

**Bills Committee on
United Nations (Anti-Terrorism Measures) (Amendment) Bill 2003**

Purpose

This paper provides information on how some major common law and European jurisdictions have implemented paragraphs 1(b) and 1(d) of United Nations Security Council Resolution (UNSCR) 1373, in response to the request raised by the Bills Committee at its meeting on 25 March 2004, especially whether criminalization is involved.

Implementation of UNSCR 1373

2. UNSCR 1373 takes a very broad approach to the suppression of terrorist financing. To facilitate the setting of priorities by States to implement the wide range of measures required by UNSCR 1373, the United Nations Counter Terrorism Committee¹ (CTC) has stated that it first looks at whether a State has in place effective counter-terrorism legislation in all areas of activity related to UNSCR 1373 (including its paragraphs 1(b) and 1(d)), with specific focus on combating terrorist financing. The CTC has also elaborated that it focuses on legislation as the key issue because without an effective legislative framework States cannot develop the executive machinery to prevent and suppress terrorism, or bring terrorists and their supporters to justice.

Common law jurisdictions

3. The States' reports² submitted to the CTC have shown that many major common law jurisdictions have implemented paragraphs 1(b) and 1(d) of UNSCR 1373 by **criminalizing** the acts proscribed by these two paragraphs. Examples are Australia, Canada, New Zealand, the United States and the United Kingdom, and their relevant legislation is set out at **Annex A**.

¹ The United Nations Counter Terrorism Committee has been established pursuant to paragraph 6 of UNSCR 1373 to monitor the implementation of the Resolution. It consists of all the members of the United Nations Security Council.

² The States' reports are available at the CTC website at www.un.org/Docs/sc/committees/1373/submitted_reports.html.

European jurisdictions

4. For the European countries, in order to adapt to the wide scope of measures covered by UNSCR 1373, the European Union (EU)³ assumed on 27 December 2001 two Common Positions, namely 2001/930/CFSP and 2001/931/CFSP (copies at **Annexes B and C** respectively), which provide for, among other things, the following -

- (a) the wilful provision or collection, by any means, directly or indirectly, of funds by citizens or within the territory of each of the Member States of the EU with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts shall be criminalized (see Article 1 at **Annex B**). This provision reflects the requirement under paragraph 1(b) of UNSCR 1373; and
- (b) funds, financial assets or economic resources or financial or other related services shall not be made available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts; entities owned or controlled, directly or indirectly, by such persons; and persons and entities acting on behalf of or under the direction of such persons (see Article 3 at **Annex B** and Article 3 at **Annex C**). This reflects the requirement under paragraph 1(d) of UNSCR 1373.

On 27 December 2001, the EU also adopted Regulation (EC) No. 2580/2001 (copy at **Annex D**) which implements the measures in Common Position 2001/931/CFSP. The Regulation constitutes a legal requirement, with its Article 2 specifying that no funds, other financial assets and economic resources shall be made available, directly or indirectly, to, or for the benefit of, listed terrorists or terrorist groups.

5. On 13 June 2002, the EU further adopted a legislative Framework Decision on combating terrorism (copy at **Annex E**), the purpose of which is to ensure that the definition of terrorist crimes is similar across the EU, and to set common minimum and maximum sentences applicable to these crimes. The Framework Decision echoes

³ Member States include Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden, the United Kingdom, and a number of eastern European countries.

paragraphs 1(b) and 1(d) of UNSCR 1373 in suppressing terrorist financing -

- (a) Article 2 provides that each Member State shall take the necessary measures to ensure that participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group, is punishable; and
- (b) Article 5 stipulates that each Member State shall take the necessary measures to ensure that the offences referred to in Article 2 are punishable by effective, proportionate and dissuasive criminal penalties.

The EU calls on Member States to implement fully the Framework Decision no later than June 2004. As of March 2004, only three Member States (as yet unnamed) have not fully reported on the implementation of the Framework Decision.

6. We have compiled at **Annex F** a summary of how some European jurisdictions, namely Belgium, France, Germany and the Netherlands, give effect to paragraphs 1(b) and 1(d) of UNSCR 1373 as well as the EU requirements as set out above, based on their reports submitted to the CTC and other information available on the Internet. It can be noted that they have similarly adopted a criminal approach in implementation of the Resolution.

Security Bureau
April 2004

**Anti-terrorism legislation -
Common law jurisdictions**

<u>AUSTRALIA</u>	<u>CANADA</u>	<u>NEW ZEALAND</u>	<u>UNITED KINGDOM</u>	<u>UNITED STATES</u>
Implementation of paragraph 1(b) of UNSCR 1373				
<p>Crimes (Foreign Incursions and Recruitment) Act 1978</p> <p><u>Section 6</u></p> <p>(1) A person shall not:</p> <p style="padding-left: 20px;">(a) enter a foreign State with intent to engage in a hostile activity in that foreign State; or</p> <p style="padding-left: 20px;">(b) engage in a hostile activity in a foreign State.</p> <p>(3) For the purposes of subsection (1), engaging in a hostile activity in a foreign State consists of doing an act with the intention of achieving any one or more of the following objectives (whether or not such an objective is achieved):</p> <p style="padding-left: 20px;">(a) the overthrow by force or violence of the government of the foreign State or of a part of the foreign State;</p> <p style="padding-left: 20px;">(aa) engaging in armed hostilities in the foreign State;</p>	<p>United Nations Suppression of Terrorism Regulations</p> <p><u>Section 1</u></p> <p>“listed person” means</p> <p style="padding-left: 20px;">(a) a person whose name appears on the list that the Committee of the Security Council of the United Nations, established by Resolution 1267 (1999) of October 15, 1999, establishes and maintains pursuant to that Resolution or to Resolution 1333(2000) of December 19, 2000; and</p> <p style="padding-left: 20px;">(b) a person whose name is listed in the schedule in accordance with section 2 (i.e. a person who there are reasonable grounds to believe has carried out, attempted to carry out, participated in or facilitated the carrying out of a terrorist activity; is controlled directly or indirectly by any person conducting any of the aforementioned activities; or is acting on behalf of , or at</p>	<p>Terrorism Suppression Act 2002</p> <p><u>Section 8(1)</u></p> <p>A person commits an offence who, directly or indirectly, wilfully and without law justification or reasonable excuse, provides or collects funds intending that they be used, or knowing that they are to be used, in full or in part, in order to carry out 1 or more acts of a kind that, if they were carried out, would be 1 or more terrorist acts.</p> <p>[penalty : on conviction on indictment to imprisonment for a term not exceeding 14 years.]</p>	<p>Anti-Terrorism Act 2000</p> <p><u>Section 15</u></p> <p>(1) A person commits an offence if he -</p> <p style="padding-left: 20px;">(a) invites another to provide money or other property, and</p> <p style="padding-left: 20px;">(b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.</p> <p>(2) A person commits an offence if he -</p> <p style="padding-left: 20px;">(a) receives money or other property, and</p> <p style="padding-left: 20px;">(b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.</p> <p>(3) A person commits an offence if he -</p> <p style="padding-left: 20px;">(a) provides money or other property, and</p> <p style="padding-left: 20px;">(b) knows or has</p>	<p>The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001</p> <p><u>(amending Title 18, United States Code)</u></p> <p><u>Section 2339A</u></p> <p>(a) Offense. -</p> <p style="padding-left: 20px;">Whoever provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending they are to be used in preparation for, or in carrying out a terrorist act, or in preparation for, or in carrying out, the concealment or an escape from the commission of any such act, or attempts or conspires to do such an act, shall be fined under this title, imprisoned not</p>

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<p>(b) causing the death of, or bodily injury to, a person who:</p> <p>(i) is the head of state of the foreign State; or</p> <p>(ii) holds, or performs any of the duties of, a public office of the foreign State or of a part of the foreign State; or</p> <p>(c) unlawfully destroying or damaging any real or personal property belonging to the government of the foreign State or of a part of the foreign State.</p> <p><u>Section 7</u></p> <p>(1) A person shall not, whether within or outside Australia:</p> <p>(e) give money or goods to , or perform services for, any other person or any body or association of persons with the intention of supporting or promoting the commission of an offence against section 6;</p> <p>(f) receive or solicit money or goods, or the performance of services, with the intention of</p>	<p>the direction of, or in association with any person conducting any of the aforementioned activities.).</p> <p><u>Section 3</u></p> <p>No person in Canada and no Canadian outside Canada shall knowingly provide or collect by any means, directly or indirectly, funds with the intention that the funds be used, or in the knowledge that the funds are to be used, by a listed person.</p> <p>[penalty :</p> <p>- on conviction on indictment, to imprisonment for a term of not more than 10 years.</p> <p>- on summary conviction, to a fine of not more than CA\$100,000 or to imprisonment for a term of not more than one year, or to both.]</p> <p>Anti-Terrorism Act</p> <p><u>(amending the Criminal Code)</u></p> <p><u>Section 83.02</u></p>		<p>reasonable cause to suspect that it may be used, for the purposes of terrorism.</p> <p><u>Section 16</u></p> <p>(1) A person commits an offence if he uses money or other property for the purposes of terrorism.</p> <p>(2) A person commits an offence if he -</p> <p>(a) possesses money or other property, and</p> <p>(b) intends that it should be used, or has reasonable cause to suspect that it may be used, for the purposes of terrorism.</p> <p><u>Section 17</u></p> <p>A person commits an offence if –</p> <p>(a) he enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and</p> <p>(b) he knows or has reasonable cause to suspect that it will or may</p>	<p>more than 15 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life.</p> <p>(b) Definition. -</p> <p>In this section, the term “material support or resources” means currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.</p> <p><u>Section 2339B</u></p> <p>(a) Prohibited Activities. -</p> <p>(1) Unlawful conduct. -</p> <p>Whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides</p>

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<p>supporting or promoting the commission of an offence against section 6.</p> <p>[penalty : imprisonment for 10 years.]</p> <p>Suppression of the Financing of Terrorism Act 2002</p> <p><u>Schedule 1 adds the following to the Criminal Code</u></p> <p><u>Section 103.1</u></p> <p>(1) A person commits an offence if:</p> <p>(a) the person provides or collects funds; and</p> <p>(b) the person is reckless as to whether the funds will be used to facilitate or engage in a terrorist act.</p> <p>(2) A person commits an offence under subsection (1) even if the terrorist act does not occur.</p> <p>[penalty : imprisonment for life.]</p>	<p>Everyone who, directly, or indirectly, wilfully and without lawful justification or excuse, provides or collects property intending that it be used or knowing that it will be used, in whole or in part, in order to carry out</p> <p>(a) an act or omission that constitutes a terrorist activity, or</p> <p>(b) any other act or omission intended to cause death or serious bodily harm to a civilian or to any other person not taking an active part in the hostilities in a situation of armed conflict, if the purpose of that act or omission, by its nature or context, is to intimidate the public, or to compel a government or an international organization to do or refrain from doing any act,</p> <p>is guilty of an indictable offence.</p> <p>[penalty : imprisonment for not more than 10 years.]</p>		<p>be used for the purposes of terrorism.</p> <p><u>Section 18</u></p> <p>(1) A person commits an offence if he enters into or becomes concerned in an arrangement which facilitates the retention or control by or on behalf of another person of terrorist property -</p> <p>(a) by concealment,</p> <p>(b) by removal from the jurisdiction,</p> <p>(c) by transfer to nominees, or</p> <p>(d) in any other way.</p> <p>[penalty :</p> <p>- conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both.</p> <p>- on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory minimum or to both.]</p>	<p>material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 15 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life.</p> <p>Suppression of the Financing of Terrorism Convention Implementation Act 2002</p> <p><u>(amending Title 18, United States Code)</u></p> <p><u>Section 2339C</u></p> <p>(a) Offenses. -</p> <p>(1) In general. -</p> <p>Whoever, in a circumstance described in subsection (c), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such</p>

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				<p>funds are to be used, in full or in part, to carry out –</p> <p>(A) an act which constitutes an offence within the scope of specified terrorism related treaties, as implemented by the United States; or</p> <p>(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 abstain from doing any act,</p> <p>shall be punished as prescribed in subsection (d)(1).</p>

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				<p>(2) Attempts and Conspiracies. -</p> <p>Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).</p> <p>[penalty : fine, imprisonment for not more than 20 years, or both.]</p> <p>(3) Relationship to Predicate Act -</p> <p>For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.</p> <p>(c) Concealment.- Whoever -</p> <p>(1)(A) is in the United States; or</p> <p>(B) is outside the United States and is a national of the United States or a legal entity organized under the laws of the United States (including any of the its States, districts, commonwealths,</p>

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				<p>territories, or possessions); and</p> <p>(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, resources, or funds -</p> <p>(A) knowing or intending that the support or resources were provided in violation of section 2339B of this title; or</p> <p>(B) knowing or intending that any such funds or any proceeds of such funds were provided or collected in violation of subsection (a).</p> <p>[penalty : fine, imprisonment for not more than 10 years, or both.]</p>
Implementation of paragraph 1(d) of UNSCR 1373				
<p>Suppression of the Financing of Terrorism Act 2002</p> <p><u>Schedule 3 adds the following to the Charter of the United Nations Act 1945</u></p>	<p>United Nations Suppression of Terrorism Regulations</p> <p><u>Section 4(d)</u></p> <p>No person in Canada and no Canadian outside Canada shall knowingly make any property</p>	<p>Terrorism Suppression Act 2002</p> <p><u>Section 9(1)</u></p> <p>A person commits an offence who, without lawful justification or reasonable</p>	<p>The Terrorism (United Nations Measures) Order 2001</p> <p><u>Article 3</u></p> <p>Any person, who, except under the authority of a</p>	<p>Same as above</p>

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<p><u>Section 21</u></p> <p>(1) A person commits an offence if:</p> <p>(a) the person, directly or indirectly, makes an asset available to a person or entity; and</p> <p>(b) the person or entity to whom the asset is made available is a proscribed person or entity; and</p> <p>(c) the making available of the asset is not in accordance with a notice issued by the Minister.</p> <p>(2) Strict liability applies to the circumstance of (1)(c).</p> <p>[penalty : imprisonment for 5 years.]</p> <p>Security Legislation Amendment (Terrorism) Act 2002</p> <p><u>Schedule 1 adds the following to the Criminal Code</u></p> <p><u>Section 102.6</u></p> <p>(1) A person commits an offence if:</p>	<p>or any financial or other related services available, directly or indirectly, for the benefit of a listed person.</p> <p>[penalty :</p> <ul style="list-style-type: none"> - on conviction on indictment, to imprisonment for a term of not more than 10 years. - on summary conviction, to a fine of not more than CA\$100,000 or to imprisonment for a term of not more than one year, or to both.] <p>Anti-Terrorism Act</p> <p><u>(amending the Criminal Code)</u></p> <p><u>Section 83.03</u></p> <p>Every one who, directly or indirectly, collects property, provides or invites a person to provide, or makes available property or financial or related services</p> <p>(a) intending that they be used, or knowing that they will be used, in whole or in part, for the purpose of facilitating or carrying out</p>	<p>excuse, deals with any property knowing that the property is -</p> <p>(a) property owned or controlled, directly or indirectly, by an entity for the time being designated under this Act as a terrorist entity or as an associated entity; or</p> <p>(b) property derived or generated from any property of the kind specified in paragraph (a).</p> <p>[penalty : on conviction on indictment to imprisonment for a term not exceeding 7 years.]</p> <p><u>Section 10(1)</u></p> <p>A person commits an offence who makes available, or causes to be made available, directly or indirectly, without lawful justification or reasonable excuse, any property, or any financial or related services, either to, or for the benefit of, an entity, knowing that the entity is an entity for the time being designated under this Act as a terrorist entity or as an associated entity.</p> <p>[penalty : on conviction on indictment to imprisonment for a term not exceeding 7 years.]</p>	<p>licence granted by the Treasury under this article, makes any funds or financial (or related) services available directly or indirectly to or for the benefit of -</p> <p>(a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism;</p> <p>(b) a person controlled or owned directly or indirectly by a person in (a), or</p> <p>(c) a person acting on behalf, or at the direction, of a person in (a),</p> <p>is guilty of an offence under this Order.</p> <p>[penalty :</p> <ul style="list-style-type: none"> - on conviction on indictment to imprisonment for a term not exceeding 7 years or to a fine or to both. - on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both.] 	

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<p>(a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and</p> <p>(b) the organisation is a terrorist organization; and</p> <p>(c) the person knows the organisation is a terrorist organisation.</p> <p>[penalty : imprisonment for 25 years.]</p> <p>(2) A person commits an offence if:</p> <p>(a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and</p> <p>(b) the organisation is a terrorist organization; and</p> <p>(c) the person is reckless as to whether the organisation is a terrorist organisation.</p> <p>[penalty : imprisonment for 15 years.]</p>	<p>any terrorist activity, or for the purpose of benefiting any person who is facilitating or carrying out such an activity, or</p> <p>(b) knowing that, in whole or in part, they will be used or will benefit a terrorist group,</p> <p>is guilty of an indictable offence.</p> <p>[penalty : imprisonment for a term of not more than 10 years.]</p> <p><u>Section 83.04</u></p> <p>Every one, who</p> <p>(a) uses property , directly or indirectly, in whole or in part, for the purposes of facilitating or carrying out a terrorist activity, or</p> <p>(b) possesses property intending that it be used or knowing that it will be used, directly or indirectly, in whole or in part, for the purposes of facilitating or carrying out a terrorist activity,</p> <p>is guilty of an indictable offence.</p>			

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<p><u>Section 102.7</u></p> <p>(1) A person commits an offence if:</p> <ul style="list-style-type: none"> (a) the person intentionally provides to an organisation support or resources that would help the organisation engage in a terrorist act; and (b) the organisation is a terrorist organization; and (c) the person knows the organisation is a terrorist organisation. <p>[penalty : imprisonment for 25 years.]</p> <p>(2) A person commits an offence if:</p> <ul style="list-style-type: none"> (a) the person intentionally provides to an organisation support or resources that would help the organisation engage in a terrorist act;and (b) the organisation is a terrorist organization; and (c) the person is reckless as to whether the organisation is a 	<p>[penalty : imprisonment for a term of not more than 10 years.]</p> <p><u>Section 83.08</u></p> <p>No person in Canada or no Canadian outside Canada shall knowingly</p> <ul style="list-style-type: none"> (a) deal directly or indirectly in any property that is owned or controlled by or on behalf of a terrorist group; (b) enter into or facilitate, directly or indirectly, any transaction, in respect of property referred to in (a); or (c) provide any financial or other related services in respect of property referred to in (a) to, for the benefit of or at the direction of a terrorist group. <p>[penalty :</p> <ul style="list-style-type: none"> - on summary conviction, to a fine of not more than CA\$100,000 or to imprisonment for a term of not more than one year, or to both. - on conviction on indictment, to imprisonment for a term of not more than 10 years.] 			

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terrorist organisation. [penalty : imprisonment for 15 years.]				

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL COMMON POSITION
of 27 December 2001
on combating terrorism
(2001/930/CFSP)

THE COUNCIL OF THE EUROPEAN UNION

HAS ADOPTED THIS COMMON POSITION:

Having regard to the Treaty on European Union, and in particular Articles 15 and 34 thereof.

Article 1

Whereas:

(1) At its extraordinary meeting on 21 September 2001, the European Council declared that terrorism is a real challenge to the world and to Europe and that the fight against terrorism will be a priority objective of the European Union.

The wilful provision or collection, by any means, directly or indirectly, of funds by citizens or within the territory of each of the Member States of the European Union with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts shall be criminalized.

(2) On 28 September 2001, the United Nations Security Council adopted resolution 1373(2001), reaffirming that terrorist acts constitute a threat to peace and security and setting out measures aimed at combating terrorism and in particular the fight against the financing of terrorism and the provision of safe havens for terrorists.

Article 2

(3) On 8 October 2001, the Council reaffirmed the determination of the EU and its Member States to play their full part, in a coordinated manner, in the global coalition against terrorism, under the aegis of the United Nations. The Council also reiterated the Union's determination to attack the sources which fund terrorism, in close cooperation with the United States.

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;
- entities owned or controlled, directly or indirectly, by such persons; and
- persons and entities acting on behalf of or under the direction of such persons and entities,

including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities, shall be frozen.

(4) On 19 October 2001, the European Council declared that it is determined to combat terrorism in every form throughout the world and that it will continue its efforts to strengthen the coalition of the international community to combat terrorism in every shape and form, for example by the increased cooperation between the operational services responsible for combating terrorism: Europol, Eurojust, the intelligence services, police forces and judicial authorities.

Article 3

(5) Action has already been taken to implement some of the measures listed below.

Funds, financial assets or economic resources or financial or other related services shall not be made available, directly or indirectly, for the benefit of:

(6) Under these extraordinary circumstances, action by the Community is needed in order to implement some of the measures listed below.

- persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts;
- entities owned or controlled, directly or indirectly, by such persons; and
- persons and entities acting on behalf of or under the direction of such persons.

28.12.2001

EN

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Article 4

Measures shall be taken to suppress any form of support, active or passive, to entities or persons involved in terrorist acts, including measures aimed at suppressing the recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists.

Article 5

Steps shall be taken to prevent the commission of terrorist acts, including by the provision of early warning among Member States or between Member States and third States by exchange of information.

Article 6

Safe haven shall be denied to those who finance, plan, support, or commit terrorist acts, or provide safe havens.

Article 7

Persons who finance, plan, facilitate or commit terrorist acts shall be prevented from using the territories of the Member States of the European Union for those purposes against Member States or third States or their citizens.

Article 8

Persons who participate in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts shall be brought to justice; such terrorist acts shall be established as serious criminal offences in laws and regulations of Member States and the punishment shall duly reflect the seriousness of such terrorist acts.

Article 9

Member States shall afford one another, as well as third States, the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts in accordance with international and domestic law, including assistance in obtaining evidence in the possession of a Member State or a third State which is necessary for the proceedings.

Article 10

The movement of terrorists or terrorist groups shall be prevented by effective border controls and controls on the issuing of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents. The Council notes the Commission's intention to put forward proposals in this area, where appropriate.

Article 11

Steps shall be taken to intensify and accelerate the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel

documents; traffic in arms, explosives or sensitive materials; use of communication technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups.

Article 12

Information shall be exchanged among Member States or between Member States and third States in accordance with international and national law, and cooperation shall be enhanced among Member States or between Member States and third States on administrative and judicial matters to prevent the commission of terrorist acts.

Article 13

Cooperation among Member States or between Member States and third States, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of terrorist acts shall be enhanced.

Article 14

Member States shall become parties as soon as possible to the relevant international conventions and protocols relating to terrorism listed in the Annex.

Article 15

Member States shall increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and United Nations Security Council Resolutions 1269(1999) and 1368(2001).

Article 16

Appropriate measures shall be taken in accordance with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts. The Council notes the Commission's intention to put forward proposals in this area, where appropriate.

Article 17

Steps shall be taken in accordance with international law to ensure that refugee status is not abused by the perpetrators, organisers or facilitators of terrorist acts and that claims of political motivation are not recognised as grounds for refusing requests for the extradition of alleged terrorists. The Council notes the Commission's intention to put forward proposals in this area, where appropriate.

Article 18

This Common Position shall take effect on the date of its adoption.

Article 19

This Common Position shall be published in the Official Journal.

Done at Brussels, 27 December 2001.

For the Council
The President
L. MICHEL

ANNEX

List of international conventions and protocols relating to terrorism referred to in Article 14

1. Convention on Offenses and Certain Other Offenses Committed on Board Aircraft — Tokyo 14.9.1963
2. Convention for the Unlawful Seizure of Aircraft — The Hague 16.12.1970
3. Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft — Montreal 23.9.1971
4. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Personnel — New York 14.12.1973
5. European Convention for the Suppression of Terrorism — Strasbourg 27.1.1977
6. Convention Against the Taking of Hostages — New York 17.12.1979
7. Convention on the Physical Protection of Nuclear Materials — Vienna 3.3.1980
8. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, complementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft — Montreal 24.2.1988
9. Convention for the Suppression of unlawful Acts Against the Safety of Maritime Navigation — Rome 10.3.1988
10. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms on the Continental Shelf — Rome 10.3.1988
11. Convention on the Marking of Plastic Explosives for the Purpose of Detection — Montreal 1.3.1991
12. UN Convention for the Suppression of Terrorist Bombings — New York 15.12.1997
13. UN Convention for the Suppression of Financing of Terrorism — New York, 9.12.1999

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COUNCIL COMMON POSITION
of 27 December 2001
on the application of specific measures to combat terrorism

(2001/931/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 15 and 34 thereof,

Whereas:

- (1) At its extraordinary meeting on 21 September 2001, the European Council declared that terrorism is a real challenge to the world and to Europe and that the fight against terrorism will be a priority objective of the European Union.
- (2) On 28 September 2001, the United Nations Security Council adopted Resolution 1373(2001) laying out wide-ranging strategies to combat terrorism and in particular the fight against the financing of terrorism.
- (3) On 8 October 2001, the Council reiterated the Union's determination to attack the sources which fund terrorism, in close cooperation with the United States.
- (4) On 26 February 2001, pursuant to UNSC Resolution 1333(2000), the Council adopted Common Position 2001/154/CFSP⁽¹⁾ which provides *inter alia* for the freezing of funds of Usama bin Laden and individuals and entities associated with him. Consequently, those persons, groups and entities are not covered by this Common Position.
- (5) The European Union should take additional measures in order to implement UNSC Resolution 1373(2001).
- (6) Member States have transmitted to the European Union the information necessary to implement some of those additional measures.
- (7) Action by the Community is necessary in order to implement some of those additional measures; action by the Member States is also necessary, in particular as far as the application of forms of police and judicial cooperation in criminal matters is concerned,

HAS ADOPTED THIS COMMON POSITION:

Article 1

1. This Common Position applies in accordance with the provisions of the following Articles to persons, groups and entities involved in terrorist acts and listed in the Annex.

⁽¹⁾ OJ L 57, 27.2.2001, p. 1.

2. For the purposes of this Common Position, 'persons, groups and entities involved in terrorist acts' shall mean:

- persons who commit, or attempt to commit, terrorist acts or who participate in, or facilitate, the commission of terrorist acts,
- groups and entities owned or controlled directly or indirectly by such persons; and persons, groups and entities acting on behalf of, or under the direction of, such persons, groups and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons, groups and entities.

3. For the purposes of this Common Position, 'terrorist act' shall mean one of the following intentional acts, which, given its nature or its context, may seriously damage a country or an international organisation, as defined as an offence under national law, where committed with the aim of:

- (i) seriously intimidating a population, or
- (ii) unduly compelling a Government or an international organisation to perform or abstain from performing any act, or
- (iii) seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation:
 - (a) attacks upon a person's life which may cause death;
 - (b) attacks upon the physical integrity of a person;
 - (c) kidnapping or hostage taking;
 - (d) causing 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;
 - (e) seizure of aircraft, ships or other means of public or goods transport;
 - (f) 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;
 - (g) release of dangerous substances, or causing fires, explosions or floods the effect of which is to endanger human life;

- (h) interfering with or disrupting the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life;
- (i) threatening to commit any of the acts listed under (a) to (h);
- (j) directing a terrorist group;
- (k) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the group.

For the purposes of this paragraph, 'terrorist group' shall mean a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist acts. 'Structured group' means a group that is not randomly formed for the immediate commission of a terrorist act and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

4. The list in the Annex shall be drawn up on the basis of precise information or material in the relevant file which indicates that a decision has been taken by a competent authority in respect of the persons, groups and entities concerned, irrespective of whether it concerns the instigation of investigations or prosecution for a terrorist act, an attempt to perpetrate, participate in or facilitate such an act based on serious and credible evidence or clues, or condemnation for such deeds. Persons, groups and entities identified by the Security Council of the United Nations as being related to terrorism and against whom it has ordered sanctions may be included in the list.

For the purposes of this paragraph 'competent authority' shall mean a judicial authority, or, where judicial authorities have no competence in the area covered by this paragraph, an equivalent competent authority in that area.

5. The Council shall work to ensure that names of natural or legal persons, groups or entities listed in the Annex have sufficient particulars appended to permit effective identification of specific human beings, legal persons, entities or bodies, thus facilitating the exculpation of those bearing the same or similar names.

6. The names of persons and entities on the list in the Annex shall be reviewed at regular intervals and at least once every six months to ensure that there are grounds for keeping them on the list.

Article 2

The European Community, acting within the limits of the powers conferred on it by the Treaty establishing the European Community, shall order the freezing of the funds and other financial assets or economic resources of persons, groups and entities listed in the Annex.

Article 3

The European Community, acting within the limits of the powers conferred on it by the Treaty establishing the European Community, shall ensure that funds, financial assets or economic resources or financial or other related services will not be made available, directly or indirectly, for the benefit of persons, groups and entities listed in the Annex.

Article 4

Member States shall, through police and judicial cooperation in criminal matters within the framework of Title VI of the Treaty on European Union, afford each other the widest possible assistance in preventing and combating terrorist acts. To that end they shall, with respect to enquiries and proceedings conducted by their authorities in respect of any of the persons, groups and entities listed in the Annex, fully exploit, upon request, their existing powers in accordance with acts of the European Union and other international agreements, arrangements and conventions which are binding upon Member States.

Article 5

This Common Position shall take effect on the date of its adoption.

Article 6

This Common Position shall be kept under constant review.

Article 7

This Common Position shall be published in the Official Journal.

Done at Brussels, 27 December 2001.

For the Council
The President
L. MICHEL

ANNEX

First list of persons, groups and entities referred to in Article 1⁽¹⁾

1. PERSONS

- *— ABAUNZA MARTINEZ, Javier (E.T.A. Activist) born 1.1.1965 in Guernica (Biscay), identity card No 78.865.882.
- *— ALBERDI URANGA, Itziar (E.T.A. Activist) born 7.10.1963 in Durango (Biscay), identity card No 78.865.693.
- *— ALBISU IRIARTE, Miguel (E.T.A. Activist; Member of Gestoras Pro-amnistía) born 7.6.1961 in San Sebastián (Guipúzcoa), identity card No 15.954.596.
- *— ALCALDE LINARES, Angel (E.T.A. Activist; Member of Herri Batasuna/EH/Batasuna) born 2.5.1943 in Portugalete (Vizcaya), identity card 14.390.353.
- AL-MUGHASSIL, Ahmad Ibrahim (a.k.a. ABU OMRAN; a.k.a. AL-MUGHASSIL, Ahmed Ibrahim) born 26.6.1967 in Qatif-Bab al Shamal, Saudi Arabia; citizen Saudi Arabia.
- AL-NASSER, Abdelkarim Hussein Mohamed, born in Al Ihsa, Saudi Arabia; citizen Saudi Arabia.
- AL YACCOUB, Ibrahim Salih Mohammed, born 16.10.1996 in Tarut, Saudi Arabia; citizen Saudi Arabia.
- *— ARZALLUS TAPIA, Eusebio (E.T.A. Activist) born 8.11.1957 in Regil (Guipúzcoa), identity card No 15.927.207.
- ATWA, Ali (a.k.a. BOUSLIM, Ammar Mansour; a.k.a. SALIM, Hassan Rostom), Lebanon, born 1960 in Lebanon; citizen Lebanon.
- *— ELCORO AYASTUY, Paulo (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.10.1973 in Vergara (Guipúzcoa), identity card No 15.394.062.
- EL-HOORIE, Ali Saed Bin Ali (a.k.a. AL-HOURI, Ali Saed Bin Ali; a.k.a. EL-HOURI, Ali Saed Bin Ali) born 10.7.1965 alt. 11.7.1965 in El Dibabiya, Saudi Arabia; citizen Saudi Arabia.
- *— FIGAL ARRANZ, Antonio Agustín (E.T.A. Activist; Member of Kas/Ekin) born 2.12.1972 in Baracaldo (Biscay), identity card No 20.172.692.
- *— GOGASCOEHEA ARRONATEGUI, Eneko (E.T.A. Activist), born 29.4.1967 in Guernica (Biscay), identity card No 44.556.097.
- *— GOIRICELAYA GONZALEZ, Cristina (E.T.A. Activist; Member of Herri Batasuna/EH/Batasuna), born 23.12.1967 in Vergara (Guipúzcoa), identity card No 16.282.556.
- *— IPARRAGUIRRE GUENECHEA, M^a Soledad (E.T.A. Activist) born 25.4.1961 in Escoriaza (Navarre), identity card No 16.255.819.
- IZZ-AL-DIN, Hasan (a.k.a. GARBAYA, AHMED; a.k.a. SA-AD; a.k.a. SALWWAN, Samir), Lebanon, born 1963 in Lebanon, citizen Lebanon.
- MOHAMMED, Khalid Shaikh (a.k.a. ALI, Salem; a.k.a. BIN KHALID, Fahd Bin Adballah; a.k.a. HENIN, Ashraf Refaat Nabith; a.k.a. WADOOD, Khalid Abdul) born 14.4.1965 alt. 1.3.1964 in Kuwait; citizen Kuwait.
- *— MORCILLO TORRES, Gracia (E.T.A. Activist; Member of Kas/Ekin) born 15.3.1967 in San Sebastián (Guipúzcoa), identity card No 72.439.052.
- *— MÚGICA GOÑI, Ainhoa (E.T.A. Activist) born 27.6.1970 in San Sebastián (Guipúzcoa), identity card No 34.101.243.
- MUGHNIYAH, Imad Fa'iz (a.k.a. MUGHNIYAH, Imad Fayiz), Senior Intelligence Officer of HIZBALLAH, born 7.12.1962 in Tayr Dibba, Lebanon, passport No 432298 (Lebanon).
- *— MUÑOA ORDOZGOITI, Aloña (E.T.A. Activist; Member of Kas/Ekin) born 6.7.1976 in Segura (Guipúzcoa), identity card No 35.771.259.
- *— NARVÁEZ GOÑI, Juan Jesús (E.T.A. Activist) born 23.2.1961 in Pamplona (Navarra), identity card No 15.841.101.
- *— OLARRA GURIDI, Juan Antonio (E.T.A. Activist) born 11.9.1967 in San Sebastián (Guipúzcoa), identity card No 34.084.504.
- *— ORBE SEVILLANO, Zigor (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 22.9.1975 in Basauri (Biscay), identity card No 45.622.851.
- *— OTEGUI UNANUE, Mikel (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 8.10.1972 in Itsasondo (Guipúzcoa), identity card No 44.132.976.

⁽¹⁾ Persons marked with an * shall be the subjects of Article 4 only.

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- *— PEREZ ARAMBURU, Jon Iñaki (E.T.A. Activist; Member of Jarrai/Haika/Segi) born 18.9.1964 in San Sebastián (Guipúzcoa), identity card No 15.976.521.
- *— SAEZ DE EGUILAZ MURGUTONDO, Carlos (E.T.A. Activist; Member of Kas/Ekin) born 9.12.1963 in San Sebastián (Guipúzcoa), identity card No 15.962.687.
- *— URANGA ARTOLA, Kamen (E.T.A. Activist; Member of Herri Batasuna/EH/Batasuna) born 25.5.1969 in Ondarroa (Biscay), identity card No 30.627.290.
- *— VILA MICHELENA, Fermín (E.T.A. Activist; Member of Kas/Ekin) born 12.3.1970 in Irún (Guipúzcoa), identity card No 15.254.214.

2. GROUPS AND ENTITIES

- *— Continuity Irish Republican Army (CIRA)
- *— Euskadi Ta Askatasuna/Tierra Vasca y Libertad/Basque Fatherland and Liberty (E.T.A.)
(The following organisations are part of the terrorist group E.T.A.: K.a.s., Xaki Ekin, Jarrai-Haika-Segi, Gestoras pro-amnistía.)
- *— Grupos de Resistencia Antifascista Primero de Octubre/Antifascist Resistance Groups First of October (G.R.A.P.O.)
- Hamas-Izz al-Din al-Qassem (terrorist wing of Hamas)
- *— Loyalist Volunteer Force (LVF)
- *— Orange Volunteers (OV)
- Palestinian Islamic Jihad (PIJ)
- *— Real IRA
- *— Red Hand Defenders (RHD)
- *— Revolutionary Nuclei/Epanastatiki Pirines
- *— Revolutionary Organisation 17 November/Dekati Evdomi Noemvri
- *— Revolutionary Popular Struggle/Epanastatikos Laikos Agonas (ELA)
- *— Ulster Defence Association/Ulster Freedom Fighters (UDA/UFF)

COUNCIL REGULATION (EC) No 2580/2001

of 27 December 2001

on specific restrictive measures directed against certain persons and entities with a view to combating terrorism

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 60, 301 and 308 thereof,

Having regard to Common Position 2001/931/CFSP on the application of specific measures to combat terrorism⁽¹⁾, adopted by the Council on 27 December 2001,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽²⁾,

Whereas:

- (1) At its extraordinary meeting on 21 September 2001, the European Council declared that terrorism is a real challenge to the world and to Europe and that the fight against terrorism will be a priority objective of the European Union.
- (2) The European Council declared that combating the funding of terrorism is a decisive aspect of the fight against terrorism and called upon the Council to take the necessary measures to combat any form of financing for terrorist activities.
- (3) In its Resolution 1373(2001), the United Nations Security Council decided on 28 September 2001 that all States should implement a freezing of funds and other financial assets or economic resources as against persons who commit, or attempt to commit, terrorist acts or who participate in or facilitate the commission of such acts.
- (4) In addition, the Security Council decided that measures should be taken to prohibit funds and other financial assets or economic resources from being made available for the benefit of such persons, and to prohibit financial or other related services from being rendered for the benefit of such persons.
- (5) Action by the Community is necessary in order to implement the CFSP aspects of Common Position 2001/931/CFSP.
- (6) This Regulation is a measure needed at Community level and complementary to administrative and judicial

procedures regarding terrorist organisations in the European Union and third countries.

- (7) Community territory is deemed to encompass, for the purposes of this Regulation, all the territories of the Member States to which the Treaty is applicable, under the conditions laid down in that Treaty.
- (8) With a view to protecting the interests of the Community, certain exceptions may be granted.
- (9) As regards the procedure for establishing and amending the list referred to in Article 2(3) of this Regulation, the Council should exercise the corresponding implementing powers itself in view of the specific means available to its members for that purpose.
- (10) Circumvention of this Regulation should be prevented by an adequate system of information and, where appropriate, remedial measures, including additional Community legislation.
- (11) The competent authorities of the Member States should, where necessary, be empowered to ensure compliance with the provisions of this Regulation.
- (12) Member States should lay down rules on sanctions applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those sanctions must be effective, proportionate and dissuasive.
- (13) The Commission and the Member States should inform each other of the measures taken under this Regulation and of other relevant information at their disposal in connection with this Regulation.
- (14) The list referred to in Article 2(3) of this Regulation may include persons and entities linked or related to third countries as well as those who otherwise are the focus of the CFSP aspects of Common Position 2001/931/CFSP. For the adoption of provisions in this Regulation concerning the latter, the Treaty does not provide powers other than those under Article 308.
- (15) The European Community has already implemented UNSCR 1267(1999) and 1333(2000) by adopting Regulation (EC) No 467/2001⁽³⁾ freezing the assets of certain persons and groups and therefore those persons and groups are not covered by this Regulation.

⁽¹⁾ See page 93 of this Official Journal.

⁽²⁾ Opinion delivered on 13 December 2001 (not yet published in the Official Journal).

⁽³⁾ OJ L 67, 9.3.2001, p. 1.

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HAS ADOPTED THIS REGULATION:

Article 1

For the purpose of this Regulation, the following definitions shall apply:

1. 'Funds, other financial assets and economic resources' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.
2. Freezing of funds, other financial assets and economic resources' means the prevention of any move, transfer, alteration, use of or dealing with funds in any way that would result in any change in their volume, amount, location, ownership, possession, character, destination or other change that would enable the funds to be used, including portfolio management.
3. 'Financial services' means any service of a financial nature, including all insurance and insurance-related services, and all banking and other financial services (excluding insurance) as follows:

Insurance and insurance-related services

- (i) Direct insurance (including co-insurance):

- (A) life assurance;

- (B) non-life;

- (ii) Reinsurance and retrocession;

- (iii) Insurance intermediation, such as brokerage and agency;

- (iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

Banking and other financial services (excluding insurance)

- (v) Acceptance of deposits and other repayable funds;

- (vi) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

- (vii) Financial leasing;

- (viii) All payment and money transmission services, including credit, charge and debit cards, travellers' cheques and bankers' drafts;

- (ix) Guarantees and commitments;

- (x) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

- (A) money market instruments (including cheques, bills, certificates of deposits);

- (B) foreign exchange;

- (C) derivative products including, but not limited to, futures and options;

- (D) exchange rate and interest rate instruments, including products such as swaps and forward rate agreements;

- (E) transferable securities;

- (F) other negotiable instruments and financial assets, including bullion;

- (xi) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

- (xii) Money brokering;

- (xiii) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

- (xiv) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

- (xv) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;

- (xvi) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) to (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.

4. For the purposes of this Regulation, the definition of 'terrorist act' shall be the one contained in Article 1(3) of Common Position 2001/931/CFSP.

5. 'Owning a legal person, group or entity' means being in possession of 50 % or more of the proprietary rights of a legal person, group or entity, or having a majority interest therein.

6. 'Controlling a legal person, group or entity' means any of the following:

- (a) having the right to appoint or remove a majority of the members of the administrative, management or supervisory body of such legal person, group or entity;

- (b) having appointed solely as a result of the exercise of one's voting rights a majority of the members of the administrative, management or supervisory bodies of a legal person, group or entity who have held office during the present and previous financial year;

- (c) controlling alone, pursuant to an agreement with other shareholders in or members of a legal person, group or entity, a majority of shareholders' or members' voting rights in that legal person, group or entity;
- (d) having the right to exercise a dominant influence over a legal person, group or entity, pursuant to an agreement entered into with that legal person, group or entity, or to a provision in its Memorandum or Articles of Association, where the law governing that legal person, group or entity permits its being subject to such agreement or provision;
- (e) having the power to exercise the right to exercise a dominant influence referred to in point (d), without being the holder of that right;
- (f) having the right to use all or part of the assets of a legal person, group or entity;
- (g) managing the business of a legal person, group or entity on a unified basis, while publishing consolidated accounts;
- (h) sharing jointly and severally the financial liabilities of a legal person, group or entity, or guaranteeing them.

Article 2

1. Except as permitted under Articles 5 and 6:
 - (a) all funds, other financial assets and economic resources belonging to, or owned or held by, a natural or legal person, group or entity included in the list referred to in paragraph 3 shall be frozen;
 - (b) no funds, other financial assets and economic resources shall be made available, directly or indirectly, to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.
2. Except as permitted under Articles 5 and 6, it shall be prohibited to provide financial services to, or for the benefit of, a natural or legal person, group or entity included in the list referred to in paragraph 3.
3. The Council, acting by unanimity, shall establish, review and amend the list of persons, groups and entities to which this Regulation applies, in accordance with the provisions laid down in Article 1(4), (5) and (6) of Common Position 2001/931/CFSP; such list shall consist of:
 - (i) natural persons committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;
 - (ii) legal persons, groups or entities committing, or attempting to commit, participating in or facilitating the commission of any act of terrorism;
 - (iii) legal persons, groups or entities owned or controlled by one or more natural or legal persons, groups or entities referred to in points (i) and (ii); or

- (iv) natural legal persons, groups or entities acting on behalf of or at the direction of one or more natural or legal persons, groups or entities referred to in points (i) and (ii).

Article 3

1. The participation, knowingly and intentionally, in activities, the object or effect of which is, directly or indirectly, to circumvent Article 2 shall be prohibited.
2. Any information that the provisions of this Regulation are being, or have been, circumvented shall be notified to the competent authorities of the Member States listed in the Annex and to the Commission.

Article 4

1. Without prejudice to the applicable rules concerning reporting, confidentiality and professional secrecy and to the provisions of Article 284 of the Treaty, banks, other financial institutions, insurance companies, and other bodies and persons shall:
 - provide immediately any information which would facilitate compliance with this Regulation, such as accounts and amounts frozen in accordance with Article 2 and transactions executed pursuant to Articles 5 and 6:
 - to the competent authorities of the Member States listed in the Annex where they are resident or located, and
 - through these competent authorities, to the Commission,
 - cooperate with the competent authorities listed in the Annex in any verification of this information.
2. Any information provided or received in accordance with this Article shall be used only for the purposes for which it was provided or received.
3. Any information directly received by the Commission shall be made available to the competent authorities of the Member States concerned and to the Council.

Article 5

1. Article 2(1)(b) shall not apply to the addition to frozen accounts of interest due on those accounts. Such interest shall also be frozen.
2. The competent authorities of the Member States listed in the Annex may grant specific authorisations, under such conditions as they deem appropriate, in order to prevent the financing of acts of terrorism, for
 1. the use of frozen funds for essential human needs of a natural person included in the list referred to in Article 2(3) or a member of his family, including in particular payments for foodstuffs, medicines, the rent or mortgage for the family residence and fees and charges concerning medical treatment of members of that family, to be fulfilled within the Community;

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2. payments from frozen accounts for the following purposes:

(a) payment of taxes, compulsory insurance premiums and fees for public utility services such as gas, water, electricity and telecommunications to be paid in the Community; and

(b) payment of charges due to a financial institution in the Community for the maintenance of accounts;

3. payments to a person, entity or body person included in the list referred to in Article 2(3), due under contracts, agreements or obligations which were concluded or arose before the entry into force of this Regulation provided that those payments are made into a frozen account within the Community.

3. Requests for authorisations shall be made to the competent authority of the Member State in whose territory the funds, other financial assets or other economic resources have been frozen.

Article 6

1. Notwithstanding the provisions of Article 2 and with a view to the protection of the interests of the Community, which include the interests of its citizens and residents, the competent authorities of a Member State may grant specific authorisations:

— to unfreeze funds, other financial assets or other economic resources,

— to make funds, other financial assets or other economic resources available to a person, entity or body included in the list referred to in Article 2(3), or

— to render financial services to such person, entity or body, after consultation with the other Member States, the Council and the Commission in accordance with paragraph 2.

2. A competent authority which receives a request for an authorisation referred to in paragraph 1 shall notify the competent authorities of the other Member States, the Council and the Commission, as listed in the Annex, of the grounds on which it intends to either reject the request or grant a specific authorisation, informing them of the conditions that it considers necessary in order to prevent the financing of acts of terrorism.

The competent authority which intends to grant a specific authorisation shall take due account of comments made within

two weeks by other Member States, the Council and the Commission.

Article 7

The Commission shall be empowered, on the basis of information supplied by Member States, to amend the Annex.

Article 8

The Member States, the Council and the Commission shall inform each other of the measures taken under this Regulation and supply each other with the relevant information at their disposal in connection with this Regulation, notably information received in accordance with Articles 3 and 4, and in respect of violation and enforcement problems or judgments handed down by national courts.

Article 9

Each Member State shall determine the sanctions to be imposed where the provisions of this Regulation are infringed. Such sanctions shall be effective, proportionate and dissuasive.

Article 10

This Regulation shall apply:

1. within the territory of the Community, including its airspace,

2. on board any aircraft or any vessel under the jurisdiction of a Member State,

3. to any person elsewhere who is a national of a Member State,

4. to any legal person, group or entity incorporated or constituted under the law of a Member State,

5. to any legal person, group or entity doing business within the Community.

Article 11

1. This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

2. Within a period of one year from the entry into force of this Regulation, the Commission shall present a report on the impact of this Regulation and, if necessary, make proposals to amend it.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 27 December 2001.

For the Council

The President

L. MICHEL

ANNEX

LIST OF COMPETENT AUTHORITIES REFERRED TO IN ARTICLES 3, 4 AND 5

BELGIUM

Ministère des finances
Trésorerie
avenue des Arts 30
B-1040 Bruxelles
Fax (32-2) 233 75 18

DENMARK

Erhvervsfremmestyrelsen
Dahlerups Pakhus
Langelinie Alle 17
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ITALY

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...

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— Article 3

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— Article 4

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— Article 5

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28.12.2001

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PORTUGAL

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— Article 5

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— Article 3

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— Articles 4 and 6

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(Acts adopted pursuant to Title VI of the Treaty on European Union)

COUNCIL FRAMEWORK DECISION

of 13 June 2002

on combating terrorism

(2002/475/JHA)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union, and in particular Article 29, Article 31(e) and Article 34(2)(b) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) The European Union is founded on the universal values of human dignity, liberty, equality and solidarity, respect for human rights and fundamental freedoms. It is based on the principle of democracy and the principle of the rule of law, principles which are common to the Member States.
- (2) Terrorism constitutes one of the most serious violations of those principles. The La Gomera Declaration adopted at the informal Council meeting on 14 October 1995 affirmed that terrorism constitutes a threat to democracy, to the free exercise of human rights and to economic and social development.
- (3) All or some Member States are party to a number of conventions relating to terrorism. The Council of Europe Convention of 27 January 1977 on the Suppression of Terrorism does not regard terrorist offences as political offences or as offences connected with political offences or as offences inspired by political motives. The United Nations has adopted the Convention for the suppression of terrorist bombings of 15 December 1997 and the Convention for the suppression of financing terrorism of 9 December 1999. A draft global Convention against terrorism is currently being negotiated within the United Nations.
- (4) At European Union level, on 3 December 1998 the Council adopted the Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice ⁽³⁾. Account should also be taken of the Council Conclusions of 20 September 2001 and of the Extraordinary European Council plan of action to combat terrorism of 21 September 2001. Terrorism was referred to in the conclusions of the Tampere European Council of 15 and 16 October 1999, and of the Santa Maria da Feira European Council of 19 and 20 June 2000. It was also mentioned in the Commission communication to the Council and the European Parliament on the biannual update of the scoreboard to review progress on the creation of an area of 'freedom, security and justice' in the European Union (second half of 2000). Furthermore, on 5 September 2001 the European Parliament adopted a recommendation on the role of the European Union in combating terrorism. It should, moreover, be recalled that on 30 July 1996 twenty-five measures to fight against terrorism were advocated by the leading industrialised countries (G7) and Russia meeting in Paris.
- (5) The European Union has adopted numerous specific measures having an impact on terrorism and organised crime, such as the Council Decision of 3 December 1998 instructing Europol to deal with crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property ⁽⁴⁾; Council Joint Action 96/610/JHA of 15 October 1996 concerning the creation and maintenance of a Directory of specialised counter-terrorist competences, skills and expertise to facilitate counter-terrorism cooperation between the Member States of the European Union ⁽⁵⁾; Council Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network ⁽⁶⁾, with responsibilities in terrorist offences, in particular Article 2; Council Joint Action 98/733/JHA of 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union ⁽⁷⁾; and the Council Recommendation of 9 December 1999 on cooperation in combating the financing of terrorist groups ⁽⁸⁾.

⁽¹⁾ OJ C 332 E, 27.11.2001, p. 300.

⁽²⁾ Opinion delivered on 6 February 2002 (not yet published in the Official Journal).

⁽³⁾ OJ C 19, 23.1.1999, p. 1.

⁽⁴⁾ OJ C 26, 30.1.1999, p. 22.

⁽⁵⁾ OJ L 273, 25.10.1996, p. 1.

⁽⁶⁾ OJ L 191, 7.7.1998, p. 4.

⁽⁷⁾ OJ L 351, 29.12.1998, p. 1.

⁽⁸⁾ OJ C 373, 23.12.1999, p. 1.

- (6) The definition of terrorist offences should be approximated in all Member States, including those offences relating to terrorist groups. Furthermore, penalties and sanctions should be provided for natural and legal persons having committed or being liable for such offences, which reflect the seriousness of such offences.
- (7) Jurisdictional rules should be established to ensure that the terrorist offence may be effectively prosecuted.
- (8) Victims of terrorist offences are vulnerable, and therefore specific measures are necessary with regard to them.
- (9) Given that the objectives of the proposed action cannot be sufficiently achieved by the Member States unilaterally, and can therefore, because of the need for reciprocity, be better achieved at the level of the Union, the Union may adopt measures, in accordance with the principle of subsidiarity. In accordance with the principle of proportionality, this Framework Decision does not go beyond what is necessary in order to achieve those objectives.
- (10) This Framework Decision respects fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they emerge from the constitutional traditions common to the Member States as principles of Community law. The Union observes the principles recognised by Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, notably Chapter VI thereof. Nothing in this Framework Decision may be interpreted as being intended to reduce or restrict fundamental rights or freedoms such as the right to strike, freedom of assembly, of association or of expression, including the right of everyone to form and to join trade unions with others for the protection of his or her interests and the related right to demonstrate.
- (11) Actions by armed forces during periods of armed conflict, which are governed by international humanitarian law within the meaning of these terms under that law, and, inasmuch as they are governed by other rules of international law, actions by the armed forces of a State in the exercise of their official duties are not governed by this Framework Decision.
- their nature or context, may seriously damage a country or an international organisation where committed with the aim of:
- seriously intimidating a population, or
 - unduly compelling a Government or international organisation to perform or abstain from performing any act, or
 - seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.
- shall be deemed to be terrorist offences:
- (a) attacks upon a person's life which may cause death;
 - (b) attacks upon the physical integrity of a person;
 - (c) kidnapping or hostage taking;
 - (d) causing 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;
 - (e) seizure of aircraft, ships or other means of public or goods transport;
 - (f) 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;
 - (g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;
 - (h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;
 - (i) threatening to commit any of the acts listed in (a) to (h).
2. This Framework Decision shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 2

Offences relating to a terrorist group

Article 1

Terrorist offences and fundamental rights and principles

1. Each Member State shall take the necessary measures to ensure that the intentional acts referred to below in points (a) to (i), as defined as offences under national law, which, given

1. For the purposes of this Framework Decision, 'terrorist group' shall mean: a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist offences. 'Structured group' shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

2. Each Member State shall take the necessary measures to ensure that the following intentional acts are punishable:

- (a) directing a terrorist group;
- (b) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.

Article 3

Offences linked to terrorist activities

Each Member State shall take the necessary measures to ensure that terrorist-linked offences include the following acts:

- (a) aggravated theft with a view to committing one of the acts listed in Article 1(1);
- (b) extortion with a view to the perpetration of one of the acts listed in Article 1(1);
- (c) drawing up false administrative documents with a view to committing one of the acts listed in Article 1(1)(a) to (h) and Article 2(2)(b).

Article 4

Inciting, aiding or abetting, and attempting

1. Each Member State shall take the necessary measures to ensure that inciting or aiding or abetting an offence referred to in Article 1(1), Articles 2 or 3 is made punishable.

2. Each Member State shall take the necessary measures to ensure that attempting to commit an offence referred to in Article 1(1) and Article 3, with the exception of possession as provided for in Article 1(1)(f) and the offence referred to in Article 1(1)(i), is made punishable.

Article 5

Penalties

1. Each Member State shall take the necessary measures to ensure that the offences referred to in Articles 1 to 4 are punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition.

2. Each Member State shall take the necessary measures to ensure that the terrorist offences referred to in Article 1(1) and offences referred to in Article 4, inasmuch as they relate to terrorist offences, are punishable by custodial sentences heavier than those imposed under national law for such offences in the absence of the special intent required pursuant to Article 1(1), save where the sentences imposed are already the maximum possible sentences under national law.

3. Each Member State shall take the necessary measures to ensure that offences listed in Article 2 are punishable by custodial sentences, with a maximum sentence of not less than fifteen years for the offence referred to in Article 2(2)(a), and for the offences listed in Article 2(2)(b) a maximum sentence of not less than eight years. In so far as the offence referred to in Article 2(2)(a) refers only to the act in Article 1(1)(i), the maximum sentence shall not be less than eight years.

Article 6

Particular circumstances

Each Member State may take the necessary measures to ensure that the penalties referred to in Article 5 may be reduced if the offender:

- (a) renounces terrorist activity, and
- (b) provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:
 - (i) prevent or mitigate the effects of the offence;
 - (ii) identify or bring to justice the other offenders;
 - (iii) find evidence; or
 - (iv) prevent further offences referred to in Articles 1 to 4.

Article 7

Liability of legal persons

1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Articles 1 to 4 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on one of the following:

- (a) a power of representation of the legal person;
- (b) an authority to take decisions on behalf of the legal person;
- (c) an authority to exercise control within the legal person.

2. Apart from the cases provided for in paragraph 1, each Member State shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of any of the offences referred to in Articles 1 to 4 for the benefit of that legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators or accessories in any of the offences referred to in Articles 1 to 4.

*Article 8***Penalties for legal persons**

Each Member State shall take the necessary measures to ensure that a legal person held liable pursuant to Article 7 is punishable by effective, proportionate and dissuasive penalties, which shall include criminal or non-criminal fines and may include other penalties, such as:

- (a) exclusion from entitlement to public benefits or aid;
- (b) temporary or permanent disqualification from the practice of commercial activities;
- (c) placing under judicial supervision;
- (d) a judicial winding-up order;
- (e) temporary or permanent closure of establishments which have been used for committing the offence.

*Article 9***Jurisdiction and prosecution**

1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 1 to 4 where:

- (a) the offence is committed in whole or in part in its territory. Each Member State may extend its jurisdiction if the offence is committed in the territory of a Member State;
- (b) the offence is committed on board a vessel flying its flag or an aircraft registered there;
- (c) the offender is one of its nationals or residents;
- (d) the offence is committed for the benefit of a legal person established in its territory;
- (e) the offence is committed against the institutions or people of the Member State in question or against an institution of the European Union or a body set up in accordance with the Treaty establishing the European Community or the Treaty on European Union and based in that Member State.

2. When an offence falls within the jurisdiction of more than one Member State and when any of the States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offenders with the aim, if possible, of centralising proceedings in a single Member State. To this end, the Member States may have recourse to any body or mechanism established within the European Union in order to facilitate cooperation between their judicial authorities and the coordination of their action. Sequential account shall be taken of the following factors:

- the Member State shall be that in the territory of which the acts were committed,
- the Member State shall be that of which the perpetrator is a national or resident,

— the Member State shall be the Member State of origin of the victims,

— the Member State shall be that in the territory of which the perpetrator was found.

3. Each Member State shall take the necessary measures also to establish its jurisdiction over the offences referred to in Articles 1 to 4 in cases where it refuses to hand over or extradite a person suspected or convicted of such an offence to another Member State or to a third country.

4. Each Member State shall ensure that its jurisdiction covers cases in which any of the offences referred to in Articles 2 and 4 has been committed in whole or in part within its territory, wherever the terrorist group is based or pursues its criminal activities.

5. This Article shall not exclude the exercise of jurisdiction in criminal matters as laid down by a Member State in accordance with its national legislation.

*Article 10***Protection of, and assistance to, victims**

1. Member States shall ensure that investigations into, or prosecution of, offences covered by this Framework Decision are not dependent on a report or accusation made by a person subjected to the offence, at least if the acts were committed on the territory of the Member State.

2. In addition to the measures laid down in the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings⁽¹⁾, each Member State shall, if necessary, take all measures possible to ensure appropriate assistance for victims' families.

*Article 11***Implementation and reports**

1. Member States shall take the necessary measures to comply with this Framework Decision by 31 December 2002.

2. By 31 December 2002, Member States shall forward to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision. On the basis of a report drawn up from that information and a report from the Commission, the Council shall assess, by 31 December 2003, whether Member States have taken the necessary measures to comply with this Framework Decision.

3. The Commission report shall specify, in particular, transposition into the criminal law of the Member States of the obligations referred to in Article 5(2).

⁽¹⁾ OJ L 82, 22.3.2001, p. 1.

22.6.2002

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Article 12

Territorial application

This Framework Decision shall apply to Gibraltar.

Article 13

Entry into force

This Framework Decision shall enter into force on the day of its publication in the Official Journal.

Done at Luxembourg, 13 June 2002.

For the Council
The President
M. RAJOY BREY

**Anti-terrorism legislation –
Selected European jurisdictions**

<u>BELGIUM</u>	<u>FRANCE</u>	<u>GERMANY</u>	<u>NETHERLANDS</u>
Implementation of paragraph 1(b) of UNSCR 1373			
<p>Anti-terrorist financing activities are based on -</p> <p>(a) the Belgian Penal Code, which provides penalties for acts constituting offences which take place upstream of a terrorist act (such as criminal conspiracy and threats of attacks), as well as the offences whereby the terrorist act is carried out (such as the taking of hostages, kidnapping and murder). In addition, any offence perpetrated by terrorist elements with a view to facilitating their action is also punishable by the Belgian authorities (such as collection of funds);</p> <p>(b) various specific laws, in particular, the law of 11 January 1993 on preventing the use of the financial system for money-laundering and the law of 10 January 1999 on organized crime; and</p> <p>(c) the implementation of various international conventions, most of which are United Nations sectoral conventions on terrorism.</p> <p>The acts described in paragraph 1(b) of UNSCR 1373 can be prosecuted when they fall within the fields of the</p>	<p>All the activities listed in paragraph 1(b) of UNSCR 1373 are offences under French law.</p> <p>Since 1986, French anti-terrorist legislation has provided for the prosecution of those involved in the financing of terrorism under the more severe offence of complicity in an act of terrorism. The provision of funds is proof of complicity in the instigation of the offence or of aiding and abetting the offence by providing the means.</p> <p>In order to strengthen and rationalize this provision, the Act of 15 November 2001 introduced new characterizations of offences, specifically including the financing of terrorism.</p> <p>The offence of financing terrorist activities (article 41-2-2 of the Penal Code) is subject to 10 years' imprisonment and a fine of FF 1.5 million.</p>	<p>Under German law, the financing of terrorist activities can constitute a separate offence (section 129a of German Criminal Code). The penalties which can be imposed under this provision depend on the circumstances of the case: if the person who does the financing is considered a "backer", for example, the law provides for a term of imprisonment of 3 to 15 years for this alone, and for an "ordinary member" of the organization it makes provision for a term of imprisonment of 1 to 10 years. If the person in question is not a member of the organization, the penalty imposable is imprisonment from 6 months to 5 years.</p> <p>In addition, consideration can also be given to imposing punishment for the financing of terrorist activities under the rubric participation in the principal offence. For example, if the perpetrator finances the purchase of weapons used by others to kill people in an attack, imposing punishment for participation in the offence of murder may also be considered. The penalties imposed then depend on the penalties which can be imposed for the actual terrorist offences (in this example, the penalty for murder is life imprisonment).</p>	<p>The financing of terrorism is a criminal offence under the Dutch Criminal Code. It can be prosecuted in three ways.</p> <p>Firstly, as preparations for a criminal act under article 46 of the Criminal Code. The maximum penalty depends on the maximum penalty applying to the terrorist crime for which the financing was intended. In this case, the terrorist act need not actually have been committed. Secondly, as financing in the context of a criminal organization. In this case, the suspect can be prosecuted for participating in a criminal organization (under article 140 of the Criminal Code). The maximum penalty for this is 6 years' imprisonment. Thirdly, the financing of terrorism can be prosecuted as participation in an offence, such as conspiracy to incite a terrorist offence (whether successful or not), under article 46a and 47 of the Criminal Code. The maximum penalty again depends on the maximum penalty applying to the terrorist offence for which the financing was intended.</p> <p>Legislation for the implementation of the International Convention for the Suppression of the Financing of Terrorism has been implemented in the Dutch criminal law since 1 January</p>

<u>BELGIUM</u>	<u>FRANCE</u>	<u>GERMANY</u>	<u>NETHERLANDS</u>
<p>legislative system described above. The law also allows such acts to be criminalized as acts aiding and abetting violations.</p> <p>In December 2003, Belgium enacted an anti-terrorism law to comply with the EU Framework Decision on combating terrorism (as mentioned in paragraph 5 of the paper).</p>			<p>2002. Criminal proceedings may be instituted against anyone engaged in criminal forms of the collecting of funds to aid and abet terrorism.</p>
Implementation of paragraph 1(d) of UNSCR 1373			
<p>The activities prohibited by paragraph 1(d) of UNSCR 1373 are punishable by reference to the existing legislation as described above: criminal conspiracy or money laundering, for example. If suspicious financial transactions are discovered through investigation or information, their perpetrators are prosecuted on the basis of law on money laundering, which also targets funds connected with terrorism, and of criminal legislation against conspiracy.</p> <p>Royal Decree of 2 May 2002 was enacted on specific restrictive measures directed against certain persons and entities with a view to combating terrorism, on the basis of the law of 11 May 1995 on the implementation of decisions of the United Nations Security Council. The Royal Decree stipulates that EU Regulation (EC) No. 2580/2001 (as mentioned in paragraph 4 of the paper) shall govern funds, other financial assets or economic</p>	<p>France implements the legal instruments adopted by the EU, namely, the Common Position 2001/931/CFSP and EU Regulation (EC) No. 2580/2001 (as mentioned in paragraph 4 of the paper), which prohibit nationals or residents of EU Member States from making funds or economic resources available to listed persons or entities linked to the financing of terrorism. Under article 459 of the Customs Code, the penalties incurred are imprisonment for 1 to 5 years, confiscation of the corpus delicti, confiscation of the vehicle used for perpetrating the fraud and a fine.</p> <p>To participate knowingly in the financing of an act of terrorism constitutes aiding and abetting. A natural or legal person who intentionally provides financial support to a terrorist group or organization thus incurs criminal liability.</p>	<p>Germany implements the legal instruments adopted by the EU, namely, the Common Position 2001/931/CFSP and EU Regulation (EC) No. 2580/2001 (as mentioned in paragraph 4 of the paper), which prohibit nationals or residents of EU Member States from making funds or economic resources available to listed persons or entities linked to the financing of terrorism.</p> <p>At the national level, it is possible in Germany to restrict capital and payment transactions involving the persons or organizations targeted under UNSCR 1373. These measures are based on sections 2 and 7 of the Foreign Trade and Payments Act. The provisions of these two sections enable the German Government to restrict legal transactions or activities concerning foreign trade and payments in order to protect against specific risks to the values referred to in section 7, paragraph 1 of the Foreign</p>	<p>The Netherlands implements the legal instruments adopted by the EU, namely, the Common Position 2001/931/CFSP and EU Regulation (EC) No. 2580/2001 (as mentioned in paragraph 4 of the paper), which prohibit nationals or residents of EU Member States from making funds or economic resources available to listed persons or entities linked to the financing of terrorism.</p> <p>Dutch sanctions legislation is relevant. Under the Sanctions Act 1977, the government can implement international sanctions by means of a national decree. For example, engaging in any financial or economic transaction whatsoever with a person or an organization whose name appears on an international list of terrorists is a criminal offence. Violation of the Sanctions Act can be prosecuted under the Economic Offences Act. The penalty for intentionally violating the Sanctions Act is</p>

<u>BELGIUM</u>	<u>FRANCE</u>	<u>GERMANY</u>	<u>NETHERLANDS</u>
<p>resources held by a listed person or entity who or which commits, or attempts to commit, terrorist acts, or participates in or facilitates the commission of such acts. Persons convicted of breach of EU Regulation (EC) No. 2580/2001 are liable to imprisonment for 8 days to 5 years and a fine from € 25 to 25,000.</p> <p>In December 2003, Belgium enacted an anti-terrorism law to comply with the EU Framework Decision on combating terrorism (as mentioned in paragraph 5 of the paper).</p>	<p>At the national level, the requirement is reinforced by the provisions of article L-152-1 of the Monetary and Financial Code, which provides that all natural persons who transfer funds, securities or financial instruments worth € 7,600 or more into or out of the country without the intermediary of a credit institution or service organization must file a declaration with the customs administration. Failure to comply is punishable by confiscation of the object in question or, if seizure is impossible, of an equivalent sum and a fine equal to no less than one fourth and no more than the total sum involved in the offence or attempted offence. This obligation to declare, instituted on 1 January 1990, is an important tool for the French customs service in combating terrorist financing.</p>	<p>Trade and Payments Act, viz : the security of Germany; the peaceful co-existence of people; and the external relations of Germany.</p> <p>The Thirty-fourth Criminal Law Amendment Act of 22 August 2002 (Federal Law Gazette 2002 Part I Number 61 of 29 August 2002, p.3390) entered into force on 30 August 2002. By virtue of Article 1 no. 7 of this Act, the list of offences preceding money laundering or concealment of unlawfully acquired assets in section 261 subsection 1, second sentence number 5, of the Criminal Code has been supplemented by offences pursuant to section 129 of the Criminal Code (formation of criminal organizations) and section 129a subsection 3 of the Criminal Code (supporting terrorist organizations including foreign ones, recruiting for such organizations). Hence the list of offences preceding money laundering or concealment of unlawfully acquired assets (section 261 subsection 1, second sentence number 5 of the Criminal Code) now includes all criminal offences that aid the funding of terrorist organizations, including foreign organizations.</p>	<p>imprisonment for a maximum of 6 years.</p>