt to its international commitments, and she recalled that the Government had requested the technical assistance of UNODC in this regard.

18. LIBERIA

a. Overview

i. Status of ratification (10)

Liberia has ratified/acceded to the following universal instruments against terrorism:

- 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);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

ii. Status of legislative implementation

Criminal Legislation:

The Liberian Criminal Code (1976) does not define or deal explicitly with terrorism.

In 1995, Liberia enacted a law in order amend the 1976 Penal Code by introducing four new offences into Liberia criminal law, including those of ‘terrorism’ and of ‘hijacking’ (see *An Act Amendatory to an Act to Amend Chapters 14 and Subchapter (c), Title 26 of the Liberian Code of Laws, Known as the New Penal Law of 1976*).

Pursuant to Section 14.54 of the Act, terrorism is defined as follows:

Section 14.54 – Terrorism – A person has committed a felony of the first degree, a capital offence, if he unlawfully, deliberately or intentionally attempts to discharge, or discharges firearm, grenade, bombs, time-bombs, missiles, explosives, or other lethal devices which are likely to cause bodily injury, or place such person or group of persons in a building, outdoors or in the open air space, or are in a vehicle, whether or not such explosive device cause bodily injury or death to another.

Hijacking is defined in the 1995 Act as follows:

Section 15.33 – Hijacking- Any person or group of persons who threatens, or attempts, to threaten any person or group of persons or any operator of an aircraft, train, automobile or other vehicles with a deadly weapon, whether or not such aircraft, train, automobile or vehicle is stationary or in locomotion, or who diverts the normal course of such aircraft, train, automobile, or other vehicles, or holds such persons or group of persons as hostage for reward, hope of reward, or makes unlawful demand, have committed the capital offence of hijacking, a felony of the first degree.

A further law amending the 1976 Penal Code was adopted in 2002 with the aim of strengthening the legal regime applicable to money laundering. (*The Prevention of Money Laundering Law, 2002*). The Act seeks to facilitate the identification and seizure of capital or resources obtained as a result of the commission of criminal activity and establishes the applicable penalties for money-laundering.

At the regional level, Liberia is a member of GIABA (*Groupe Inter-gouvernemental d'Action contre le Blanchiment en Afrique*), whose objective is to combat the proceeds of crime and the financing of terrorism. Liberia has agreed to implement GIABA decisions.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

Liberian criminal legislation allows Liberian courts to exercise extraterritorial jurisdiction over a limited number of offences under a narrow set of pre-determined conditions set out at Section 1.4 of the Penal Code of Liberia.

Sec. 1.4 Territorial Applicability

1. *Extraterritorial Jurisdiction. Except as otherwise expressly provided, extraterritorial jurisdiction over an offence exists when:*
 - (a) *The offence is treason, or is espionage, or sabotage by a national of Liberia;*
 - (b) *The offence consists of a forgery or counterfeiting, or an uttering of forged copies or counterfeits, of the seals, currency, stamps, passports, or public documents issued by the Government of Liberia;*
 - (c) *The accused participates outside Liberia in an offence against the laws of Liberia committed in whole or in part within Liberia or the offence constitutes an attempt, solicitation, or conspiracy to commit an offence within Liberia;*
 - (d) *The offences involves entry of person or property into Liberia;*
 - (e) *The offence is committed by a public officer or employee who is outside the territory of Liberia because of his official duties or by a member of his household residing abroad; or*

(f) *Jurisdiction is conferred upon Liberia by treaty.*

- Applicable extradition and mutual legal assistance mechanisms

Liberia has concluded the following treaties on extradition and surrender:

- Treaty of extradition between the United States of America and the Republic of Liberia, 1937;
- Treaty between Great Britain and Liberia for the mutual surrender of fugitive criminals, 1894;
- Extradition treaty between France and Liberia, 1897;
- Exchange of Notes between the Government of the United Kingdom of Great Britain and Northern Ireland (and on behalf of Australia, New Zealand and South Africa) and the Government of Liberia extending to Certain Mandated Territories the Treaty for the Mutual Surrender of Fugitive Criminals of 16 December 1892, 1928.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Liberia has submitted one report to the CTC (S/2003/259 of 3 March 2003).

Liberia has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Liberia has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Liberia received the following technical assistance from UNODC/TPB:

- Videoconference on the ratification and legislative incorporation of the universal instruments against terrorism (28 February 2007);
- National Workshop on the ratification and legislative incorporation of the universal instruments against terrorism (21-23 May 2007).

Liberian representatives participated in the following regional conferences:

- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);

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- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Liberia has ratified/acceded to the following instruments against terrorism:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963);
- International Convention against the Taking of Hostages (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

At the end of the 2007 National Workshop, the participants adopted a Plan of Action recommending, *inter alia*, the speedy ratification of the remaining universal instruments against terrorism and the legislative harmonization of existing legislation with these instruments through the adoption of a comprehensive statute.

19. MALI

- a. Overview
- i. Status of ratification (12)

Mali has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

- ii. Status of legislative implementation

Title XIV ('Treaties and International Accords'), Article 116 of the Constitution of Mali establishes the regime for the incorporation of international treaties into national legislation: *'Treaties and agreements duly ratified or approved have, from the time of their publication, superior authority over laws of the State'*.

Criminal Legislation:

Mali has adopted a Counter-Terrorism Law on 23 July 2008 (Law No. 08-025) that incorporates the offences required in the international instruments against terrorism, such as the offences related to civil aviation, vessels and fixed-platforms, dangerous materials, diplomatic agents, hostage -taking, financing of terrorism and nuclear terrorism.

At the subregional level, Directive No. 07/2002/CM/UEMOA on the fight against money laundering, adopted in 2002 (particularly Articles 36, 37, 39, 40, 41, 42 and 43), imposes an obligation on Member States to adopt a uniform law against money laundering as well as to establish a 'Financial Intelligence Unit' (FIU); and Regulation

No. 14/2002/CM on the freezing of funds linked to terrorist activities, adopted in 2002, is directly applicable in Mali.

Pursuant to the above-mentioned Directive, legislation is currently being drafted. Offences relating to transfers are punished under Act. 89-13/AN of 14 January 1989 concerning proceedings related to exchange control offences. In addition, Articles 298 and 299 of Penal Code punish any person found guilty of money laundering by imprisonment for five to ten years and a fine ranging from 5 million to 50 million CFA francs.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The exercise of jurisdiction by Malian courts is established pursuant to Articles 22 and 24 of the Code of Penal Procedure of Mali:

Chapter III- Crimes and Misdemeanours Committed Abroad

Article 22 - Any national of Mali who has, outside of the national territory, committed an act qualified under Malian law as a 'criminal offence', may be tried and sentenced by Malian courts.

Any Malian who has, outside of the national territory, committed an act qualified under Malian law as a 'misdemeanour', may be tried and sentenced by Malian courts, if the act is punished by the laws of the country in which it was committed.

The same shall apply in cases where the accused has acquired Malian citizenship only after the commission of the crime or misdemeanour.

However, whether for a crime or a misdemeanour, no prosecution shall be initiated where the accused establishes that he has been the subject of a final judgement pronounced abroad, and in case of conviction, has served the applicable sentence or been pardoned.

Shall be reputed to have been committed on the territory of the republic, any offence for which an act qualified as a constituent element has been carried out in Mali.

With respect to misdemeanours committed against Malian or foreign persons, prosecution may only initiated at the request of the Public Prosecutor; it must be preceded by either a complaint from the injured party or by an official accusation sent to Malian authorities by the authorities of the country in which the misdemeanour was committed.

[...]

Article 24 - any foreigner who, outside the territory of Mali, has committed or has acted as accomplice to a crime against the security of the State or of counterfeiting the State Seal, currencies having legal tender, national documents, bank bills authorised by law, can be prosecuted and sentenced according to Malian law if he is arrested in Mali or if Mali is able to secure his extradition.

The current draft counter-terrorism law contains jurisdictional provisions, which incorporate the obligations set forth in the universal instruments against terrorism.

- Applicable extradition and mutual legal assistance mechanisms

Pursuant to the Code of Criminal Procedure of Mali, whenever an international agreement is applicable to an extradition request, the modalities set forth in the relevant agreement shall be applicable to that request (Article 237).

In the absence of an applicable international agreement, the modalities governing the judicial approval of extradition requests are set out at Articles 238 to 249 of the Code of Criminal Procedure.

In its 2003 report to the CTC, Mali outlined that it would also extradite any *refugee* who:

- has committed a crime against peace, a war crime or a crime against humanity;
- has committed a serious crime of a non-political nature outside the 'host country' prior to having been admitted as a refugee;
- has been found guilty of acts inconsistent with the purposes and principles of the OAU and the United Nations.

The draft counter-terrorism law enshrines the principle *aut dedere aut judicare* and provides that the offences provided for in the law shall not be regarded as political offences for the purpose of extradition and mutual legal assistance.

At the bilateral level, Mali has concluded a general Convention of Cooperation on Judicial Matters with Burkina Faso, signed in Ouagadougou on 23 November 1963.

At the subregional level, Mali is also party to the following ECOWAS instruments:

- ECOWAS Regional Convention on Extradition 1/PI/8/94, signed on 6 August 1994 in Abuja (ECOWAS, 1/PI/8/94);
- ECOWAS Regional Convention on Judicial Mutual Legal Assistance on Criminal matters, signed on 29 July 1992 in Dakar (ECOWAS/A/P1/7/92).

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Mali has submitted three reports to the CTC (S/2002/613 of 29 May 2002, S/2003/1050 of 13 October 2003 and S/2006/1038 of 16 December 2006).

Mali submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003) (S/AC.37/2005/(1455)/12 of 6 December 2005). Mali has not submitted its checklist as required by Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Mali has received the following bilateral assistance from UNODC/TPB:

- National Workshop on the promotion of the ratification and implementation of the universal anti-terrorism instruments as well as the United Nations Convention against Transnational Organized Crime and its three additional Protocols (16-19 October 2002);
- Follow-up Mission to provide legal advice in order to assist in the legislative reform process (13-16 April 2003);
- National Workshop on the legislative incorporation of the universal instruments against terrorism (25-28 November 2003);
- Three Videoconferences to provide legal advice on the Draft Law for the legislative incorporation of the universal instruments against terrorism into national law and for the drafting of Mali's third report to the CTC (13 and 14 June, 2006 and 12 July 2006);
- National Workshop on the legislative incorporation of the universal instruments against terrorism and for the training of criminal justice officials on international cooperation related to the universal instruments against terrorism (1-7 November 2006).

Representatives from Mali have participated in the following regional conferences:

- Four Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; and Ouagadougou, Burkina Faso, 20-22 March 2007);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against terrorism and corruption, organized by UNODC/TPB and the International Organization of the Francophonie (25 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);

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- Specialized Training Workshop for judges and prosecutors on counter-terrorism, organized jointly with the French Ecole Nationale de la Magistrature (Paris, France, 30 June – 3 July 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

The twelve instruments against terrorism to which Mali is a party had been ratified/acceded to before that date.

Mali has adopted Law No. 04-050 of 12 December 2004 concerning weapons and munitions as well as Decree No. 05-441/P-RM of 13 October 2005 establishing the modalities of the aforementioned law's application.

Law No. 08-025 of 23 July 2008, on combatting terrorism has been adopted, and its preparation received technical assistance from UNODC/TPB.

20. MAURITANIA

a. Overview

i. Status of ratification (13)

Mauritania has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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);
- 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).

ii. Status of legislative implementation

Criminal Legislation:

Prior to 2005, Mauritania's criminal legislation relied mainly on the Penal Code of 1983 in order to repress acts of terrorism. The Mauritanian Penal Code includes provisions which could be used to prosecute terrorist acts such as Chapter I, entitled '*Crimes against State Security*' and under Chapter II, Section III, '*Destruction, Degradation, Damages*'.

In 2005, Mauritania enacted specific legislation, drafted with the intent to incorporate the universal instruments against terrorism into domestic law. The two laws in question are:

- Law No. 2005-47 of 25 July 2005 *on the fight against terrorism*;

- Law No. 2005-48 of 25 July 2005 *on the fight against Money Laundering and the Financing of terrorism*

Law No. 2005-047 on the fight against terrorism defines terrorist offence and establishes the required intent for acts to be qualified as acts of terrorism at Article 3:

Article 3 – Constitutes a terrorist offence, any offence set forth at Articles 4, 5 and 6 hereafter which, by its nature or context, may pose a serious threat to the State and is committed intentionally in the aim of gravely intimidating the population or unduly coercing public officials to accomplish or abstain from accomplishing an act, or to seriously destabilize or destroy the fundamental values of society and the political, constitutional, economic or social structures of the Nation.

Articles 4, 5 and 6 describe a series of acts which, when carried under the conditions established at Article 3, qualify as acts of terrorism:

Article 4 – Constitutes [...] a terrorist offence:

- 1) threats to the internal and external security of the State;*
- 2) wilful threats to the life or integrity of persons, or to their freedom, the kidnapping or confinement of persons;*
- 3) theft, extortion, destruction, degradation or deterioration and computer related offences;*
- 4) offences against the safety of aviation and maritime navigation;*
- 5) the development, making, possession, transport, the introduction into circulation or the illegal use of weapons, explosives or munitions, of explosives substances or of devices constructed using such substances;*
- 6) the making, possession of, acquisition, transport or the provision of nuclear or chemical weapons, the use of nuclear, biological or chemical weapons as well as the research into and development of chemical weapons;*
- 7) the concealment of the product of the one of the offences set forth at paragraphs 5 and 6 above;*
- 8) the offence of money laundering and offences against monetary and economic legislation, which specific laws establish as terrorist offence.*

Article 5 - Also constitutes a terrorist offence under the conditions set forth at Article 3:

- 1) the destruction or massive degradation, the causing of the flooding of infrastructure, of a public transit system, of public or private property, which risks endangering human life or causing serious economic losses other than those set forth at Article 4;*
- 2) the seizure of other means of transportation than those set forth at Article 4;*
- 3) the release of dangerous substances with the effect of endangering human life;*

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- 4) *the tampering with or the interruption of the water, electricity telecommunications or any other fundamental natural resources which leads to the endangerment of human life;*
- 5) *the introduction into the atmosphere, on land, underground or into waterways, including territorial seas, a substance of a nature as to imperil human health, the health of animals or the natural environment;*
- 6) *the threat of carrying out one of the offences set forth at Article 4 or at the present article.*

Article 6 - Also constitutes a terrorist offence under the conditions set forth at Article 3:

- 1) *participation in a group or an agreement established for the purpose of the preparation, characterized by one or more material acts, of one of the terrorist acts set forth in the preceding Articles;*
- 2) *receiving training, whether on the national territory or abroad for the purpose of committing a terrorist attack on the national territory or abroad;*
- 3) *the recruitment or training of a person or group of persons for the purpose of committing a terrorist attack on the national territory or abroad;*
- 4) *the use of the territory of the Republic to commit a terrorist act against another State, its citizens, its interests, or against an international organization;*
- 5) *the procurement of weapons, explosives, munitions or other substances, materials or equipment of a similar nature, for a terrorist grouping, or the provisions of assistance or expertise to this grouping;*
- 6) *the financing of a terrorist enterprise through the provision, collection or managing of funds, assets or goods of whatever nature or by providing advice to this end with the intent of for these funds, assets or goods used, or knowing that they are destined to be used, in whole or in part, for the commission of one of the acts of terrorism set forth in the present chapter, whether or not such an act is actually committed;*
- 7) *the call, by whatever means, to commit terrorist acts, of inciting ethnic, racial or religious fanaticism or of using a name, term, symbol or other sign in order to promote a terrorist organization, one of its members, or its activities.*

In 2005, Mauritania also adopted *Law No. 2005-048 on the fight against Money Laundering and the Financing of terrorism*, which defines 'Terrorist Acts' and the 'financing of Terrorism' at Article 3:

Article 3

- (a) *Without prejudice to the application of international conventions ratified by Mauritania and the legal provisions in force, shall be considered acts of terrorism, the acts defined in the provisions of the special law relative to terrorist acts and their repression.*

- (b) *Constitutes an offence of financing of terrorism, the financing by person of a terrorist enterprise through the provisions, collection or managing of funds, assets or properties whatsoever or the provision of advice for this purpose, with the intention or seeing these funds, assets or properties used, or knowing that they will be used, in whole or in part in order to commit any of the acts of terrorism set forth in the special law relative to terrorist acts and their repression.*

Law No. 2005-048 also imposes a general ‘obligation of vigilance’ upon banks and financial institutions (Article 8) and requires these institutions to report any suspicious financial transactions. The measures provided for by the Law include the confiscation of property, the freezing of funds, the dissolution of legal persons as well as the dissemination of any judgment against it in the media (Article 60).

In addition, the Law creates a Financial Intelligence Unit presided over by the Governor of the Central Bank of Mauritania (Article 27).

In this regard, further legislative measures were taken, for instance:

- Act No. 73 118 on the Statute of the Central Bank of Mauritania, providing the Central Bank Governor with regulatory power in the banking and financial sector;
- Act No. 95 011 on regulation of the banking profession, by which the Central Bank exercises oversight over banks and financial institutions;
- Directive No. 45/GR/00, establishing a specialized financial intelligence structure and a databank on suspicious capital flows;
- Act No. 2004/42, which establishes the procedures for external financial relations and bank reporting, regulating the transfer of funds from Mauritania abroad.

Procedural Criminal Legislation:

The Penal Procedure Code, was adopted in July 1984 through Act No. 83-163.

- Applicable grounds for jurisdiction

Law No. 2005-047 *on the fight against terrorism* establishes in its Article 17 that the Criminal Court of the *wilaya* of Nouakchott is the only jurisdiction competent to deal with terrorist offences.

The general regime with regards to the competency of Mauritanian courts was described by Mauritania in its 2003 CTC report (S/2003/484). According to this report Mauritanian courts can exercise jurisdiction in the following circumstances:

- (a) Offences committed within Mauritania by any person (whether that person is currently present in Mauritania or not).

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The Penal Code sets penalties for the principals, accomplices and accessories of any offence committed within Mauritania by any person residing therein or a fugitive from justice.

(b) The Penal Code also sets penalties for any person of Mauritanian nationality who commits an offence abroad if the law of the host country makes such an act punishable; the Code also sets penalties for any person of another nationality who commits an offence in Mauritania or is a fugitive from justice.

(c) Any person of foreign nationality who commits an offence abroad and is residing in Mauritania, is subject to proceedings under two conditions:

- (1) Provided the impugned acts of which the person is accused are defined as punishable offences under Mauritanian criminal law as well as under foreign law;
- (2) Provided that the commission of a crime or an offence has been established by a final decision of a foreign court.

- Applicable extradition and mutual legal assistance mechanisms

Extradition is governed by national criminal legislation and by bilateral and international conventions.

In its report to the CTC S/2003/484, Mauritania indicates that it has signed bilateral treaties on extradition and mutual legal assistance with several other States.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Mauritania has submitted two reports to the CTC (S/2002/971 of 26 August 2002 and S/2003/484 of 31 March 2003).

Mauritania has also submitted its report to the Al Qaida and Taliban Sanctions Committee (S/AC.37/2005/(1455)/4 of 16 March 2005) pursuant to Security Council resolution 1455 (2003). Mauritania has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Mauritania received the following bilateral technical assistance from UNODC/TPB:

- National Workshop on the ratification of the universal instruments against terrorism and their incorporation into Mauritanian law (18 -20 April 2006).

Mauritania has participated in the following regional conferences:

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- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism, (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25 -27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);
- Euro-Mediterranean Workshop on the mechanisms of international cooperation in criminal matters related to counter-terrorism (5-6 May 2008);
- Specialized Training Workshop for judges and prosecutors on counter-terrorism, organized jointly with the French Ecole Nationale de la Magistrature (Paris, France, 30 June – 3 July 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Mauritania has ratified/acceded to the following instruments against terrorism:

- Convention on the Physical Protection of Nuclear Material (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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);
- 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).

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In 2005, the two aforementioned Laws against terrorism and on the fight against money laundering and terrorism financing were adopted.

At the conclusion of the 2006 National Workshop (15-21 April 2006), the participants adopted a Plan of Action, which called for, *inter alia*:

- The ratification of all universal instruments against terrorism not yet ratified by Mauritania;
- The completion of the legislative incorporation of the universal instruments against terrorism into Mauritanian law;
- The drafting of Mauritania's third report to the CTC, and;
- The designation by the Mauritanian government of a Ministry of Justice focal point to follow-up on these measures.

21. NIGER

a. Overview

i. Status of ratification (11)

Niger has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- 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);
- 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).

ii. Status of legislative implementation

According to Article 130 of the Nigerien Constitution of the Fifth Republic of 9 August 1999, *'Defence and peace treaties, treaties and agreements respecting international organizations, those which amend the internal laws of the State as well as those creating financial obligations for the State, can only be ratified pursuant to the adoption of a law'*.

Criminal Legislation:

Niger has adopted a Counter-Terrorism Law on 23 June 2008 (Law No. 2008-18) that incorporates the offences required in the international instruments against terrorism, such as the offences related to civil aviation, vessels and fixed-platforms, terrorist bombings, diplomatic agents, hostage -taking, financing of terrorism and nuclear terrorism.

Niger is also bound by Regulation No. 14/2002/CM/UEMOA on the freezing of funds linked to terrorist activities, adopted in 2002, and which is directly applicable to Niger.

In its 2003 report to the CTC (S/2003/631), Niger also stated that pursuant to its Code of Criminal Procedure, bank secrecy cannot be invoked before the courts and that any assets suspected of belonging to a terrorist group and so identified may be frozen.

With regard to money laundering, Niger is a member of the UEMOA, which adopted Directive No. 07/2002/CM/UEMOA on the fight against money laundering, on 19 September 2002, imposing an obligation upon Member States to adopt a uniform law against money laundering. In addition, the Directive also calls for the establishment of a 'Financial Intelligence Unit' (FIU) which Niger has complied with through the adoption of Decree No. 2004-262/PRN/ME/F of 14 September 2004 (S/2003/631).

Procedural Criminal Legislation:

Niger has elaborated draft Laws No. 2003-026 of 13 June 2003 and No. 2004-21 of 16 May 2004, which amend the Code of Criminal Procedure.

- Applicable grounds for jurisdiction

The Code of Criminal Procedure recently adopted by the National Assembly incorporates provisions regarding the competence of national courts in cases of acts of terrorism in Article 673 (1), (2), (3) and (4) and Articles 679 and 680.

The reform of the Code of Criminal Procedure with the primary aim of extending the jurisdiction of Nigerien courts to offences committed abroad, and with a view to entrenching the principle *aut dedere aut judicare* into national law. According to Niger's 2004 report to the CTC (S/2004/374) under the new Code of Criminal Procedure, jurisdiction can be exercised by Nigerien courts in the following circumstances:

- Acts committed within Niger by any person (whether that person is present in Niger or not);
- Pursuant to Article 674 (4), Niger Courts have jurisdiction over offences covered by Articles 399 (1) to (4) of the Penal Code, where a perpetrator or an accomplice is present in Niger. Under Article 674, any foreigner who commits an offence outside the territory of the Republic of Niger either as the perpetrator or an accessory may be prosecuted and tried in accordance with the laws of Niger, where the victim is a citizen of Niger.;
- Article 679 provides that any non-national who is the direct perpetrator of or accomplice to a crime or misdemeanour committed outside the territory of the Republic of Niger which aims at undermining State security or the counterfeiting of the legal tender may be prosecuted and tried in accordance with the laws of Niger or the laws applicable in Niger, if that person is arrested in Niger or if the Government obtains his or her extradition;
- Acts committed outside Niger by a foreign national who is currently in Niger: Article 673 (1) provides that any foreign national who is the direct perpetrator of or accessory to an offence committed outside Niger may be prosecuted and tried in accordance with the laws of the Niger, where the victim of such offence is a national of the Niger;

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Under article 673 (2), the courts of the Niger have jurisdiction over offences committed aboard of aircraft registered in Niger. They also have jurisdiction over any offence or misdemeanour committed outside Niger onboard an aircraft registered in Niger.

- Applicable extradition and mutual legal assistance mechanisms

Niger is a party to the following conventions and agreements concerning extradition and mutual legal assistance:

At the bilateral level, Niger has concluded agreements with:

- Algeria: Judicial Cooperation Convention signed on 12 April 1984 and in force since 1986;
- France: Agreement on Judicial Cooperation, signed on 24 April 1961 in Paris;
- Mali: Convention on Justice Matters, signed on 22 April 1964 in Niamey and in force since 1965;
- Nigeria: Agreement on Judicial Cooperation, signed on 18 July 1984 and in force since 1990, in Maiduguri.

At the subregional level:

- ECOWAS Regional Convention on Judicial Mutual Legal Assistance on criminal matters, signed on 29 July 1992 in Dakar (ECOWAS/A/PI/7/92);
- ECOWAS Regional Convention on Extradition 1/PI/8/94, signed on 6 August 1994 in Abuja (ECOWAS, 1/PI/8/94).

Niger stated in the report of 2003 (S/2003/631) that ‘no claim of political motivation may prevent the application of a law or of conventions to which the Niger is a party.’

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Niger has submitted four reports to the CTC (S/2002/94 of 18 January 2002, S/2003/631 of 3 June 2003, S/2004/374 of 27 April 2004 and S/2008/121 of 10 March 2008).

Niger has also submitted its report to the Al-Qaida and Taliban Sanctions Committee (S/AC.37/2005/(1455)/9 of 4 August 2005) pursuant to Security Council resolution 1455 (2003). Niger has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Niger received the following bilateral technical assistance from UNODC/TPB:

- National Workshop on the ratification and implementation of the universal instruments against terrorism and the United Nations

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Convention against Transnational Organized Crime and its three additional Protocols (17-22 February 2003);

- National Workshop on the legislative implementation of the universal instruments against terrorism and of Security Council resolution 1373 (2001) (30 August - 1 September 2006);
- National Training Workshop for criminal justice officials on international cooperation in the fight against terrorism (12-14 November 2007).

Representatives from Niger have participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt 2 - 4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against international crime, corruption and terrorism, organized by TPB and the International Organization of the Francophonie (25 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Niger has ratified/acceded to the following instruments against terrorism:

- International Convention against the Taking of Hostages (1979);
- Convention on the Physical Protection of Nuclear Material (1979);
- 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);

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- 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).

In addition, Niger has also internally ratified the following instruments but has yet to deposit the instruments of ratification with their respective depositories:

- Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988);
- Protocol to the Convention for the Suppression of Unlawful acts against the Safety of Maritime Navigation (2005)

Niger has elaborated draft Laws No. 2003-026, of 13 June 2003, and No. 2004-21, of 16 May 2004, which amend the Code of Criminal Procedure.

At the end of the 2006 National Workshop, the participants adopted an Action Plan which recommended the following:

- The deposit by Niger of the instruments of ratification for the universal instruments ratified internally by Niger with their respective depositories;
- The finalization of the ratification process for the instruments which are still outstanding;
- The incorporation into national law of the offences set forth in the universal instruments against terrorism.

A law against terrorism and the financing of terrorism was finalized with the help of UNODC during the CTED country visit from 11 to 15 February 2008 and adopted by the National Assembly on 17 April 2008.

22. NIGERIA

a. Overview

I. Status of ratification (9)

Nigeria has ratified/acceded to the following universal instruments against terrorism:

- 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);
- Convention on the Physical Protection of Nuclear Materials (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988);
- Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991);
- International Convention for the Suppression of the Financing of Terrorism (1999);
- Amendment to the Convention on the Physical Protection of Nuclear Materials (2005).

ii. Status of legislative implementation

Criminal Legislation:

Terrorism is defined by Nigerian law at Article 40 of the *Economic and Financial Crimes Commission (Establishment) Act of 2002*:

Part VII - Miscellaneous Provisions

Article 40:

"Terrorism" means-

(a) any act which is a violation of the Criminal Code or the Penal Code and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of person or causes or may cause damage to public property, natural resources, environmental or cultural heritage and is calculated or intended to-

(i) intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or segment thereof, to do or abstain from doing any act or to adopt or abandon a particular standpoint, or to act according to certain principles, or

- (ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency, or*
- (iii) create general insurrection in a state;*
- (b) any promotion, sponsorship of, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organization or procurement of any person, with the intent to commit any act referred to in paragraph (a) i, ii, and iii.*

The *Economic and Financial Crimes Commission (Establishment) Act* criminalizes the financing of terrorism at Article 14(1) ‘*Offences relating to terrorism*’:

Article 14: Offences relating to terrorism

(1) A person who wilfully provides or collects by any means, directly or indirectly, any money by any other person with intent that the money shall be used for any act of terrorism, commits an offence under this Act and is liable on conviction to imprisonment for life.

[...]

(3) Any person who makes funds, financial assets or economic resources or financial or other related services available for use of any other person to commit, facilitate or participate in the commission of a terrorist act is liable on conviction to imprisonment for life.

In addition to actual perpetration, Article 14 (2) criminalizes attempt, participation as well as facilitation of terrorist acts:

(2) Any person who commits or attempts to commit a terrorist act or participates in or facilitates the commission of a terrorist act, commits an offence under this Act and is liable on conviction to imprisonment for life.

Nigeria has also drawn attention to the fact that Nigerian Banks are obliged by virtue of Section 28(5) of the *Central Bank of Nigeria Decree* (2001), to report all transactions exceeding half a million Naira (US\$ 3,920) (S/2003/308).

In addition, the Nigerian Criminal Code contains provisions incorporating some of the universal instruments against terrorism, such as:

- Acts committed against the safety of maritime navigation ;

349. Any person who knowingly sends by any vessel, or carries in any vessel, any explosive substance, or any acid, or other thing of a dangerous or destructive nature, under a false description of the substance or thing, or with a false description of the sender thereof, is guilty of a felony and is liable to imprisonment for three years.

The offender cannot be arrested without warrant.

- Taking of hostages:

365. *Any person who unlawfully confines or detains another in any place against his will, or otherwise unlawfully deprives another of his personal liberty, is guilty of a misdemeanour, and is liable to imprisonment for two years.*

- General provisions of the Criminal Code such as Chapter 25 ‘*Assaults and Violence to the Person*’, Chapter 27 ‘*Homicide, Infanticide*’ and Chapter 28 ‘*Offences Endangering Life or Health*’, may also be used to prosecute other acts of terrorism;
- In addition, with regards to acts committed by means of explosives, the *Explosives Act* (Cap 117 of Laws of the Federation 1990): which establishes at Section 13 that no person can ‘buy sell or otherwise dispose of explosives, save under and in accordance with a license granted by the relevant authorities’. According to Nigeria’s 2002 CTC report (S/2003/3008), the laws governing offences related to firearms and explosives stem from two main legal sources:
 - The *Firearms Act* (Cap 146 Laws of the Federation 1990): prohibits the acquisition of an prohibited firearms and establishes that no firearm may be imported or acquired without authorisation from the competent authorities;
 - The *Public Order Act* (Cap 382 Laws of the Federation 1990).

Nigeria’s 2003 CTC report (S/2003/308), also claims that recruitment to terrorist organizations is criminalized by Section 6(6) of the *Public Order Act*, which provides for a sentence of 2 years of imprisonment and/or a fine of N5,000 as well as by Sections 62 to 88 of the *Criminal Code Act* which prohibits so-called ‘unlawful societies’ and provides for sentences ranging until 7 years of imprisonment.

The issue of money-laundering is addressed by *Decree No. 3 Money Laundering Decree 1995*, which according to Nigeria’s 2003 CTC report, provides for, *inter alia*, the mandatory disclosure of information by financial institutions; the establishment of ‘money laundering offences’ for both physical and legal persons and the liability of high ranking executives of financial institutions (S/2003/308).

Nigeria has drafted a Terrorism Prevention Bill to incorporate the universal instruments against terrorism into national law, currently before Parliament, which was finalized with the support of UNODC/TPB during a workshop in October 2008.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

In its 2003 report to the CTC (S/2003/308), Nigeria noted that the current legal provisions in force do not confer jurisdiction upon Nigerian Courts for criminal acts committed outside Nigeria by Nigerian Nationals or ordinary residents. Nigerian courts also do not have jurisdiction over foreigners in Nigeria who have committed offences abroad.

The general legal framework governing the exercise of jurisdiction by Nigerian Courts is laid out at Part I, Chapter 3 of the Nigerian Criminal Code (*'Application of Criminal Law'*):

12. *Where by the provisions of any Federal law the doing of any act or the making of any omission is constituted an offence those provisions shall apply to every person who is in Nigeria at the time of his doing the act or making the omission.*

With regard to such offences which are of such a nature that they comprise several elements, if any acts or omissions or events actually occur, which, if they all occurred in Nigeria, would constitute an offence, and any of such acts or omissions or events occur in Nigeria, although all or some of the other acts or omissions or events which, if they occurred in Nigeria, would be elements of the offence occur elsewhere than in Nigeria; then-

(1) *if the act or omission, which in the case of an offence wholly committed in Nigeria would be the initial element of the offence, occurs in Nigeria, the person who does that act or makes that omission is guilty of an offence of the same kind and is liable to the same punishment, as if all the subsequent elements of the offence had occurred in Nigeria; and*

(2) *if that act or omission occurs elsewhere than in Nigeria, and the person who does that act or makes that omission afterwards comes into Nigeria, he is by such coming into Nigeria guilty of an offence of the same kind, and is liable to the same punishment, as if that act or omission had occurred in Nigeria and he had been in Nigeria when it occurred.*

But in any such case it is a defence to the charge to prove that the accused person did not intend that the act or omission should have effect in Nigeria. This section does not extend to a case in which the only material event that occurs in Nigeria is the death in Nigeria of a person whose death is caused by an act, done or omitted to be done, at a place not in Nigeria and at a time when he was not in Nigeria.

[...]

13. (1) *Any person who, having while out of Nigeria procured another to do or omit to do in Nigeria an act of such a nature that if he had himself done the act or made the omission in Nigeria, he would have been guilty of an offence, afterwards comes into Nigeria, is by such coming into Nigeria guilty of an offence of the same kind, and is liable to the same punishment, as if he himself had done the act or made the omission in Nigeria.*

Any person who, having while out of Nigeria counselled or procured the commission of an offence which is actually committed in Nigeria, afterwards comes into Nigeria, is by such coming into Nigeria guilty of an offence of the same kind, and is liable to the same punishment, as if he had been in Nigeria when the offence was committed.

(2) *In this section, "offence" means an offence against any Federal law.*

[...]

14. *Any person who while in Nigeria procures another to do an act or make an omission at a place not in Nigeria of such a nature that, if he had himself done the act or made the omission in Nigeria, he would have been guilty of an offence, and that, if he had himself done the act or made the omission, he would have been guilty of an offence under the laws in force in the place where the act or omission is done or made, is guilty of an offence of the same kind, and is liable to the same punishment, as if the act had been done or the omission had been made in Nigeria.*

- Applicable extradition and mutual legal assistance mechanisms

The question of extradition in Nigeria is governed by the *Extradition Act* (Cap. 125 Laws of the Federation 1990). Nigeria has indicated to the CTC that the provisions of this Act relevant to terrorism are Sections 1 and 4-14 (S/2003/308).

According to its 2007 CTC report (S/2007/65), Nigeria has concluded bilateral agreements on mutual legal assistance and extradition with the following countries: Benin, Ghana, Ireland, Italy, South Africa, Spain, Thailand, Togo, the United Kingdom and the United States of America.

Nigeria has also noted that the offences set forth in the universal instruments against terrorism are included as extraditable offences in the bilateral treaties to which it is a party (S/2007/65).

As an ECOWAS Member State, Nigeria is also party to the following sub-regional instruments which are directly applicable:

- ECOWAS Regional Convention on Judicial Mutual Legal Assistance on criminal matters, signed on 29 July 1992 in Dakar (ECOWAS/A/PI/7/92);
- ECOWAS Regional Convention on Extradition 1/PI/8/94, signed on 6 August 1994 in Abuja (ECOWAS, 1/PI/8/94).

Nigeria has also established a Financial Intelligence Unit which, it says, has begun sharing financial intelligence with similar Units from other countries (S/2007/65).

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism.

Nigeria has submitted three reports to the CTC (S/2002/69 of 15 January 2002, S/2003/308 of 7 March 2003 and S/2007/65 of 7 February 2007). Nigeria has also submitted its report to the CTC (S/2008/77 of 7 February 2008) on the implementation of Security Council resolution 1624 (2005).

Nigeria has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Nigeria has not yet submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Nigeria has received the following bilateral assistance from UNODC/TPB:

- National Workshop on the ratification and implementation of the universal instruments against terrorism, the United Nations Convention against Transnational Organized Crime (TOC) and United Nations Convention against Corruption (26-30 September 2005);
- Videoconference to discuss UNODC/TPB's preliminary analysis of the 2006 Prevention of Terrorism Bill (28 August 2008);
- National Workshop on the analysis of the Prevention of Terrorism of Nigeria in light of the universal instruments against terrorism (22-23 October 2008).

Nigerian representatives participated in the following regional conferences:

- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date Nigeria has ratified/acceded to the following instruments against terrorism:

- Convention on the Physical Protection of Nuclear Materials (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988);

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- International Convention for the Suppression of the Financing of Terrorism (1999);
- Amendment to the Convention on the Physical Protection of Nuclear Materials (2005).

Nigeria has drafted a Terrorism Prevention Bill to incorporate the universal instruments against terrorism into national law, currently before Parliament, which was finalized with the support of UNODC/TPB during a workshop in October 2008

23. RWANDA

a. Overview

i. Status of ratification (9)

Rwanda has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

ii. Status of legislative implementation

Criminal Legislation:

In its 2002 report to the CTC (S/2002/1028), Rwanda stated that the legal framework for suppression and prevention of terrorism currently in place is based on several legal sources including the Penal Code (adopted through Decree-Law No. 21/77 of 18 August 1977) as well as various other pieces of legislation and decrees.

In its four reports to the CTC, Rwanda has highlighted provisions in its legal system which incorporate some of the acts set out in the universal instruments against terrorism:

- Taking of hostages:

Article 388 – Shall be punished by a term of imprisonment of five to ten years anyone who through violence, tricks or threats has arbitrarily abducted or caused to be abducted, detained or caused to be detained, sequestered or caused to be sequester any person whatsoever.

Where the person abducted, detained or sequestered is under the age of eighteen, the maximum sentence shall be applicable.

Where the detention or sequestration has been for a period exceeding one month, the term of imprisonment may be increased to twenty years.

Where the person abducted, detained or sequestered has been subjected to corporal torture, the perpetrator shall be sentenced to life imprisonment.

Where the acts of torture have resulted in the victim's death, the perpetrator shall be sentenced to death. Whoever has provided the premises used for the detention or sequestration shall be liable to the same punishment.

- Crimes against internationally protected persons including diplomatic agents:

Article 186- Whomever injures a foreign Head of State, a member of a foreign government, a representative, civil servant or official of a State or intergovernmental organization in the course of this persons stay in Rwanda in his official capacities shall be punished by a term of imprisonment of five to twenty years without prejudice to any more severe sentences imposed by other legislative provisions.

Shall be subject to the same punishment, anyone who injures a family member of one of the persons listed above.

- Acts committed by means of explosives or other lethal devices:

Article 444 – Whoever willingly destroys, topples or degrades, in any manner whatsoever, in whole or in part, buildings, bridges, dykes, roadways, railways, machines, telegraphic or telephone equipment or any other construction belonging to another, shall be liable to a term of imprisonment of between two and five and to a fine a fine of ten thousand francs, or to one of these sanctions.

However, if the destruction or degradation was the result of a mine of an explosive substance, the term of imprisonment shall be one from ten to twenty years. Where the destruction or degradation has resulted in the death of one or more persons, the applicable sentence shall be death.

The planting of an explosive device with criminal intent on a public or private roadway, shall be assimilated to attempted murder.

- General provisions can also be used to prosecute acts of terrorism:

Chapter V of the Rwandan Penal Code entitled 'Criminal Participation' addresses the issues of perpetration, complicity, aiding and abetting, criminal facilitation as well as incitement:

Article 89 – Accomplices to the commission of a offence shall be liable to the same punishment as the main perpetrators except where otherwise provided for by law.

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Article 91 – Shall be considered accomplices:

- 1. anyone who through incentives, promises, threats, abuses of authority or of power, or false pretences, has directly provoked the act or has instructed someone to commit it;*
- 2. anyone who has provided weapons, tools or any other means which were used in the commission of the act and with knowledge thereof;*
- 3. anyone who knowingly aided or abetted the author or authors of any acts, for the preparation, facilitation or actual commission;*
- 4. anyone who, through speeches, words or threats delivered in public places or assemblies, or through sold or distributed printed materials put on sale or exposed in public places or assemblies, or by placards or posters exposed to the public has directly provoked the author or authors to commit the act, notwithstanding the punishments provided for provocation to commit offences, even in cases where the provocation is not acted upon.*

According to report S/2004/358 to the Counter-Terrorism Committee, Article 1 of Law No. 13/2000 of 14/06/2000 modifying Decree-law No. 12/97 of May 1979 on firearms and their ammunitions, stipulates that the import, storage, donation, and sale of firearms and their parts, or ammunitions, is subject to prior authorization of the Defense Minister.

Also according to report S/2002/1028, Article 16, subparagraph 2, of Act No. 08/99 of 18 June 1999 on the regulation of banks and other financial establishments (the Banking Act) imposes an obligation on banking institutions to report any information regarding funds having possible link with criminal activities.

In addition, according to CTC report (S/2004/358) a National Counter-Terrorism Committee was created by Prime Ministerial Order No. 39/03 of 16 June 2002. The Committee is the main body responsible to cooperate with the Security Council and other States on terrorist matters. An executive committee on counter terrorism was also created by the same order.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

As noted by Rwanda in its 2003 CTC report (S/2003/702) the applicable grounds for jurisdiction are provided for in the Penal Code, Articles 6 to 13:

Articles 6 to 7 establish territorial jurisdiction:

- for offences that have been committed within the territory of Rwanda whether by a Rwandan or a foreigner (Article 6);
- for any offence for which one of the constituent acts was committed in Rwanda (Article 7).

For crimes committed outside Rwandan territory, Articles 9 to 13 of the Penal Code stipulate that Rwandan courts are competent to exercise jurisdiction over:

- Any Rwandan citizen who has committed an act outside Rwanda, which is qualified as a crime pursuant to Rwandan law (Article 9);
 - Any Rwandan citizen who has committed an act outside Rwanda, which is qualified as a misdemeanour pursuant to Rwandan law if the act in question constitute a violation of the law in the country in which it was committed (Article 10);
 - Any person subject to the application of Articles 6-10 who has acquired Rwandan citizenship after the alleged facts occurred (Article 11);
 - Any person who, within the territory of Rwanda has acted as accomplice to a crime or misdemeanour committed abroad provided that the act is punishable under both Rwandan and the foreign law and that its commission has been ascertained by a final decision of the foreign court (Article 12);
 - Any Rwandan citizen or foreigner who while outside the Rwandan territory has committed a crime or misdemeanour prejudicial to State's security or the counterfeiting of the national seal or currency, as if the crime or offence had been committed in Rwanda (Article 13).
- Applicable extradition and mutual legal assistance mechanisms

The legal regime with respect to extradition can be found at Articles 15 and 16 of the Rwandan Penal Code:

Article 15 - Extradition shall be governed by Rwandan law according to international treaties and customs.

Extradition shall only be permitted if the facts upon which the request rely constitute an offences under Rwandan law as well as by the foreign law in question. It will not be granted for offences of a political nature or if it is requested for political motives.

Article 16 – The extradition of a Rwandan citizen shall never be authorised, the possession of citizenship being appreciated at the time at which the facts giving rise to the extradition request occurred.

According to report S/2003/702 to the CTC, the interpretation of this provision does not apply to terrorist offences as they are not considered 'political offences'. In the same CTC report, Rwanda also indicated that in the absence of any extradition convention, or in case of an act not provided for in an extradition convention, the requested foreigner will be handed over only on the basis of a specific agreement signed between the two governments. Rwanda has reported having signed the following treaties and conventions:

- Extradition Treaty with Tanzania, signed in 1965;
- Extradition Treaty with Burundi and the Democratic Republic of the Congo, ratified on 21 June 1975;

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- Judicial Convention in matters relating to extradition, and Protocol relating to criminal rogatory commissions, signed in Kampala on 6 February 1988;
- Treaty on extradition, Treaty on mutual cooperation in criminal matters, and Treaty on the reciprocal execution of judicial decisions, signed in Nairobi on 28 May 1990;
- Extradition Treaties signed before independence with: Bolivia, Bulgaria, Chile, Colombia, Costa Rica, Cuba, Denmark, Finland, Great Britain, Greece, Guatemala, Guinea, Holland, Honduras, Italy, Nicaragua, Salvador and Switzerland.

Other Relevant Legislation

Relevant provisions to be found in other than criminal legal texts are the following:

Article 2 of Act No. 34/2001 of 5 July 2001 on refugees establishes that:

No one may be considered a refugee who is subject to prosecution for having committed:

- (a) A crime against humanity before requesting refugee status; or*
- (b) Activities contrary to the purposes and principles of the United Nations and the Organization of African Unity.*

Draft legislation / Legislation under preparation

In its 2004 (S/2004/358) and 2005 (S/2005/63) reports to the CTC, Rwanda states that it has initiated a legislative reform process, in view of incorporating the universal instruments against terrorism into domestic laws, which includes draft laws modifying the Penal Code and the Code of Criminal Procedure, on terrorism and on Money Laundering.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Rwanda has submitted four reports to the CTC (S/2002/1028 of 9 September 2002, S/2003/702 of 3 July 2003, S/2004/358 of 4 May 2004 and S/2005/63 of 24 January 2005.)

Rwanda has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Rwanda has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Rwanda has received the following bilateral assistance from UNODC/TPB:

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- National Training Workshop for criminal justice officials on international cooperation related to the universal instruments against terrorism (30 January – 1 February 2008).

Rwandan representatives participated in the following regional conferences:

- Four Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2- 4 September 2003; Port-Louis, Mauritius 25- 27 October 2004; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Round Table for Africa on ‘Crime and drugs as impediments to security and development in Africa: strengthening the rule of law’(Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against international crime, corruption and terrorism, organized by TPB and the International Organization of the Francophonie (27 October 2005);
- Regional Seminar on International Cooperation against Terrorism and its Financing, including Mutual Legal Assistance and Extradition for the Member States of the Common Market of Eastern and Southern Africa (COMESA), co-organized by UNODC and COMESA (Djibouti, 14-16 March 2006);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, no instruments have been ratified/acceded to by Rwanda. In the report to the CTC S/2005/63 of 31 January 2005, Rwanda stated that it has ratified several of the remaining instruments internally and now aims to move ahead with the ratification of these instruments at the international level.

A National Counter-Terrorism Committee was created by Prime Ministerial Order No. 39/03 of 16 June 2002. The Committee is the main body responsible for cooperating with the United Nations Security Council and other States on terrorist matters. An executive committee on counter terrorism was also created by the same order.

A draft law against the financing of terrorism and money laundering was prepared in July 2007, and a draft law dealing with counter-terrorism was finalized in August 2007.

24. SAO TOME AND PRINCIPE

a. Overview

i. Status of ratification (10)

Sao Tome and Principe has ratified/acceded to the following universal instruments against terrorism:

- 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);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

ii. Status of legislative implementation

According to Article 130 of the Constitution of Sao Tome and Principe (Law No. 1/2003), international conventions and treaties have primacy over domestic legislation and are applicable in the legal system of Sao Tome and Principe upon their publication in the Official Journal.

Criminal Legislation:

As exposed by Sao Tome and Principe in its 2003 report to the CTC (S/2003/568), the country has been using the Portuguese Criminal Code of 1866 since gaining independence from Portugal. In recent years, Sao Tome and Principe has initiated a legislative reform process. Thus, as underscored by the country's Minister of Justice at the Ouagadougou Ministerial Conference (20-22 March 2007), and reaffirmed at the Rabat Ministerial Conference (12-16 May 2008), Sao Tome and Principe has drafted a new Criminal Code and a law against terrorism as well as a law against money laundering, all of which are currently awaiting parliamentary approval.

According to Sao Tome and Principe's 2005 report to the CTC (S/2005/551), the draft Penal Code contains provisions on membership in terrorist organizations (art. 353

punishable by 5 to 20 years imprisonment) and on acts of terrorism (art. 354, punished by a term of imprisonment of 3 to 15 years).

Sao Tome and Principe's draft law on terrorism was elaborated in cooperation with UNODC experts and, according to Sao Tome and Principe's 2005 CTC Report (S/2005/551), it:

- criminalizes all the offences described in the universal instruments against terrorism and establishes jurisdiction of the courts of Sao Tome and Principe in all required cases;
- criminalizes all preparatory acts, including the supply of arms and the recruitment of members of terrorist groups;
- contains an explicit reference to the principle *aut dedere aut judicare*; and
- contains a specific article addressing the issue of the political exception.

Sao Tome and Principe's 2005 CTC report also addresses the draft anti-money laundering law which contains provisions relevant to the fight against terrorism. As such, the law:

- provides for administrative and judicial mechanisms necessary to freeze funds and proceeds of crime; and
- introduces reporting obligations binding upon financial institutions (banks, insurances etc) as well as upon intermediaries (for example, lawyers, notaries and accountants) when engaging in brokering activities (distinct from the provision of professional advice).

Until the new laws mentioned above are in force, Sao Tome and Principe stated in its 2003 CTC report (S/2003/568) that existing legislation may be used to prosecute acts of terrorisms, such as:

- Article 253 of the Penal Code criminalizes the manufacturing, import and trade in arms and explosives to be used against people or buildings. The same provision punishes those who trade or provide arms without the necessary administrative authorization;
- Article 263 of the Penal Code deals with "criminal association" and punishes as accomplices those who supply arms and munitions. According to Sao Tome and Principe, the broad language of this provision would also cover recruitment of members of terrorist organizations;
- Chapter IV of the Penal Code punishes a number of acts related to arson and damage to property.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

As noted above, the draft law against terrorism establishes the jurisdiction of Sao Tome and Principe's Tribunals according to the requirements of the universal instruments against terrorism.

- Applicable extradition and mutual legal assistance mechanisms

Sao Tome and Principe has reported to the CTC that it concluded bilateral agreements with Angola, Cuba and Portugal covering judicial cooperation in criminal matters and extradition (S/2003/268).

In the same report, Sao Tome and Principe also stated that Article 41(1) of the Constitution, which prohibits the extradition of nationals, would not constitute an obstacle to the application of the principle *aut dedere aut judicare* and that this provision, which also forbids extradition of nationals for political offences, would not be interpreted as applying to acts of terrorism.

Sao Tome and Principe is a party to the Agreement on Judicial Cooperation on Criminal Police Matters among Central African States (Cameroon, Central African Republic, Chad, Congo, Democratic Republic of the Congo, Gabon, Equatorial Guinea and Sao Tome and Principe), 1999.

Law enforcement cooperation takes place in the framework of both the Community of Portuguese-Speaking Countries (CPLP) and the Economic and Monetary Commission of Central Africa (CEMAC).

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Sao Tome and Principe has submitted two reports to the CTC (S/2003/568 of 13 May 2003 and S/2005/551 of 22 August 2005).

Sao Tome and Principe has not submitted its report to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Sao Tome and Principe has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Sao Tome and Principe received the following bilateral assistance from UNODC/TPB:

- National Workshop on the legislative incorporation of the universal instruments against terrorism (28 April – 2 May 2003).

Representatives from Sao Tome and Principe have participated in the following regional conferences:

- Four Study Tours for Portuguese-speaking countries, on ratification and implementation of the universal instruments against terrorism and transnational crime as well as on improving international cooperation (Lisbon, Portugal, 3-7 November 2003; Lisbon, Portugal, 31 October to 4 November

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- 2005; Maputo, Mozambique, 13-16 November 2006; and Lisbon, Portugal, 22-25 October 2007);
- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7 -9 February 2006; Ouagadougou 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
 - Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
 - Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
 - Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law'(Abuja, Nigeria, 5-6 September 2005);
 - Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
 - Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);
 - Subregional Training Workshop for criminal justice officials on the financing of terrorism and money laundering for CEMAC and CEEAC Member States (Libreville, Gabon, 7-9 April 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Sao Tome and Principe has ratified/acceded to ten instruments against terrorism:

- 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);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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);

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- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

A draft counter-terrorism law has been prepared and submitted to the Parliament for adoption.

25. SENEGAL

- a. Overview
- i. Status of ratification (12)

Senegal has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

- ii. Status of legislative implementation

The Constitution of Senegal establishes at Article 98 that *'Treaties or accords which are duly ratified or approved, shall have from the time of their publication, primacy over other laws, subject to, reciprocity by the other party for each treaty or accord.'*

Criminal Legislation:

In order to incorporate the universal instruments against terrorism into domestic law, Senegal adopted two laws in 2007, respectively amending the Penal Code and the Code of Penal Procedure.

Law No. 2007-01 modifies the Penal Code by inserting Section VII entitled 'Acts of Terrorism' in Chapter IV of Book III. This Section contains a set of provisions aimed at defining and suppressing acts of terrorism by coupling existing offences with the specific intent or motivation set forth at Article 279-1:

Article 279-1: The following offences constitute acts of terrorism when committed intentionally in relation to an individual or joint enterprise,

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which aims to seriously disrupt public order or the normal functioning of national or international institutions, through intimidation or terror:

(1) the attacks and plots set forth at Articles 72 to 76 and 84 of the present Code [offences against the Security of the State, aiming the overthrow of the Government or of the Constitutional order];

(2) offences committed through insurrectional movement as set out at Article 85, 86 and 87 of the present code;

(3) acts of violence or assault committed against persons and acts of destruction or degradation committed in the course of gatherings set forth at Article 98 of the present Code [licit or illicit gatherings];

(4) kidnapping and sequestrations as set forth at Articles 334-337 of the present Code;

(5) acts of destruction, degradation or damage as set forth at Articles 406-409 of the present Code [through arson, mines, bombs or other explosive devices, causing damage to property or death];

(6) the degradation of property belonging to the State or falling within the public domain as set forth at Article 225 of the present Code;

(7) the association of malefactors set forth at Article 238 – 240 of the present Code;

(8) offences against life as set forth at Articles 280, 281, 284, 285, and 286 of the present Code;

(9) the issuing of threats as set forth at Articles 290-293 of the present Code;

(10) the infliction of wounds and acts of assault as set forth at Articles 294, 295, 296, 297, 297 bis and 298 of the present Code;

(11) the production or possession of prohibited weapons as set forth at Article 302 of the present Code and in Law no. 66-03 of 18 January 1966;

(12) acts of theft and extortion set forth at Articles 364 and 372 of the present Code.

Article 279-2: Constitutes an act of terrorism when committed intentionally in relation to an individual or joint enterprise which aims to seriously disrupt public order or the normal functioning of national or international institutions, through intimidation or terror, the introduction into the atmosphere, land, underground or in waterways of a substance of such a nature as to endanger human health, that of animals or of the natural environment.

Article 279-3: Constitutes an act of terrorism, the act of directly or indirectly financing terrorist enterprise by providing, gathering or managing funds, assets or property or in the provision or advice to this end, with the intent for these funds, assets or properties to be used, or knowing that they will be used in whole or in part to commit acts of terrorism.

At the subregional level, as member of the West African Economic and Monetary Union, Senegal is bound by Directive No. 07/2002/CM/UEMOA on the fight against money laundering, adopted in Cotonou, Benin, on 19 September 2002 (particularly Articles 36, 37, 39, 40, 41, 42 and 43), imposing an obligation on Member States to adopt a uniform law against money laundering as well as to establish a 'Financial Intelligence Unit' (FIU). Regulation No. 14/2002/CM, adopted in 2002 by the Council of Ministers, on the freezing of funds linked to terrorist activities, is directly applicable in Senegal.

In compliance with the above-mentioned Directive, Senegal adopted Law No. 2004-09, of 6 February 2004, which creates the CENTIF (Financial Intelligence Unit). Decree No. 2004-1150 of 18 August 2004 regulates the organization of the CENTIF.

Under the provisions of Article 42 of Act No. 90-06 of 20 June 1990 on banking regulations, banks and other financial institutions must provide, upon request from the Central Bank, any information relating to the list of accounts opened on behalf of suspected terrorists or suspected terrorist organizations and must notify the Central Bank of any request for the opening of an account relating to such persons or organizations.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The general rules with respect to the exercise of jurisdiction by Senegalese Courts are set out at Article 664 ss. of the Senegalese Code of Penal Procedure:

Article 664- Any Citizen of Senegal who has, outside of the national territory committed an offence considered a crime pursuant to Senegalese law may be prosecuted and judged by Senegalese Courts.

Any Citizen of Senegal who has, outside of the national territory committed an offence considered a misdemeanour pursuant to Senegalese law may be prosecuted and judged by Senegalese where the act is punishable by the legislation of the State in which it has been committed.

With respect to misdemeanours jeopardizing the Security of the State or of counterfeiting the State Seal, national currencies having legal tender, such a misdemeanour committed outside the State shall be punished in the same manner as a misdemeanour committed within the national territory.

The provisions set forth in the preceding paragraphs shall apply to the presumed author of the impugned acts who has acquired Senegalese citizenship following the commission of the acts he is alleged to have committed.

The principle of double criminality is set forth at Article 665 of the Senegalese Code of Penal Procedure:

Article 665- Whoever has, from within the national territory, acted as accomplice to a crime or misdemeanour committed abroad, may be prosecuted and judged by Senegalese Courts, if the alleged fact is punishable by virtue of both the foreign law and that of Senegal, as long as the crime of misdemeanour has been established by a final judgment by the foreign jurisdiction.

Pursuant to Article 668, in order for Senegalese Courts to be competent over an offence, it is not necessary that the entirety of that offence have been committed within Senegal:

Article 668 - Shall be deemed to have been committed on the territory of the Republic, any offence for which a constituent act was committed in Senegal.

The law amending the Senegalese Code of Penal Procedure (Law no. 2007-05 of 31 January 2007) provides at Article 2:

Article 2 – Article 669 of the Code of Penal Procedure shall be modified as follows: ‘Any foreigner who, outside the territory of the Republic and acting as either perpetrator or accomplice of one of the crimes set forth at Articles 431-1 to 431-5 of the Penal Code, of a crime or misdemeanour jeopardizing the Security of the State or of counterfeiting the State Seal, national currencies having legal tender, or of offences set forth at Articles 279-1 to 279-3 and 295-1 of the Penal Code, may be prosecuted according to the laws of Senegal or applicable to Senegal, if he is subject to Senegalese jurisdiction or if one of the victims resides in Senegal, or if the Government secures his extradition.’

- Applicable extradition and mutual legal assistance mechanisms

Extradition in Senegal is governed by Act No. 71-77 of 29 December 1971, which provides at Article 1 that:

Article 1 - In the absence of a treaty, the conditions and procedures for, and effects of, extradition shall be determined by the provisions of the present Act, which shall also apply to any matters not expressly covered in the aforementioned treaties.

The conditions under which Senegal may grant the extradition of a non-citizen are set out at Article 3:

Article 3 –The Senegalese Government may, grant extradition to a Foreign State, of any non-Senegalese individuals, who being the object of a prosecution initiated in the name of the requesting State or of a

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conviction handed down by its courts, is found within the territory of the Republic.

However, extradition shall be granted only in cases where the offence giving rise to the request has been committed:

- *On the territory of the requesting State, by one of its citizens or by a foreigner, or;*
- *Outside its territory by a foreigner, or;*
- *Outside of its territory by an individual who is foreign to that State, where the offence is one for which Senegalese law authorizes prosecution in Senegal, even though it has been committed abroad by a non-national*

Senegal is party to the following bilateral and multilateral treaties on mutual assistance in criminal matters:

Bilateral treaties:

- Judicial agreement with Tunisia, 13 April 1964, ratified by Senegal on 20 January 1965;
- Agreement with Mali, 8 April 1965, ratified by Senegal on 18 January 1966;
- Agreement with Morocco, 3 July 1967, ratified by Senegal on 14 June 1968;
- Agreement with France, 29 March 1974, ratified by Senegal on 8 January 1975;
- Agreement with the Gambia, 28 April 1965, ratified by Senegal on 26 June 1974. Agreement with Guinea-Bissau, 8 January 1975, ratified by Senegal on 6 January 1978;
- Agreement with Cape Verde, 17 April 1980, ratified by Senegal on 23 July 1982.

Multilateral treaties:

- General agreement on cooperation in judicial matters of the former African and Malagasy Common Organization (OCAM) of 12 September 1961;
- Convention on Cooperation in Judicial Matters among the States Parties to the Accord on Non-Aggression and Mutual Assistance in Defence (ANAD), signed on 21 April 1987 at Nouakchott, ratified by Senegal on 28 December 1987;
- ECOWAS Convention on Extradition, 6 August 1994, ratified by Senegal on 16 May 1995;
- ECOWAS Convention on Mutual Assistance in Criminal Matters, 29 July 1992, ratified by Senegal on 30 April 1999;

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Senegal has submitted three reports to the CTC (S/2002/51 of 27 December 2001, S/2002/1212 of 18 October 2002 and S/2003/1104 of 11 November 2003).

Senegal has not submitted its report to the Al Qaida and Taliban Sanctions Committee as required by Security Council resolution 1455 (2003). Senegal has not submitted its checklist pursuant to Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Senegal received the following bilateral technical assistance from UNODC/TPB:

- National Training Workshop for criminal justice officials on international cooperation in criminal matters (11-14 December 2006);
- National Workshop on the legislative incorporation of the universal instruments against terrorism (27 May 2008).

Representatives from Senegal have participated in the following regional conferences:

- Four Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Port-Louis, Mauritius, 25-27 October 2004; Sharm El-Sheikh, Egypt, 7-9 February 2006; Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Videoconference on the fight against international crime, corruption and terrorism, organized by TPB and the International Organization of the Francophonie (25 October 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007);

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- Specialized Training Workshop for judges and prosecutors on counter-terrorism, organized jointly with the French Ecole Nationale de la Magistrature (Paris, France, 30 June – 3 July 2008).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Senegal has ratified/acceded to the following instruments against terrorism:

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- Convention on the Physical Protection of Nuclear Material (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

Senegal has adopted two laws, respectively amending its Penal Code and Code of Penal Procedure in order to incorporate the universal instruments against terrorism into domestic law.

26. SIERRA LEONE

- a. Overview
- i. Status of ratification (7)

Sierra Leone has ratified the following universal instruments against terrorism:

- 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);
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

- ii. Status of legislative implementation

Sierra Leone has stated in its 2003 report to the CTC (S/2003/278), that it has established a High Level National Committee on Counter-Terrorism comprised of representatives from various ministries/agencies involved in the development and coordination of counter-terrorism activities.

Criminal Legislation:

According to Sierra Leone's report to the CTC (S/2003/278), Sierra Leone has no specific legislation on the prevention and suppression of terrorism. However, Sierra Leone noted, in the same report that a number of provisions in its Criminal Code and Criminal Procedural Act of 1965 can be used to prosecute acts of terrorism. These provisions explicitly enumerated by the Government in its report are those related to:

- Murder;
- Extortion;
- Currency smuggling;
- Illegal possession of firearms and ammunition.

In addition to the Criminal Code and Code of Criminal Procedure, the *Malicious Damage Act* (1861) contains provisions which include some of the acts criminalized by the universal instruments against terrorism:

- Acts committed by means of explosives or other lethal devices:

Article 10 - Attempting to destroy buildings with gunpowder- Whosoever shall unlawfully and maliciously place or throw in, into, upon, against or

near any building any gunpowder or other explosive substance with intent to destroy or damage any building, or any engine, machinery, working tools, fixtures, goods, or chattels, shall, whether or not any explosion took place, and whether or not any damage may be caused, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years- or to be imprisoned, and if a mal under the age of sixteen years, with or without whipping.

Explosive substance. Thought it is not necessary that any explosion should take place, it must be show that the explosive substance was capable of exploding at the time when it was placed or thrown. Thus throwing gunpowder into a building without a lighted fuse or other means to cause an explosion would not be within the section. [cf. Offences against the Person Act 1861, Explosive Substances Act, 1883]

- Acts committed against the safety of maritime navigation:

Article 42 – Setting fire to, or casting away or destroying a ship- Whosoever shall unlawfully and maliciously set fire to, cast away, or in anywise destroy any ship or vessel, whether the same be complete or in an unfinished state, shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or to be imprisoned and if a male under the age of sixteen years, with or without whipping.

Article 43 – Setting fire to or casting away a ship [...]

Article 44 – Attempting to set fire or to cast away a ship [...]

Article 45 – Placing gunpowder near a ship with intent to damage it- Whosoever shall unlawfully and maliciously place or throw in, into, upon, against or near any ship or vessel any gunpowder or other explosive substance with intent to destroy or damage any ship or vessel, or any engine, machinery, working tools, fixtures, goods, or chattels, shall, whether or not any explosion took place, and whether or not any injury be effected, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years- or to be imprisoned, and if a mal under the age of sixteen years, with or without whipping.

Article 46 – Damaging ships otherwise than by fire or explosion – Whosoever shall unlawfully and maliciously damage, otherwise than by fire, gunpowder, or other explosive substance, any ship or vessel, whether complete or in an unfinished state, with intent to destroy the same or render the same useless, shall be guilty of felony, and being convicted thereof shall be liable at the discretion of the court, to be kept in penal servitude for any term not exceeding seven years- or to be imprisoned, and if a mal under the age of sixteen years, with or without whipping.

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- The making or possession of gunpowder for the purpose of committing offences. (Article 54)

In addition to provisions aimed at individuals, the Criminal Procedure Act, Part V, Articles 207-209, related to ‘Trial of Corporations’, establishes the principle of corporate criminal liability in Sierra Leonean law.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The Criminal Procedure Act (of 1965), Articles 41 and 42, establishes jurisdiction for:

Offences at sea or elsewhere out of Sierra Leone:

41. When a person is accused of the commission of an offence at sea or elsewhere out of Sierra Leone, which according to law may be dealt with in Sierra Leone, the offence may, subject to the provisions of section 53, be enquired into and tried at any place in Sierra Leone to which the accused person is first brought or to which he may taken thereafter.

Offences by public officers abroad and offences on aircraft:

42. (1) Any public officer, who commits outside Sierra Leone, when acting or purporting to act in the course of his duties, any act, which if committed in Sierra Leone would be an offence shall be guilty of an offence of the same nature, and subject to the same punishment, as if the act had been committed in Sierra Leone.

(2) Any person who commits on an aircraft operated by or on behalf of a company registered in Sierra Leone, any act which, if committed in Sierra Leone would be an offence shall be guilty of an offence of the same nature, and subject to the same punishment, as if the act had been committed in Sierra Leone.

(3) Any person may be proceeded against, tried and punished for an offence under this section in any part of Sierra Leone in which he is apprehended or is in custody as if the offence had been committed in that part of Sierra Leone and the offence shall for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in that part of Sierra Leone.

- Applicable extradition and mutual legal assistance mechanisms

Sierra Leone is a party to the following instruments governing extradition:

- Extradition Treaty with the United States of America, 1931;
- As a member of ECOWAS, Sierra Leone has signed the Extradition Convention A/P.1/8/94, signed in Abuja on 6 August 1994.

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

Sierra Leone has submitted one report to the CTC (S/2003/278, 3 March 2003).

Sierra Leone has submitted its report (S/AC.37/2005/(1455)/11 of 29 September 2005) to the Al Qaida and Taliban Sanctions Committee pursuant to Security Council resolution 1455 (2003). Sierra Leone has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

v. Status of technical cooperation with UNODC

Sierra Leone received the following bilateral technical assistance from UNODC/TPB:

- National Workshop for the ratification and incorporation of the universal instruments against terrorism and the United Nations Convention against Transnational Organized Crime and its three Protocols (31 January – 2 February 2005).

Representatives from Sierra Leone have participated in the following regional conferences:

- Subregional Experts Seminar for African States for the ratification and incorporation into national legislation the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law' (Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006).

b. Progress made since the beginning of the Global Project on strengthening the legal regime against terrorism (1 January 2003)

Since that date, Sierra Leone has ratified/acceded to the following instruments against terrorism:

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- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents (1973);
- International Convention against the Taking of Hostages (1979);
- International Convention for the Suppression of Terrorist Bombings (1997);
- International Convention for the Suppression of the Financing of Terrorism (1999).

At the 2005 UNODC workshop in Freetown, the participants adopted the 'Freetown Plan of Action' through which the representatives of the Sierra Leonean Government committed themselves to:

- The ratification and accession of universal instruments against terrorism not yet ratified by Sierra Leone;
- The incorporation of these instruments into national law;
- The issuance of a request for technical assistance from the Government to the UNODC for the provision of technical assistance in the ratification and legislative incorporation processes;
- The drafting and transmission of Sierra Leone's second report to the CTC;
- The issuance of a request for technical assistance from the Government to the UNODC for the purposes of training and support of criminal justice officials.

27. TOGO

a. Overview

i. Status of ratification (12)

Togo has ratified/acceded to the following universal instruments against terrorism:

- 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);
- 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 (1979);
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988);
- 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).

ii. Status of legislative implementation

Article 140 of the Constitution of Togo states: “*International treaties or agreements ratified or acceded according to law have, from the date of their publication, a superior authority to that of laws, subject to reciprocity*”.

Criminal Legislation:

In his speech at the Fourth Conference of the Ministers of Justice of Francophone African countries (Ouagadougou, Burkina Faso, 20-22 March 2007, the Togolese Minister of Justice noted that his Ministry has created an ‘Inter-ministerial Commission’ which has been mandated with the incorporation of the universal instruments against terrorism into national law.

Certain provisions of the Togolese Penal Code may be used to prosecute offences set forth in the universal instruments against terrorism. An example of this is Section 7 (‘*Offences against liberty*’), Articles 60 ss, which can be used to criminalize the taking of hostages:

60. Whomever confines a person against their will in any locations without the authorisation of a legitimate authority and excluding cases justified by necessity, shall be punished:

from two to six months imprisonment if the confinement has lasted less than twenty four hours;

from three months to two years imprisonment if the confinement lasted from one to ten days, and;

from one to five years imprisonment if the confinement lasted more than ten days.

61. Where the authors of the confinement have physically abused the victim, the penalties provided at Articles 46-49 [Voluntary acts of violence] shall be doubled.

62. Where the confinement was undertaken in order to facilitate, prepare or commit an offence against property or was committed with the aim of blackmailing public authorities, the guilty parties shall be sentenced to life imprisonment.

63. Where the confinement has brought about the victim's death, its authors shall be sentenced to death.

64. The authors or accomplices to the confinement will benefit for the reduction of sentenced provided at Article 57, where they have unconditionally released the victim safe and sound.

In addition, general provisions of the Penal Code such as Section 10, related to 'Destruction and Degradation', can be used to prosecute certain acts of terrorism:

126. Whoever has voluntarily destroyed, or attempted to destroy, to the prejudice of others, any buildings, ships, aircraft, stores, inhabited structures or those occupied by employees shall be punished:

1) to death, where the destruction was undertaken by means of fire or explosives;

2) to life imprisonment, where the destruction was undertaken by any other means.

Similarly, Article 89 of the Penal Code can be used to criminalize 'incitement' to commit terrorist acts:

Article 89 – Shall be punished by a term of imprisonment from six month to two years and to a fine of 20,000 to 200,000 Francs or to one of these sentences :

[..]

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4°) anyone who through spoken words, writings or any other means of communication, disseminates or causes to be publicly disseminated incitement to commit practices against public morals.

As reported by Togo to UNODC during the videoconference of 25 August 2006, a draft law amending the Penal Code is being finalized, which incorporates a number of offences related to terrorist acts, included in Chapter X (“Offences related to terrorism”):

Article 245: offences relating to the safety of civil aviation;
Article 247: offences relating to the security of maritime navigation and the safety of fixed platforms;
Article 248: offences relating to the taking of hostages;
Article 251: offences related to nuclear material;
Article 252: offences relating to the financing of terrorism.

At the subregional level, Togo is a member of the West African Economic and Monetary Union, which adopted Directive No. 07/2002/CM/UEMOA on the fight against money laundering, imposing the obligation on Member States to adopt a uniform law against money laundering as well as to establish a ‘Financial Intelligence Unit’ (FIU). This Directive, as well as Regulation No. 14/2002/CM on the freezing of funds linked to terrorist activities, adopted in 2002, are directly applicable to Togo.

Procedural Criminal Legislation:

- Applicable grounds for jurisdiction

The conditions, under which Togolese Courts may exercise jurisdiction, can be found at Articles 6 and 7 of the Penal Code:

6. Togolese Courts shall be competent to try any offence committed on Togolese territory, including territorial waters, airspace as well as ships or aircraft over which treaties or international custom recognise national sovereignty.

However, they will not be competent over offences committed aboard foreign military ships sailing or stationed within Togolese territorial waters.

An offence reputed to have been committed in Togo where at least part of its constitutive elements or the complicity to the main act have been carried out in Togo.

7. Togolese Courts shall be competent to adjudicate over any act qualified as a crime pursuant to Togolese law and which has been committed abroad by a Togolese national.

They shall also be competent over misdemeanours committed by a Togolese National abroad if the act is also punishable by the laws of the country in which it was committed.

The preceding shall also apply to cases where the accused only acquired Togolese citizenship following the perpetration of the alleged act.

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A prosecution may only be initiated pursuant to a complaint by the victim or through the reporting of the facts by the authorities of the country in which they were committed.

Togolese courts shall be competent to exercise their jurisdiction over foreigners who have, outside the national territory, committed or acted as accomplices to the commission of crimes against State Security, of forgery of the State Seal or of counterfeit currency, where they have been arrested in Togo, or where they have been duly extradited.

- Applicable extradition and mutual legal assistance mechanisms

While Article 24 of the Constitution prohibits the extradition of Togolese citizens, Article 23 establishes the procedural requirements for the extradition of foreigners:

23. A foreigner may not be expelled or extradited from Togolese territory except through a decision rendered in accordance with the law. He must have the opportunity to present his defense before the competent judicial authority.

Togo is party to the following agreements and treaties:

- The 1984 Agreement on cooperation in criminal law enforcement matters with Benin, Ghana and Nigeria;
- The 1992 Convention on Mutual Assistance in Criminal Matters between the States Members of the Economic Community of West African States (ECOWAS A/P1/7/92);
- The 1994 Convention of the Economic Community of West African States on Extradition (ECOWAS A/P1/8/94);
- The 1997 Convention on cooperation and mutual assistance in matters relating to justice between the States Members of the Council of the Entente (Benin, Burkina Faso, Côte d'Ivoire, Niger and Togo).

iii. Status of submission of reports to the United Nations Security Council Committees dealing with counter-terrorism

One report was submitted by Togo to the CTC (S/2002/1070 of 20 September 2002).

Togo has not submitted its report or check list to the Al Qaida and Taliban Sanctions Committee pursuant Security Council resolution 1455 (2003). Togo has not submitted its checklist in accordance with Security Council resolution 1617 (2005).

iv. Status of technical cooperation with UNODC

Togo received the following technical assistance from UNODC/TPB:

- National Workshop on the ratification and implementation of the universal instruments against terrorism and transnational organized crime (2-5 August 2004);

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- Two Videoconferences to provide legal assistance for the drafting of the report of Togo to the Counter-Terrorism Committee of the United Nations Security Council as well as to provide legal advice on the Draft Law for the legislative incorporation of the universal instruments against terrorism into national law (18 July and 25 August 2006);
- Videoconference on the preparation of responses to the United Nations Council Committees dealing with counter-terrorism (2 July 2008).

Togo representatives participated in the following regional conferences:

- Five Annual Conferences of the Ministers of Justice of African Francophone Countries on the ratification and implementation of the universal instruments against terrorism (Cairo, Egypt, 2-4 September 2003; Port-Louis, Mauritius, 25-27 October 2004, Sharm El-Sheikh, Egypt, 7-9 February 2006, Ouagadougou, Burkina Faso, 20-22 March 2007; and Rabat, Morocco, 12-16 May 2008);
- Subregional Experts Seminar on the ratification and legislative incorporation of the universal instruments against terrorism as well as the United Nations Convention against Transnational Organized Crime and its three protocols (Bamako, Mali, 25-28 November 2003);
- Regional Expert Workshop on the ratification and implementation of the universal instruments against terrorism, corruption and transnational organized crime as well as on the drafting of the reports to the Counter-Terrorism Committee of the United Nations Security Council (Praia, Cape Verde, 8-10 December 2004);
- Round Table for Africa on 'Crime and drugs as impediments to security and development in Africa: strengthening the rule of law'(Abuja, Nigeria, 5-6 September 2005);
- Madrid Ministerial Round Table on Counter-Terrorism Legal Framework in West and Central African Countries (Madrid, Spain, 25-26 May 2006);
- Subregional Training Workshop for ECOWAS Member States on international legal cooperation against terrorism (Abuja, Nigeria, 24-26 July 2006);
- Subregional Workshop on the drafting of responses to the United Nations Security Council Committees dealing with counter-terrorism (Dakar, Senegal, 25-27 September 2007).

b. Progress made since the beginning of the Global Project on Strengthening the legal regime against terrorism (1 January 2003)

Since that date, Togo has ratified/acceded to the following instruments against terrorism:

- Convention on the Physical Protection of Nuclear Material (1979);
- 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);

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- 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).

At the end of the 2004 UNODC/TPB National Workshop (2-5 August 2004), a general report was adopted which contained a set of recommendations, one of which being that the Togolese Government take concrete steps towards the drafting and adoption of legislation aimed at the incorporation of the universal instruments against terrorism into national law. In order to pursue this objective, the Government of Togo has established an Inter-ministerial committee. A draft law amending the Penal Code has been elaborated, which contains a chapter on terrorist offences that was discussed with UNODC/TPB through a videoconference on 25 August 2006. In June 2008, UNODC/TPB further reviewed the draft law, which is in the process of being finalized by the national authorities, before being submitted for adoption.

Annex 1:

Madrid Declaration and Plan of Action¹⁷

**Madrid Declaration and Plan of Action on strengthening the legal regime
against terrorism in West and Central Africa**

**Adopted by the ‘Madrid Ministerial Round Table of West and Central
African Countries on Counter-Terrorism Legal Framework’**

Madrid, 25-26 May 2006

Declaration

On 26 May 2006,

We, the Ministers of Foreign Affairs and Heads of delegations of the following countries: Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Côte d’Ivoire, Democratic Republic of Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea Bissau, Guinea, Liberia, Mali, Mauritania, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone, Togo, meeting in Madrid from 25 to 26 May 2006 within the framework of the United Nations;

In the presence of the following entities and specialized agencies of the United Nations: the Counter-Terrorism Committee Executive Directorate (CTED), the United Nations Office on Drugs and Crime (UNODC), the United Nations Office of the High Commissioner for Human Rights (UNOHCHR); and of the following international and regional organizations: the African Union (UA) and its African Centre for the Study and Research on Terrorism (ACSRT), the Central African Economic and Monetary Union (CEMAC), the Commonwealth Secretariat, the Economic Community of Central African States (ECCAS), the European Union, the International Monetary Fund, Interpol, the World Bank;

1. Strongly condemn all acts, methods and practices of terrorism in all its forms and manifestations as criminal and unjustifiable, wherever and by whomsoever committed¹⁸;
2. Stress the importance of assisting victims of terrorism and of providing them and their families with support to cope with their loss and their grief;
3. Recognize that international cooperation to fight terrorism must be conducted in conformity with international law, including the Charter

¹⁷ The Document has been adopted by the General Assembly of the United Nations during its 61st Session, ref. A/61/368-S/2006/756.

¹⁸ Ref. General Assembly resolution 60/43 of 8 December 2005

and relevant international conventions and protocols; commit ourselves that any measures taken to combat terrorism comply with our obligations under international law, in particular international human rights law, refugee law and international humanitarian law;

4. Welcome the adoption of the International Convention for the Suppression of Acts of Nuclear Terrorism adopted on 13 April 2005 during the 91st plenary meeting of the General Assembly by Resolution A/RES/59/290 and the adoption of three amendments to three of the universal instruments against terrorism - Amendment to the Convention on the Physical Protection of Nuclear Material (2005); Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005); and Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005);
5. Stress the need to make every effort to reach an agreement on and conclude a comprehensive convention on international terrorism at the earliest possible;
6. Welcome the Secretary-General's report "Uniting against terrorism: recommendations for a global counter-terrorism strategy" issued on 27 April 2006 (A/60/825) which contains recommendations for a global counter-terrorism strategy; and hope for the early adoption by the United Nations General Assembly of this strategy;
7. Commend the international, regional and sub-regional organizations represented in the Madrid Round Table for their active role and commitment;
8. Call upon, to that end, these organizations to promote a continuous dialogue and joint activities, reinforcing complementarities among them by further improving coordination and cooperation; and the West and Central African States to establish appropriate mechanisms for collaboration and coordination at the national and sub-regional levels with support from these organizations and institutions;
9. Welcome the adoption of the "Programme of Action 2006-2010 to strengthen the rule of law and criminal justice systems in Africa"¹⁹ adopted by the delegations of 47 African countries at the end of the Round Table "Crime and drugs as impediments to security and development in Africa: strengthening the rule of law" which took place from 5 to 6 September 2005 in Abuja, Nigeria, as well as the 'African Union Plan of Action on the prevention and the fight against terrorism' and the central role of the African Centre for the Study and Research on Terrorism in this field;

¹⁹ Welcomed by the General Assembly in paragraph 16 of its Resolution 60/175 of 16 December 2005.

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10. Request the United Nations Office on Drugs and Crime, in cooperation with other international, regional and sub-regional organizations and contributing bodies donors and in coordination with the competent intergovernmental, to continue its efforts to enhance, through its mandate reiterated by the General Assembly in its Resolution 60/43 of 6 January 2006, the capabilities of the West and Central African States in the prevention of terrorism, and to assist them in becoming parties to and implementing the relevant international conventions and protocols relating to terrorism, and to strengthen international cooperation mechanisms in criminal matters related to terrorism, including through national capacity-building;
11. Commend the various initiatives to promote dialogue, tolerance and understanding among civilizations;
12. Express our sincere gratitude to the Kingdom of Spain, for having hosted and supported the Madrid Round Table of West and Central African Countries on Counter-Terrorism Legal Framework held at Madrid on 25 and 26 May 2006, and to the United Nations Office on Drugs and Crime which jointly organized it;
13. Adopt the Madrid Declaration on strengthening the legal regime against terrorism in West and Central Africa as well as the Plan of Action set below for its implementation and proclaim our firm determination to pursue all appropriate measures for its expeditious implementation;

Plan of Action

We, the Ministers of Foreign Affairs and Heads of delegations of the West and Central African States present, commit ourselves to take the necessary steps, in consistence with the legal systems of our States, to:

1. Become party to all universal instruments against terrorism;
2. Sign the International Convention for the Suppression of Acts of Nuclear Terrorism before the established deadline on 31 December 2006, and to ratify it as soon as possible for its early entry into force;
3. Become party to the amendments to three of the universal instruments against terrorism: Amendment to the Convention on the Physical Protection of Nuclear Material (2005); Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005); and Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005);

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4. Incorporate into the national legislation the relevant provisions of the universal legal instruments against terrorism in order to effectively prevent and suppress terrorism;
5. Provide training to national criminal justice officials in the application of the national counter-terrorism legislation implementing the universal instruments against terrorism and in international cooperation in criminal matters related to the universal instruments against terrorism, with the support of UNODC as well as the relevant regional and sub-regional organizations;
6. Complete the pending supplementary reports to the Counter-Terrorism Committee and the Security Council Committee established pursuant to Resolution 1267 (1999) of the United Nations Security Council, within the timeframe requested by these committees;
7. Enhance cooperation to prevent and combat terrorism more effectively, particularly through bilateral and multilateral arrangements and agreements, in accordance with the relevant provisions of the United Nations the Security Council Resolution 1373 (2001);
8. Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings, in accordance with the United Nations Security Council Resolution 1373 (2001);
9. Cooperate fully in the fight against terrorism, in accordance with our obligations under international law, including all the relevant Security Council and General Assembly resolutions, in order to find, deny safe haven and bring to justice, on the basis of the principle of “extradite or prosecute”, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens;
10. Ensure required inter-ministerial coordination for the ratification or accession to the universal instruments against terrorism, the deposit of their instruments of ratification or accession, the legislative incorporation of their provisions as well as for the drafting of the reports to the Counter-Terrorism Committee and the Security Council Committee established pursuant to Resolution 1267 (1999) of the United Nations Security Council;
11. Identify jointly with the Counter-Terrorism Committee, through its Executive Directorate, technical assistance needs for implementing Security Council Resolution 1373 (2001);
12. Request UNODC to provide technical assistance, whenever necessary in coordination with the UNOHCHR, in the following areas:

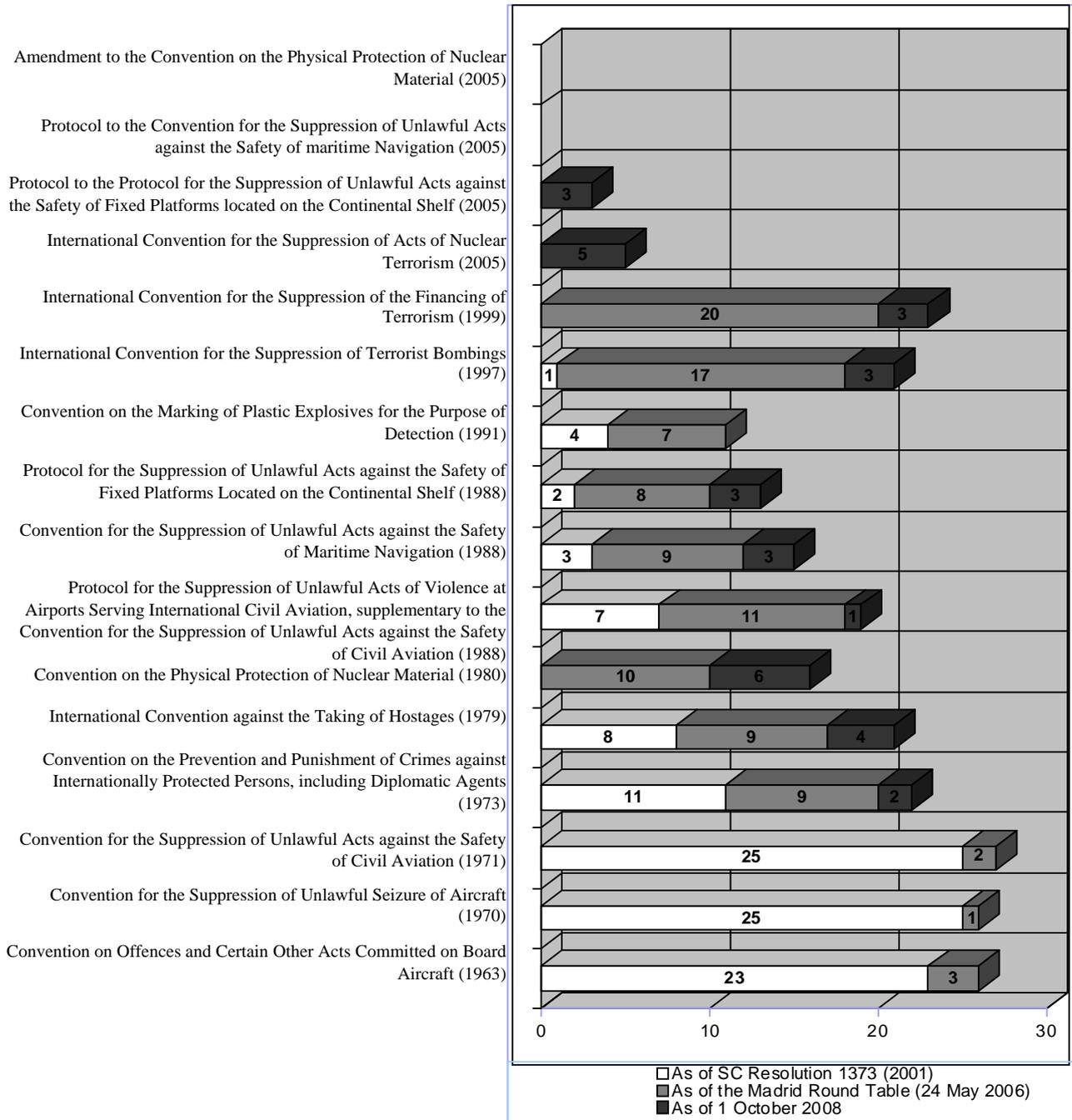
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- Ratification of the universal legal instruments against terrorism and the implementation of their provisions as well as the United Nations Security Council Resolution 1373 (2001)
 - Training of criminal justice officials in the application of the national counter-terrorism legislation which incorporates the universal instruments against terrorism
 - Training of criminal justice officials in international cooperation in criminal matters related to the universal instruments against terrorism
 - Specialization of judges and prosecutors on international cooperation in combating terrorism
 - Drafting of national reports to the Counter-Terrorism Committee of the United Nations Security Council and the Committee established pursuant to Resolution 1267 of the Security Council
 - Other assistance to enhance the capabilities of the West and Central African States in the prevention of terrorism, including related national capacity-building of national criminal justice systems, in accordance with its mandate reiterated by the General Assembly in its resolution 60/43 of 6 January 2006.
13. Seek the widest possible technical support from specialized international, regional and sub-regional organizations in this area, in particular the European Union, the African Union including its Centre ACSRT for the implementation of its Plan of Action on the prevention and fight against terrorism, the International Monetary Fund, Interpol, the World Bank;
 14. Seek from entities and agencies of the United Nations, the international community as well as sub-regional, regional and international organizations, technical assistance in the areas covered by Resolution 1373 (2001) of the Security Council, such as for the supply of appropriate equipment and infrastructures, with the support provided by the Counter-Terrorism Committee Executive Directorate;
 15. Conduct annual evaluations of progress achieved with respect to the implementation of this Plan of Action by providing relevant information to UNODC.

We, the Ministers of Foreign Affairs and Heads of delegations of the West and Central African States present, invite the President of the Round Table to bring this Declaration to the attention of the Security Council and the General Assembly of the United Nations at its sixtieth ordinary session as well as to the appropriate bodies of the African Union.

Annex 2:

**PROGRESS MADE BY WEST AND CENTRAL AFRICAN COUNTRIES:
NUMBER OF RATIFICATIONS**



Annex 3:**OVERVIEW OF THE PROGRESS MADE IN THE RATIFICATION OF THE
UNIVERSAL INSTRUMENTS AGAINST TERRORISM ***

	1. Convention on Offences Committed on Board Aircraft	2. Convention for the Suppression of the Unlawful Seizure of Aircraft	3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	4. Convention on the Prevention and Punishment of Crimes against Int. Protected Persons	5. Convention against the Taking of Hostages	6. Convention on the Physical Protection of Nuclear Material	7. Protocol for the Suppression of Acts of Violence at Airports Serving Civil Aviation	8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms	10. Convention on the Marking of Plastic Explosives for the Purpose of Detection	11. Convention for the Suppression of Terrorist Bombings	12. Convention for the Suppression of the Financing of Terrorism	13. Convention for the Suppression of Acts of Nuclear Terrorism	14. Amendment to the Convention on the Physical Protection of Nuclear Material	15. 2005 Protocol to the Conv. for the Supp. of Unlawful Acts against the Safety of Maritime Navigation	16. Protocol to the 2005 Protocol for the Supp. of Unlawful Acts against the Safety of Fixed Platforms	T O T A L 16	
Angola	24 Feb. 1998	12 Mar. 1998	12 Mar. 1998				16 Jan. 2008											4 (+1)
Benin	30 Mar. 2004	13 Mar. 1972	19 Apr. 2004	31 July 2003	31 July 2003		19 Apr. 2004	31 Aug. 2006	31 Aug. 2006	30 Mar. 2004	31 July 2003	30 Aug. 2004						11 (+10)
Burkina Faso	6 June 1969	19 Oct. 1987	19 Oct. 1987	1 Oct. 2003	1 Oct. 2003	13 Jan. 2004	8 Dec. 1998	15 Jan. 2004	15 Jan. 2004	7 July 2004	1 Oct. 2003	1 Oct. 2003						12 (+8)
Burundi	14 July 1971		11 Feb. 1999	17 Dec. 1980														3
Cameroon	24 Mar. 1988	14 Apr. 1988	11 July 1973	8 June 1992	9 Mar. 1988	29 June 2004	13 Mar. 2003			3 June 1998	21 Mar. 2005	6 Feb. 2006						10 (+4)
Cape Verde	4 Oct. 1989	20 Oct. 1977	20 Oct. 1977	10 Sept. 2002	10 Sept. 2002	23 Feb. 2007	12 Sept. 2002	3 Jan. 2003	3 Jan. 2003	4 Nov. 2002	10 May 2002	10 May 2002						12 (+3)
Central African Republic	11 June 1991	1 July 1991	1 July 1991	19 Feb. 2008	9 July 2007	20 Feb. 2008	1 July 1991				19 Feb. 2008	19 Feb. 2008	19 Feb. 2008					10 (+6)
Chad	30 June 1970	12 July 1972	12 July 1972		1 Nov. 2006													4 (+1)
Congo	13 Nov. 1978	24 Nov. 1989	19 Mar. 1987									20 Apr. 2007						4 (+1)
Côte d'Ivoire	3 June 1970	9 Jan. 1973	9 Jan. 1973	13 Mar. 2002	22 Aug. 1989						13 Mar. 2002	13 Mar. 2002						7
Democratic Republic of the Congo	20 July 1977	6 July 1977	6 July 1977	25 July 1977		21 Sept. 2004					27 June 2008	28 Oct. 2005						7 (+3)
Equatorial Guinea	27 Feb. 1991	2 Jan. 1991	2 Jan. 1991	7 Feb. 2003	7 Feb. 2003	24 Nov. 2003	14 Jan. 2004	14 Jan. 2004	14 Jan. 2004		7 Feb. 2003	7 Feb. 2003						11 (+8)
Gabon	14 Jan. 1970	14 July 1971	29 June 1976	14 Oct. 1981	19 Apr. 2005	19 Feb. 2008	13 Aug. 2003				10 Mar. 2005	10 Mar. 2005	1 Oct. 2007	20 Mar. 2008				11 (+7)
Gambia	4 Jan. 1979	28 Nov. 1978	28 Nov. 1978				16 June 2000	1 Nov. 1991		20 June 2000								6
Ghana	2 Jan. 1974	12 Dec. 1973	12 Dec. 1973	25 Apr. 1975	10 Nov. 1987	16 Oct. 2002	15 July 1997	1 Nov. 2002	1 Nov. 2002	22 Apr. 1998	6 Sept. 2002	6 Sept. 2002						12

* last updated 1 October 2008.

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Guinea	18 Jan. 1994	2 May 1984	2 May 1984	22 Dec. 2004	22 Dec. 2004	29 Nov. 2005	1 Oct. 1998	1 Feb. 2005	1 Feb. 2005	23 Jan. 2004	7 Sept. 2000	14 July 2003					12 (+7)
	1. Convention on Offences Committed on Board Aircraft	2. Convention for the Suppression of the Unlawful Seizure of Aircraft	3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	4. Convention on the Prevention and Punishment of Crimes against Int. Protected Persons	5. Convention against the Taking of Hostages	6. Convention on the Physical Protection of Nuclear Material	7. Protocol for the Suppression of Acts of Violence at Airports Serving Civil Aviation	8. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation	9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms	10. Convention on the Marking of Plastic Explosives for the Purpose of Detection	11. Convention for the Suppression of Terrorist Bombings	12. Convention for the Suppression of the Financing of Terrorism	13. Convention for the Suppression of Acts of Nuclear Terrorism	14. Amendment to the Convention on the Physical Protection of Nuclear Material	15. 2005 Protocol to the Conv. for the Supp. of Unlawful Acts against the Safety of Maritime Navigation	16. Protocol to the 2005 Protocol for the Supp. of Unlawful Acts against the Safety of Fixed Platforms	TOTAL 16
Guinea – Bissau		20 Aug. 1976	20 Aug. 1976	6 Aug. 2008	6 Aug. 2008						6 Aug. 2008	19 Sept. 2008	6 Aug. 2008				7 (+5)
Liberia	10 Mar. 2003	1 Feb. 1982	1 Feb. 1982	30 Sept. 1975	5 Mar. 2003		10 Mar. 2003	5 Oct. 1995	5 Oct. 1995		5 Mar. 2003	5 Mar. 2003					10 (+5)
Mali	31 May 1971	29 Sept. 1971	24 Aug. 1972	12 Apr. 2002	8 Feb. 1990	7 May 2002	31 Oct. 1990	29 Apr. 2002	29 Apr. 2002	28 Sept. 2000	28 Mar. 2002	28 Mar. 2002					12
Mauritania	30 June 1977	1 Nov. 1978	1 Nov. 1978	9 Feb. 1998	13 Mar. 1998	29 Jan. 2008	8 July 2003	17 Jan. 2008	17 Jan. 2008		30 Apr. 2003	30 Apr. 2003	28 Apr. 2008	28 Feb. 2008			13 (+8)
Niger	27 June 1969	15 Oct. 1971	1 Sept. 1972	17 June 1985	26 Oct. 2004	19 Aug. 2004		30 Aug. 2006	30 Aug. 2006		26 Oct. 2004	30 Sept. 2004	2 July 2008				11 (+7)
Nigeria	7 Apr. 1970	3 July 1973	3 July 1973			4 Apr. 2007	25 Mar. 2003	24 Feb. 2004		10 May 2002		16 June 2003		4 May 2007			9 (+5)
Rwanda	17 May 1971	3 Nov. 1987	3 Nov. 1987	29 Nov. 1977	13 May 2002	28 June 2002	16 May 2002				13 May 2002	13 May 2002					9
Sao Tome & Principe	4 May 2006	8 May 2006	8 May 2006	12 Apr. 2006	23 Aug. 2006		8 May 2006	5 May 2006	5 May 2006		12 Apr. 2006	12 Apr. 2006					10 (+10)
Senegal	9 Mar. 1972	3 Feb. 1978	3 Feb. 1978	7 Apr. 2006	10 Mar. 1987	3 Nov. 2003	24 Mar. 2003	9 Aug. 2004	9 Aug. 2004	11 Feb. 2004	27 Oct. 2003	24 Sept. 2004					12 (+8)
Sierra Leone	9 Nov. 1970	13 Nov. 1974	20 Sept. 1979	26 Sept. 2003	26 Sept. 2003						26 Sept. 2003	26 Sept. 2003					7 (+4)
Togo	26 July 1971	9 Feb. 1979	9 Feb. 1979	30 Dec. 1980	25 July 1986	7 June 2006	9 Feb. 1990	10 Mar. 2003	10 Mar. 2003	22 July 2003	10 Mar. 2003	10 Mar. 2003					12 (+6)
Total : 27	26 (+3)	26 (+1)	27 (+2)	22 (+9)	21 (+12)	16 (+13)	19 (+10)	15 (+11)	13 (+10)	11 (+5)	21 (+15)	23 (+18)	5 (+5)	3 (+3)	0	0	243 (+112)

Annex 4:**LEGISLATIVE INCORPORATION OF THE UNIVERSAL INSTRUMENTS
AGAINST TERRORISM INTO DOMESTIC LAW**

State	Laws Adopted	Draft Laws Prepared or Legislative Reform Initiated
Angola		
Benin		Draft Penal Code and Code of Criminal Procedure aimed at incorporating the universal instruments against terrorism into domestic law reviewed with UNODC at the National Workshop in Cotonou (18-20 October 2006).
Burkina Faso	Law No. 032-2003/AN concerning internal security.	Legislative review undertaken for the incorporation of the universal instruments against terrorism into national law. Draft counter-terrorism law finalized with UNODC during a National Workshop (6-8 November 2007). The National Codification Committee currently works on the reform of the Penal Code.
Burundi	Decree No. 1/006 (4 April 1981) prohibiting unlawful acts committed by gangs. Law against Money Laundering and Terrorism Financing (No. 1/02), adopted on 4 February 2008.	New Draft Penal Code before Parliament containing Chapter IV related to acts of terrorism. Additional amendments to the Chapter were prepared by the Ministry of Justice and UNODC during a National Workshop (6-8 August 2007), to complete the incorporation of the universal instruments against terrorism into national law.
Cameroon	Law No. 2001/019 (18 December 2001) on the suppression of unlawful acts against the safety of civil navigation.	Legislative reform process initiated by the Technical Inter-Ministerial Commission created through decree 264/DL/MJ (17 September 2004), with the mandate of incorporating the universal instruments against terrorism into national legislation. Legislative amendments drafted by the Ministry of Justice and UNODC in order to put national legislation in line with the universal instruments (National Workshop, 6-8 February 2007).
Cape Verde	Law No. 17/VI/2002 on Money-Laundering which criminalises the laundering of proceeds of crime including terrorism.	Draft law against terrorism prepared during the National Workshop in Praia (31 January to 1 February 2007) with the assistance of UNODC.

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Central African Republic		<p>Revision of the Penal Code and Code of Criminal Procedure initiated with amendments drafted with assistance of UNODC/TPB.</p> <p>Two draft laws prepared and submitted to the Council of Ministers for approval in August 2007. These draft laws are currently in the process of proofreading for submission to the National Assembly.</p>
Chad		<p>Draft law against terrorism prepared during the National Workshop in N'Djamena (8-12 September 2008), with the assistance of UNODC.</p>
Congo	<p>Law No. 006-91 (16 May 1991) on the suppression of unlawful acts against the safety of civil aviation.</p> <p>Articles 96 and 268 of the Penal Code on the financing of terrorism.</p>	<p>National Committee established with the mandate of reforming the Congolese Penal Code for the legislative incorporation of the universal instruments against terrorism.</p>
Côte d'Ivoire	<p>Regulation No. 14/2002/CM on the freezing of funds linked with terrorist activities.</p>	<p>Legislative review underway by a National Commission established to ensure the incorporation of Security Council Resolution 1373 and the universal instruments against terrorism into domestic law with the support of UNODC (National Workshop, 15-16 May 2007). The Draft Law was finalized on 26 July 2007.</p>
Democratic Republic of the Congo	<p>Law No. 04/016 (19 July 2004) on money laundering and the financing of terrorism.</p>	<p>National Committee for Coordinating Efforts to Counter International Terrorism established by decree.</p> <p>Counter-terrorism bill drafted by national authorities has been reviewed and finalized with UNODC in August 2007.</p>
Equatorial Guinea	<p>Article 260 of the Penal Code incriminates terrorist acts.</p>	<p>National Commission in charge of reforming the Penal Code established to incorporate the universal instruments against terrorism into national law.</p>
Gabon		<p>Ad hoc committee established for the implementation of Security Council resolution 1373 (2001) and the universal instruments against terrorism with the support of UNODC during National Workshop (14-16 November 2006).</p>

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		<p>Bills on money laundering, and combating the financing of terrorism are currently being drafted.</p> <p>A bill on counter-terrorism is currently being drafted.</p>
Gambia	<p>Anti-terrorism Act (2003) commented by UNODC during a National Workshop in Banjul (15-17 June 2005) in order to ensure conformity with the universal instruments against terrorism.</p>	
Ghana	<p>The Anti-Money Laundering Act was adopted in March 2007.</p>	<p>Anti-terrorism bill submitted to Parliament and Act dealing with proceeds of crime is being prepared by the Attorney-General's Department.</p>
Guinea		<p>Draft laws amending the Penal Code and Code of Criminal Procedure incorporating the universal instruments against terrorism into domestic law to be submitted to the National Assembly.</p>
Guinea-Bissau		<p>Anti-money-laundering bill sent to the National Assembly for approval.</p> <p>Revision of the Penal Code in progress.</p> <p>Creation of a Committee for the drafting of anti-terrorism legislation and of an Inter-Ministerial Committee whose mandate is to ensure respect of Guinea-Bissau's international obligations.</p>
Liberia		<p>Draft anti-terrorism legislation prepared with the assistance of UNODC at the National Workshop in Monrovia (21-23 May 2007).</p>
Mali	<p>Law No. 08-025 (23 July 2008) against terrorism, drafted with the assistance of UNODC (National Workshop , 6-7 November 2006).</p> <p>Law No. 04-050 (12 December 2004) concerning weapons and munitions.</p> <p>Decree No. 05-441/P-RM (13 October 2005) establishing the modalities of the aforementioned law's application.</p>	

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Mauritania	<p>Law No. 2005-47 (25 July 2005) on the fight against terrorism.</p> <p>Law No. 2005-48 (25 July 2005) on the fight against Money Laundering and the Financing of terrorism.</p>	
Niger	<p>Law No. 2008-18 of 23 June 2008 amending the criminal code and inserting a title "Terrorism and financing of terrorism".</p>	
Nigeria		<p>The 2006 Terrorism Prevention Bill, which received suggestions by UNODC/TPB during the videoconference of 28 August 2008 and the Workshop of 22-23 October 2008, is under revision and is expected to be presented before the National Assembly.</p>
Rwanda		<p>National Counter-Terrorism Committee created by Prime Ministerial Order to coordinate cooperation with the Security Council and other States on terrorist matters. Rwanda has initiated a legislative reform process, in view of incorporating the universal instruments against terrorism into domestic laws, which includes drafts laws modifying the Penal Code and the Code of Criminal Procedure, on terrorism and on money-laundering.</p>
Sao Tome and Principe		<p>New Penal Code and Code of Criminal Procedure is being adopted.</p> <p>A counter-terrorism draft law has been prepared and submitted to Parliament for approval. An anti money-laundering bill has also been drafted.</p>
Senegal	<p>Law No. 2007/01 amending the Penal Code.</p> <p>Law No. 2007/04 (31 January 2007) amending the Code of Penal Procedure with regard to terrorism, adopted by the National Assembly.</p>	
Sierra Leone		<p>Legislative reform initiated aimed at the incorporation of the universal instruments against terrorism into domestic law.</p>

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Togo		<p>Inter-Ministerial Committee created for the drafting and adoption of anti-terrorism legislation.</p> <p>Draft law against terrorism incorporating the universal instruments against terrorism into domestic law finalized with UNODC during a videoconference on 25 August 2006.</p>
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Annex 5:**Status of Submission of Reports to the Counter-Terrorism Committee***

State	1st Report	2nd Report	3rd Report	4th Report	5th Report	Total
Angola	S/2002/116, 24 January 2002	S/2003/402, 31 March 2003	S/2003/1210, 22 December 2003			3
Benin	S/2002/435, 17 April 2002	S/2005/277, 28 April 2005	S/2006/174, 15 March 2006			3
Burkina Faso	S/2002/444, 12 April 2002	S/2003/385, 24 March 2003				2
Burundi	S/2001/1322 and Corr. 1, 27 December 2001	S/2005/33, 6 January 2005				2
Cameroon	S/2002/277, 14 March 2002	S/2003/489, 31 March 2003	S/2005/225 and Corr. 1, 22 November 2006	S/2006/918, 27 November 2006		4
Cape Verde	S/2001/1329, 27 December 2001	S/2007/573, 27 September 2007				2
Central African Republic	S/2003/15, 19 December 2002					1
Chad	S/2003/388, 25 March 2003					1
Congo	S/2002/1001, 30 August 2002	S/2003/670, 16 June 2003	S/2005/367, 26 May 2005	S/2006/282, 12 April 2006		4

* Pursuant to paragraph 6 of Security Council resolution 1373, all States are called upon to report to the Counter-Terrorism Committee on the steps that they have taken to implement the resolution (Note verbale SCA/20/01(6)). These reports formed the basis of the Committee's work with Member States. Currently, new reporting procedures, namely the Counter-Terrorism Committee's Preliminary Implementation Assessments (PIAs), are in place through which further information and updates are submitted.

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Côte d'Ivoire	S/2002/75, 3 January 2002	S/2003/493, 8 April 2003				2
Democratic Republic of Congo	S/2001/1331, 27 December 2001	S/2003/386, 6 March 2003	S/2005/260, 28 March 2005	S/2008/58, 20 February 2008	S/2008/59, 2 January 2008	5
Equatorial Guinea	S/2003/180, 11 February 2003					1
Gabon	S/2001/1219, 18 December 2001	S/2003/491, 31 March 2003	S/2007/163, 15 March 2007			3
Gambia	S/2003/434, 10 April 2003					1
Ghana	S/2002/708 and Add 1, 27 June 2002	S/2005/166, 14 April 2005				2
Guinea	S/2002/276, 12 March 2002	S/2003/258, 3 March 2003				2
Guinea-Bissau	S/2003/361, 24 March 2003					1
Liberia	S/2003/259, 3 March 2003					1
Mali	S/2002/613, 29 May 2002	S/2003/1050, 13 October 2003	S/2006/1038, 19 December 2006			3
Mauritania	S/2002/971, 26 August 2002	S/2003/484, 31 March 2003				2
Niger	S/2002/94, 18 January 2002	S/2003/631, 3 June 2003	S/2004/374, 27 April 2004	S/2008/121, 10 March 2008		4

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Nigeria	S/2002/69, 15 January 2002	S/2003/308, 7 March 2003	S/2007/65, 7 February 2007			3
Rwanda	S/2002/1028, 9 September 2002	S/2003/702, 3 July 2003	S/2004/358, 4 May 2004	S/2005/63 24 January 2005		4
Sao Tome & Principe	S/2003/568, 13 May 2003	S/2005/551, 22 August 2005				2
Senegal	S/2002/51, 27 December 2001	S/2002/1212, 18 October 2002	S/2003/1104, 11 November 2003			3
Sierra Leone	S/2003/278, 3 March 2003					1
Togo	S/2002/1070, 20 September 2002					1

Annex 6:**Status of Submission of Reports and Checklists to the Al Qaida and Taliban Sanctions Committee**

States	Reports Submitted pursuant to Security Council Resolution 1455 (2003)	Checklists Submitted pursuant to Security Council Resolution 1617 (2005)
Angola	S/AC.37/2003/(1455)/3 11 April 2003	
Benin	S/AC.37/2004(1455)/30 31 March 2004	
Burkina Faso	S/AC.37/2005(1455)/1 12 January 2005	
Burundi	S/AC.37/2005(1455)/2 6 January 2005	
Cameroon	S/AC.37/2006/(1455)/2 11 October 2005	
Cape Verde		
Central African Republic		
Chad		
Congo		Extension requested
Côte d'Ivoire		
Democratic Republic of Congo	S/AC.37/2005/(1455)/7 27 June 2005 S/AC.37/2005/(1455)/7/Add.1 6 February 2008	28 February 2006
Equatorial Guinea		
Gabon		
Gambia	S/AC.37/2004/(1455)/12 8 March 2004	

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Ghana		
Guinea	S/AC.37/2003/(1455)/78 20 October 2003	
Guinea-Bissau		
Liberia		
Mali	S/AC.37/2005/(1455)/12 6 December 2005	
Mauritania	S/AC.37/2005/(1455)/4 16 March 2005	
Niger	S/AC.37/2005/(1455)/9 4 August 2005	
Nigeria		
Rwanda		
Sao Tome & Principe		
Senegal		
Sierra Leone	S/AC.37/2005/(1455)/11 29 September 2005	
Togo		

Annex 7:

Acronyms

- **AML/CTF:** Anti-Money Laundering/Counter Terrorism Financing
- **COMESA:** Common Market of Eastern and Southern Africa
- **CTC:** Counter-Terrorism Committee
- **CTED:** Counter-Terrorism Executive Directorate
- **CAEMC/CEMAC:** Central African Economic and Monetary Community
- **CPLP:** Community of Portuguese-Speaking Countries
- **ECOSOC:** United Nations Economic and Social Council
- **EU:** European Union
- **EUROJUST:** the European Union's Judicial Cooperation Unit
- **FATF:** Financial Action Task Force
- **GIABA:** Inter-Governmental Action Group Against Money Laundering in Africa
- **ICAO:** International Civil Aviation Organization
- **IMF:** International Monetary Fund
- **IMO:** International Maritime Organization
- **MENAFATF:** Middle East and North Africa Financial Action Task Force
- **OIF:** International Organization of the Francophonie
- **PALOP:** African Portuguese-Speaking Countries
- **TPB:** Terrorism Prevention Branch
- **UNHCHR:** Office of the United Nations High Commissioner for Human Rights
- **UNODC:** United Nations Office on Drugs and Crime.
- **WAEMU/UEMOA:** West African Economic and Monetary Union



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