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Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Barbados, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Note verbale dated 24 December 2001 from the Ministry of Foreign Affairs and Foreign Trade of Barbados addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Ministry of Foreign Affairs and Foreign Trade of Barbados presents its compliments to the Secretary of the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001) and has the honour to submit the report requested in paragraph 6 of the resolution (see enclosure). The annexes of the report will be sent by courier shortly; in addition, the electronic version can be obtained from the Permanent Mission of Barbados to the United Nations.

The Government of Barbados stands ready to provide the Committee with further reports or information, as necessary.

Enclosure

Report of the Barbados Government pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Introduction

1. The terrorist attacks perpetrated against the United States on September 11th, 2001, caused shock and outrage to Barbados and all Barbadians. Barbados was among the eighty countries directly affected by the attacks on the World Trade Centre, in which five of its nationals were killed.

2. In public statements made in the aftermath of September 11th, the Government of Barbados has expressed its explicit and unequivocal condemnation of the terrorist attacks and stressed that no cause or grievance can ever justify the use of violence as a means of settling disputes, or legitimise the taking of innocent lives.

3. Barbados has pledged to cooperate fully with the International Community, in accordance with international law and Conventions, in the sustained effort to respond to this threat to international peace and security and to this end has supported all United Nations General Assembly resolutions. Within the hemisphere, it has participated in the Meetings of Consultation of Foreign Ministers convened under the OAS Charter and under the Rio Treaty, and has supported the Resolutions adopted by these bodies condemning the attack, and committing hemispheric Governments to strengthen cooperation to prevent, combat and eliminate terrorism in the hemisphere.

4. Within the region, Heads of Government of the Caribbean Community (CARICOM) met in Emergency Session to discuss the security and economic implications of the September 11 terrorist attacks, and issued a Declaration on Terrorism, which is annexed to this report.

5. The events of September 11th have had an immediate and far-reaching impact on the major sectors of the Barbados economy, namely tourism, and financial services. This has necessitated the putting into place of a package of National Emergency Measures to mitigate the effects of the crisis. In addition, discussions are taking place among the Ministers of Finance of CARICOM on the elaboration of a comprehensive assistance package for the region for presentation to the International Financial Institutions.

6. Barbados as a member of the United Nations has always honoured its obligations to comply with United Nations Security Council resolutions. Following the passage of Resolution 1373, the Government of Barbados took immediate steps to form an Inter-Ministerial Committee, under the chairmanship of the Attorney General, to review the status of its security and legislative framework with specific reference to terrorism, and to determine the action required by Barbados in response to the mandates of that Resolution. The Inter-Ministerial Committee has reviewed the resolution and has identified areas where:

(a) Barbados is already in compliance,

(b) although the objectives are supported, there may be constitutional, legal, financial and administrative difficulties in following the precise course of action in the manner prescribed by the Security Council, and :

(c) the legislative, financial and administrative framework can be amended or strengthened as the case may be.

This report will give details on action taken to date, action in process or being contemplated, and areas where difficulties have arisen, and where further study and review is in progress.

7. The wide-ranging nature of UNSCR 1373 (2001) requires extraordinary action on Barbados' part legislatively, financially and administratively. This has created a burden on its human and financial resources. This Report will identify those areas where the burden is most acute and where Barbados wishes to avail itself of the assistance offered by the Counter Terrorism Committee (CTC).

8. In preparing the report, the Government took into account the guidelines submitted by the CTC in Note SCA/20/01(6). The Report is organised in accordance with the structure of the resolution.

Paragraph 1. Decides that all states shall:

(a) Prevent and suppress the financing of terrorist acts

9. The Barbados Government is committed to enhancing its capability to prevent and suppress the financing of any terrorist activity of which it has knowledge. Currently no such crime exists under our law, although offences that lead to loss of life or damage to property are punishable under common law and statute. It should be noted that there is a Foreign Incursions and Mercenaries Act CAP. 174 which makes it a crime to recruit mercenaries in Barbados. It also seeks to prevent armed incursions into other countries by Barbadians. This legislation, which is being provided to the Committee, particularly Sections 5 to 7, clearly prohibits the recruitment within Barbados of any person for the purpose of taking part in any warfare or armed conflict out of Barbados and also makes it an offence, to transport or convey, or to assist in the transportation or conveyance of such persons for this purpose. Barbados' only experience with terrorism to date is the 1976 bombing of a Cubana Airline off Barbados. It should be noted that in 1973 Barbados enacted the **Hijacking Act CAP135-A**. Since September 11, 2001 and since the signing of the International Convention on the Suppression of Terrorist Financing in November 2001, the Government of Barbados has clearly articulated its intention to introduce into Parliament a Bill that will specifically make terrorism and the financing of terrorism and all ancillary acts criminal offences. It should be noted that once this legislation is in place, **The Money Laundering (Prevention and Control) Act 1998-38** and the **Proceeds of Crime Act CAP 143** would both be applicable to any person engaging in terrorist related activity. Further, the passage of this legislation will also allow for the applicability of the **Extradition Act CAP 189** in the case of terrorist crimes.

10. Access to intelligence information has become easier in Barbados because of the country's well-regulated financial services sector, which has been in existence for over thirty years. The sector was developed in the 1970s, following the advice of donor governments and international agencies, as a conscious effort to diversify the Barbados economy, and lessen its historic dependence on the production and export of one crop, cane sugar. In addition, Barbados is internationally recognised for the sound, prudent and transparent management of its financial affairs, a reputation which is borne out by the high international credit rating it currently enjoys.

11. From the outset the Barbados Government has taken great care to establish an independent regulatory framework to ensure that the operation of its financial services sector meets the highest international standards.

12. Since the enactment of the 1965 **International Business Companies Act**, which was revised in 1991, Barbados has developed a wide range of legislation to promote its international business and financial services sector. This includes:

- **The Offshore Banking Act (1979)**
- **The Income Tax Act**
- **The Shipping Act and The Shipping Incentives Act (1991 and 1992)**
- **The Exempt Insurance Act (1983)**

- **The Barbados Foreign Sales Corporation Act (1984)**
- **The International Trust Act (1995)**
- **The Societies with Restricted Liability Act (1996)**
- **The Mutual Funds Act (1998)** and **The Companies Act (1982).**

13. This legislation together with an extensive network of tax and bilateral investment treaties has opened the sector to international investors worldwide. Presently some 6775 offshore entities are licensed to do business in Barbados. These include International Business Companies, Foreign Sales Corporations, Offshore Banks, Exempt Insurance Businesses, Societies with Restricted Liability, Trusts. The Ship's Registry, Credit Unions and Insurance Companies operate in the sector.

14. The sector is supervised and regulated by a number of agencies including the Central Bank of Barbados, and the Ministry of Economic Development through its Corporate Affairs and Intellectual Property Office, and its International Business Division.

15. The Central Bank of Barbados, established in 1972 regulates these financial institutions according to the standards of the International Community. The Corporate Affairs and Intellectual Property Office is responsible for the incorporation of companies and the registration of associations, business names, and partnerships. The Department is also responsible for intellectual property matters. The International Business Division is responsible for the licensing of Societies with Restricted Liability, Foreign Sales Corporations, International Business Companies, and Exempt Insurance Corporations.

16. Under the Companies Act, at the request of a shareholder, debenture holder or the Registrar of Corporate Affairs and Intellectual Property, the court can order that an investigation be carried out into the activities of any company or its affiliates. The application can be based on a suspicion of fraud. This applies to all companies incorporated or registered in Barbados.

17. Credit unions and insurance companies are regulated under different regimes with the regulator of credit unions being the Registrar of Co-operatives and the regulator of insurance companies being the Supervisor of Insurance. These Regulators operate under the aegis of the Ministry of Commerce and Consumer Affairs and the Ministry of Finance respectively. In addition, Parliament passed the **Securities Act in 2001**, which further strengthens the regulatory framework under which the Securities Exchange operates and provides for a greater level of transparency.

18. Barbados supports concerted international action to prohibit the financing of terrorist activity. To this end Barbados believes that the effective exchange of information is necessary under the appropriate bilateral and multilateral international instruments. In this regard Barbados negotiated a full Double Taxation Agreement as far back as December 1984 with the United States of America (USA). This Agreement contains an exchange of information article. Barbados also entered into a Tax Exchange of Information Agreement with the USA in 1984. The exchange of information is a provision that is embodied in Double Taxation Agreements which Barbados signs with other countries. Barbados currently has Double Taxation Agreements with Switzerland, United Kingdom, France, Canada, United States, Finland, Norway, Sweden, China, Cuba, Venezuela and Malta, which provide adequately for the exchange of information. It is actively pursuing negotiations with several other countries, in order to expand its network of bilateral Double Taxation Treaties, and strengthen reciprocal cooperation on tax matters, including the exchange of information.

19. In addition, Section 18 (1C) of the **Exempt Insurance Act** allows for the exchange of information pursuant to a Double Taxation Agreement (DTA).

20. Barbados is a party to the Caribbean Community (CARICOM) Multilateral Double Taxation Treaty. The following member states and territories are a party to this Treaty: Anguilla, Antigua and Barbuda, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago.

21. In addition, the country has a practice of co-operating in tax matters and investigations into criminal activity. Several OECD countries have confirmed that Barbados is willing to co-operate with foreign countries in tax matters, and there are procedures in Barbados for the exchange of information on a routine basis.

"Decides that all states shall:

1 (b) "criminalise the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories 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."

22. For Barbados any assistance rendered in the execution of any criminal act including the provision or collection of funds with the intention of funding a criminal act brings one within the purview of criminal sanction as an aider or abettor or a conspirator. This is provided for at Common Law and in the **Criminal Procedure Act CAP 127**. Although Barbados has had no specific case involving funding for the purposes of terrorism the authorities are closely monitoring this area.

23. The following enactments, the texts of which are appended to this report, relate to the prevention and control of money laundering, the proceeds of crime, and related matters:

(a) The Money Laundering (Prevention and Control) Act, 1998-38

- Creates the offence of money laundering together with other related offences.
- Creates an Anti-Money Laundering Authority as a regulatory body to supervise financial institutions.
- Provides for the freezing and forfeiture of assets in cases of money laundering.

(b) **The Money Laundering (Prevention and Control) (Amendment) Act 2001**

- Makes new provisions relating to the burden of proving the charge of money laundering.
- Strengthens the information gathering powers and procedure in such cases.

(c) The Proceeds of Crime Act CAP 143

Provides for the forfeiture or confiscation of the proceeds of certain crimes

(d) The Mutual Assistance in Criminal Matters Act, Cap. 140A

Makes provision for mutual assistance to be given between Barbados and other countries (namely the Commonwealth, those countries that are signatory to the Vienna Convention and those countries with whom we have a specific bilateral treaty on this matter) in respect of criminal matters.

24. The Government of Barbados has embarked on a vigorous public education campaign on anti-money laundering. To this end there have been continuous public service announcements on both radio and television in addition to the dissemination of brochures and pamphlets. A copy of the brochure published by the Anti-Money Laundering Authority is appended to this report.

25. The **Money Laundering (Prevention and Control) (Amendment) Act, 2001**, **Section 8A,** covers all spredicate crimes with penalties in excess of twelve months imprisonment and is not confined to drug-related offences. Further, it requires persons who are transferring sums into and out of Barbados in excess of BDS$10, 000.00,* to report such transfers to the Anti-Money Laundering Authority. It should be noted that transfers in excess of BDS$10,000.00 are not reportable under the following circumstances:

1. Where permission for the transfer was obtained under the **Exchange Control Act, Cap 71.**

2. By a commercial carrier in respect of currency in the possession of the carrier's passengers.

3. By a commercial carrier of goods in respect of currency carried on behalf of another person unless the other person has disclosed to the carrier that the goods include currency.

4. By a financial institution in respect of currency transferred on behalf of that financial institution by a commercial carrier of goods.

26. However, for the last thirty years, Barbados has had in place a legislative framework to monitor and control the movement of foreign currency into and out of the country. The Exchange Control Act requires the reporting of all transfers into Barbados of currency or other monetary instruments in excess of BDS$10,0000.00 or its foreign currency equivalent. It is also a requirement that all transfer out of Barbados of BDS$7,500.00 or more be authorised under the **Exchange Control Act, CAP 71**. The benefit of this legislation is to allow the Central Bank to effectively track the legitimate movement of all funds and to enhance the regulatory and investigative powers of the State.

27. To date, no problem has been experienced in dealing with money-laundering cases in obtaining court orders for either investigations or prosecutions. **Under the Money-Laundering (Prevention and Control) Act 1998-38** and the **Proceeds of Crime Act, CAP 143** a number of law enforcement capabilities exist. These are Monitoring Orders, Inspection Orders, Production Orders, Restraining Orders, and Freezing Orders. Both pieces of legislation have led to significant activity in the enforcement of the law with respect to investigations and proceedings.

28. Furthermore, it should be noted that **The Money Laundering (Prevention and Control) (Amendment) Act, 2001** gives extensive investigative powers to the Financial Intelligence Unit (FIU) which reports to the Attorney General. The FIU has access to all the relevant financial agencies including the Land Tax Department, The Value Added Tax Office, the Department of Inland Revenue, The Customs Department and the Corporate Registry. Such access serves to enhance the investigative powers to develop financial transaction profiles of individuals or bodies operating in the country. This information is confidential and can only be used for the legitimate purposes authorised by the legislation. In addition, Section 8 of the Act requires financial institutions to:

- report all suspicious or unusual transactions to the Authority;

- comply with instructions of the Authority;

* The fixed exchange rate of the Barbados dollar is $2.00 to US$ 1.00.

- permit any member of the Authority or a person authorised by it, to enter any premises and inspect records;
- make notes or take copies of such records; and
- answer any questions of the Authority

29. Specifically, Barbados' Anti-Money Laundering Authority (AMLA) assists in regulating its financial regime. The Authority falls within the portfolio of the Attorney-General and it supervises financial institutions in accordance with the **Money Laundering (Prevention and Control) Act**. It co-ordinates Barbados' anti-money laundering efforts, thus assisting the financial community to prevent money laundering as well as assisting law enforcement in detecting it.

30. The affairs of international banking customers are covered by confidentiality in relation to the international bank's dealings with the Central Bank as the regulatory authority. Statements, returns or information of licensed international banks in respect of their business, may be disclosed to the Central Bank, the relevant Minister and other public officers. Information with respect to licensed onshore banks is published in the Official Gazette.

31. In response to a request by the Anti-Money Laundering Authority, under the **Financial Institutions Act**, the Central Bank may disclose information to:

- the Director of Public Prosecutions
- the Commissioner of Inland Revenue or
- the appropriate supervisory authority of financial institutions outside Barbados

32. **The International Business Companies Act** allows disclosure of information where:

- it forms part of the public record kept by the Registrar of Companies,
- the disclosure is authorised by the company
- it is requested by a court of a competent jurisdiction, or
- when authorised by the **Income Tax Act** or by an international agreement to which Barbados is a party.

33. Under Section 76 of the **Income Tax Act**, the Commissioner of Inland Revenue has wide powers to audit books, examine records, enter into premises, demand information in the form of books, letters, accounts, invoices, statement, or other documents.

34. With offshore companies, the risks and premiums originate outside Barbados while the Companies are incorporated and licensed in Barbados. The Division of International Business and the Office of the Supervisor of Insurance (OSI) carefully screen all applicants and undertakes due diligence tests before accepting any new business. This includes obtaining information from rating agencies like A.M Best and Standards and Poors and consulting the Supervisor in the home jurisdiction.

35. The anti-money laundering legislation and the guidelines of the International Association of Insurance Supervisors to which Barbados adheres, have enhanced the monitoring capacity of the Office of the Supervisor of Insurance (OSI). The screening of clients requires the disclosure of additional information on the shareholders, directors and the parent companies.

36. The legislation prohibits the transfer of share or assets without the permission of the Minister. The Supervisor of Insurance is allowed to carry out checks on insurance companies in an effort to monitor their operations closely.

37. Management companies in the area of insurance are legally obliged to report to the Supervisor of Insurance any areas of non-compliance with the legislation or any intended legal proceedings against the company in the home jurisdiction. The Office of the Supervisor of Insurance is committed to ensuring that companies registered in this jurisdiction are reputable and uphold the requirements of the legislation.

"Decides that all States shall:

1 (c) Freeze without delay 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; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at 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."

38. In Barbados' legal system the freezing, restraining, forfeiture or confiscation of assets is only available under the **Proceeds of Crime Act, Cap 143**, the **Money Laundering (Prevention and Control) Act, 1998-38** and the **Customs Act CAP 66**, and must relate to some form of unlawful activity which carries a sentence in excess of twelve months imprisonment. **The Barbados Constitution does not provide for civil forfeiture but it is possible for assets to be frozen when the offence committed carries a penalty greater than twelve months. Equally it is possible to forfeit or confiscate the property of a person who has been convicted of an unlawful act where the property is shown to be proceeds of crime. However, Resolution 1373 may require that assets be frozen or confiscated in respect of a person who has been deemed a terrorist by an Executive Order but who has never been charged or convicted. In those circumstances the Constitution of Barbados, does not so provide. The matter of due process is clearly enshrined in the Constitution, and action taken by the Authorities against individuals or their property must be consistent with the due process and the fundamental rights provisions of the Constitution, which are the country's obligations under the Universal Declaration of Human Rights, and other relevant regional and international Conventions.**

39. In preparation for the drafting of the proposed new legislation on terrorism, the Barbados Government has retained the services of a legal consultant to advise further on the legal and constitutional implications of civil forfeiture and the freezing of assets.

"Decides that all States shall:

1 (d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services 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, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons."

40. Notwithstanding that Barbados has no specific legislation on terrorism and the financing of terrorism, the existing law and regulatory framework may be adequate to detect activity in this regard and to take appropriate action. However, the proposed legislation by the Government of Barbados will specifically address these concerns. Barbados is committed to cooperating with the international community in the effort to suppress the conduct of terrorist activities and the financing thereof. As stated before, however, the Constitution of Barbados is clear on the due process that must be adhered to prior to sanctions or some form of punishment being applied to an individual or organisation. Nevertheless, as indicated in earlier sections of this

report, Barbados does have a well-regulated financial services sector that provides information which can trace financial transactions. Further, our financial institutions respond readily to legitimate requests made through the Financial Intelligence Unit (FIU).

41. In response to information requested under the provisions of Security Council Resolutions 1267 (1999) and 1333 (2000), which call for the freezing of the assets of persons or entities identified on the lists circulated by the Sanctions Committee, the financial institutions in Barbados have cross-checked the lists with the names of persons who transact business in Barbados and to date there is no indication of any match. Accordingly, there is yet to be any test locally as to the extent that our Constitution and its provisions for due process will allow freezing or confiscation of assets of a person or organisation before they are charged or convicted. In the absence of such specific guidance, the Government of Barbados anxiously awaits the outcome of the study that it has commissioned with the assistance of the Caribbean Technical Assistance Centre (CARTAC).

Paragraph 2: "Decides also that all States shall

(a) R*efrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists."*

42. There is no evidence of Barbados being used for the recruitment of terrorists. The law enforcement and security agencies have an intelligence gathering capacity in this regard, and monitor suspicious activities on an ongoing basis. While the Constitution of Barbados gives guarantees of freedom of religion, expression, and association, **The Public Order Act CAP 168A** does provide certain safeguards against the abuse of these rights, including the prohibition of the unauthorised meeting of persons to plan or conduct activities deemed prejudicial to public safety.

43. Further, **the Foreign Incursions and Mercenaries Act CAP 174** serves to prohibit the recruitment of mercenaries in Barbados and to prevent armed incursions into other countries by Barbadians. This legislation, which is being provided to the Committee, particularly Sections 5 to 7, clearly prohibits the recruitment within Barbados of any person for the purpose of taking part in any warfare or armed conflict out of Barbados and also makes it an offence, to transport or convey, or to assist in the transportation or conveyance of such persons for this purpose.

44. In Barbados there is no automatic right to bear arms, and on the contrary, only licensed firearm holders are allowed to do so. The supply of weapons to citizens is controlled by the **Firearms Act 1998-32**. This Act prohibits the supply of firearms and or explosives to persons without a licence or other authority to carry such weapons. In order to acquire a firearm, an applicant must satisfy certain requirements including providing proof of competence in handling the weapon and justification of the need for a firearm. There is a firearms policy confining the firing power to a calibre below that used by the Police Force and the type of ammunition allowed is under restriction. The number of licensees is relatively small and the granting of licences is very carefully controlled and monitored. The licences are renewable annually. Members of the civilian force (Royal Barbados Police Force) do not carry arms on routine duty. Weapons are only issued to them in special circumstances.

45. Barbados does not manufacture, produce or distribute weapons, ammunition or military equipment or hardware of any type. Arms required by the Security Authorities for the legitimate defence of the country are imported under a system, which is strictly regulated and managed. The Government is satisfied that Barbados has no capacity to supply weapons to terrorists, and controls are in place to prevent the illegal development of such a capacity.

46. Barbados has signed the **Inter-American Convention Against Illicit Manufacture and Trafficking in Weapons, Munitions, Explosives and Related Materials (1997**) and is currently taking steps to ratify it. Further, Barbados has signed the **United Nations Convention on Transnational Organised Crime** and the

Three Optional Protocols. The Third Protocol specifically deals with the illicit manufacture, sale and trafficking in firearms.

47. There is increasing concern in Barbados and the Caribbean about the free availability of weapons in other jurisdictions, and the increasing incidence of illegal export of small arms, largely among criminal elements engaged in narco-trafficking and their introduction among populations where civilians and the police force are unarmed.

"Decides also that all States shall:

2 (b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other states by exchange of information."

48. Barbados is a small developing state, and as a consequence it has a small Standing Army, created some 20 years ago to replace the volunteer Regiment that had served in colonial times and in the first decade of Independence. That army, the Barbados Defence Force (BDF), headed by a Chief of Staff, is charged with protecting the country from external security threats in accordance with the **Defence Act (Cap 159)**. Its mandate includes defending the Exclusive Economic Zone and engaging in search and rescue efforts in that zone. The BDF, particularly the Coast Guard Division, is heavily involved in the fight against narco-terrorism.

49. The Royal Barbados Police Force comprises some 1250 officers and is primarily involved in the maintenance of law and order, the protection of life and property, the prevention and detection of crime as well as the enforcement of all laws and regulations. Although there is a clear demarcation between the duties of the Barbados Defence Force and the Police Force, the Defence Force can be called out to assist the Police by a request through the Governor-General. Assistance from the Defence Force is solicited with respect to joint patrols of coastal areas regarding drug trafficking and in cases of civil disorder.

50. The resources allocated for defence and security are modest as befits the needs of a small stable democracy whose emphasis in public spending is on the economic and social development of its people. While public expenditure on defence and security has not been a priority in the past, the system in place for defence of national territory can also deal, as required, with the new phenomenon of terrorism and the activities of terrorists.

51. Barbados and the countries of the Eastern Caribbean recognise that their capacity for self-defence is minimal but have been reluctant to increase military infrastructure and expenditure at the national level at the expense of other development priorities. They have therefore agreed to a system of military co-operation to provide for their collective defence in emergency situations.

52. This system, known as the Regional Security System (RSS) came into being in 1982 through a Memorandum of Understanding, which was upgraded, to a treaty in March 1996. The treaty is deposited with the United Nations. The mandate of the RSS Treaty provides in article 4 as follows -

53. "The purposes and functions of the system are to promote co-operation among the member states in the prevention and interdiction of traffic of illegal narcotic drugs, in national emergencies, search and rescues, immigration control, fisheries protection, customs and excise control, maritime policing duties, natural and other disasters, pollution control, combating threats to national security, the prevention of smuggling, and in the protection of off-shore installations and exclusive economic zones."

54. The scope of the RSS Treaty arrangement allows for it to play a supportive role, if required, to assist national efforts in detecting and preventing potential acts of terrorism and the illegal movement of suspected terrorists throughout the Eastern Caribbean.

"Decides also that all States shall:

2 (c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens."

55. As indicated earlier, the Government of Barbados proposes to introduce to Parliament specific legislation to deal with the matter of terrorism, which would encompass the creation of a criminal offence in respect of the provision of safe haven to those who finance, plan, support, or commit terrorist acts. The current provisions of the First Schedule of the **Immigration Act CAP 190** as detailed at paragraph 2 (g) of this Report, which deal with persons deemed to be prohibited entrants to Barbados are also relevant in this context.

"Decides also that all States shall:

2 (d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens."

56. In the proposed new legislation on terrorism to be passed, the definition of terrorism will not be limited to an offence committed in Barbados alone. To that extent it will deem it to be a crime even if the offence relates to another state or its citizens. This is consistent with the principles within our criminal law, which allow for the prosecution or liability of persons who plan operations from within Barbados. The provisions of the **Foreign Incursions and Mercenaries Act Cap 174** appear also to be relevant.

"Decides also that all States shall:

2 (e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts."

57. The proposed legislation respecting the offence of terrorism will capture these acts. However our existing domestic law is currently applicable in instances where there is loss of life or the endangering of life, or damage to property or injury to persons as a result of a terrorist act committed in or from Barbados. In addition the Foreign Incursions and Mercenaries Act CAP. 174 also creates an offence for the commission of an hostile act and hostile act is also defined as inciting fear of loss of life or loss of property as sometimes happens in terrorist acts. The laws of Barbados provide for the mandatory imposition of capital punishment for murder or treason while the maximum sentence of life imprisonment applies for very serious offences.

"Decides that all States shall:

2 (f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings related to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings."

58. Under existing arrangements, Barbados collaborates with the following organisations: INTERPOL (International Criminal Police Organisation), ROCCISS (Regional Counter Criminal Information Sharing System) and NJHQ (National Joint Headquarters). Barbados also participates in a bilateral information exchange programme with the United States with which it has concluded a series of Agreements for cooperation in suppressing illicit maritime drug trafficking, and the preventing and combating of criminal activities including the illicit traffic in narcotic drug and psychotropic substances.

59. Should information of planned terrorist activity that would affect another state come to the knowledge of authorities in Barbados, that state would be immediately informed. Such information may be relayed under the

Mutual Assistance in Criminal Matters Act, Cap 140A, **the Money Laundering (Prevention and Control) Act, 1998-38**, under a treaty arrangement where one exists, through INTERPOL under the Regional Organised Counter Crime Intelligence Sharing System agreement, or by administrative arrangements. In addition Section 6C of the **Anti-Money Laundering (Prevention and Control) Act** allows the Director of the Financial Intelligence Unit to communicate information that is relevant to that Act to any national financial intelligence unit of a foreign state.

60. Barbados has recently amended its **Mutual Assistance in Criminal Matters Act** and the **Money Laundering (Prevention and Control) Act**, to facilitate the country's ability to lawfully share information on an international level. All countries that are signatories to the 1998 Vienna Convention may benefit from the sharing of information under the former Act and all appropriate national financial intelligence units may similarly benefit under the latter Act.

61. The Royal Barbados Police Force is a member of INTERPOL and this allows for timely receipt and dissemination of information on matters of an international criminal nature.

62. The Barbados Customs and Excise Department is a member of the World Customs Organisation (WCO) and the Caribbean Customs Law Enforcement Council (CCLEC) both of which represent the collective law enforcement interests of the member administrations. Both the WCO and the CCLEC exchange information and intelligence globally, through the Customs Enforcement Network (CEN) and Joint Intelligence Offices (JIO). Additionally, the CCLEC has signed a Memorandum of Understanding (MOU) with the Association of Caribbean Commissioners of Police (ACCP), which provides for mutual assistance in law enforcement matters. The CCLEC is currently discussing the signing of a similar MOU with INTERPOL.

63. On October 20, 1998 a Memorandum of Understanding was signed between the Caribbean Customs Law Enforcement Council and the Regional Security System. The MOU recognised that the prevention of criminal acts against society are matters of common concern and priority for Governments in the Caribbean region and that the responsibility of customs officers and organisations includes the prevention of smuggling and the trafficking of prohibited and restricted goods, including drugs and firearms, and in this regard, the prevention of trans-national crime.

64. The responsibility of the RSS under the MOU includes the enforcement of the law relating to smuggling and the trafficking in prohibited and restricted goods, including drugs and firearms.

65. The MOU reinforces the need to create and sustain an open dialogue between the two regional agencies to enhance co-operation which would ultimately assist in the prevention of smuggling, trafficking in prohibited and restricted substances and the protection of societies. The MOU speaks to the Exchange of Information and states as follows "the parties undertake to co-operate in the exchange of information and intelligence, in accordance with the law of each country to ensure the expeditious application of enforcement efforts where this can be used to expedite or enhance enforcement efforts for the detection or prevention of smuggling, and drug trafficking."

> ***"Decides also that all states shall:***
>
> ***2 (g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents*.*"***

66. Entry into Barbados by non-nationals is governed by the **Immigration Act (CAP 190)** of the Laws of Barbados. Visitors to Barbados require a valid passport and return or onward ticket for entry into the country. Entry into the country without a Visa is permitted to members of certain Commonwealth countries and to nationals of countries with which Barbados has concluded Visa Abolition Agreements. Security and illegal overstay concerns are among the factors which guide the visa requirement policy, which is reviewed on an

ongoing basis. Following the events of September 11th, an urgent review of the list of countries whose nationals require visas, as well as of the security screening procedures prior to the granting of a visa, is being undertaken.

67. Persons other than individuals born in Barbados can only obtain citizenship by way of marriage, naturalisation or registration. Clear procedures and eligibility criteria, including time frames are laid down in each case. Barbados strongly opposes the policy of 'economic citizenship' and does not grant passports to non-nationals in exchange for financial contributions or economic benefits.

68. **The First Schedule to the Immigration Act Cap 190** contains comprehensive provisions to prevent the lawful entry of categories of persons whose criminal record or activities might pose a threat to national security. These provisions could be used to deny entry to foreign nationals suspected of terrorist activities once relevant and timely information is provided to the Immigration Authorities. Persons prohibited entry into Barbados include those who:

(a) are addicted to the use of any drug;

(b) are or have been at any time engaged or reasonably suspected of being likely to engage in the unlawful giving or using, the offering or exposing for sale, or buying of, or the trading or trafficking in, any drug; or

(c) have been convicted of an offence under any enactment relating to dangerous narcotic drugs.

69. In addition it prohibits entry by persons who:

(a) Have been convicted of, or admit to having committed, a criminal offence which, if committed in Barbados, is punishable with imprisonment for a term of 1 year or longer;

(b) Knowingly or for profit, aid, encourage or procure other persons who are not citizens of Barbados to enter Barbados illegally;

(c) are stowaways or seek to enter Barbados illegally.

70. The law also prohibits entry to persons who are or have been at any time before or after February 2, 1976 advocates of:

(a) the overthrow by force or violence of the Government of Barbados or any other country or all forms of law;

(b) the abolition of organised government;

(c) the assassination of any person or the unlawful destruction of property.

71. Persons who are or have been members of or affiliated to any organisation which entertains or teaches any doctrine or practice specified in sub-paragraphs (a) to (c) directly above are also prohibited.

72. Barbados Passports are issued at the Immigration Department in Barbados and at its ten Diplomatic and Consular Missions abroad. The printing and supply of passports is done under highly secure conditions by an internationally recognised firm and all stocks carefully controlled and accounted for by the Immigration authorities. The passport records, stock books and revenue receipts are subject to regular scrutiny by the Auditor General's Department. Measures are being implemented to further enhance their security through the introduction of machine-readable documents in the near future.

73. There have been crude attempts, emanating from individuals based in countries outside of Barbados to forge the Barbados passport, largely for the purposes of entering certain developed countries, but these are easily detected and their users denied entry. The Barbados authorities cooperate closely with their counterparts in other friendly countries in the detection of forged or falsified travel documents and visas, and have also implemented a process of validating the travel documents of other countries. Officers from Immigration Department, the Customs and Excise Department, and the Royal Barbados Police Force have all been trained in the identification of counterfeit documentation.

74. Both the Immigration Department and the Royal Barbados Police Force actively engage in measures to prosecute anyone involved in the use of fraudulent travel documents. **The Immigration Act** empowers Barbados to take action against those persons who are seeking to enter or entering Barbados with false documentation and amendments are being processed to make provisions for the apprehension of persons attempting to leave Barbados with false documentation.

75. There are currently only three legal ports of entry into Barbados namely the Grantley Adams International Airport, the Bridgetown Port and Port St. Charles. These ports are manned by uniformed and plainclothes immigration, customs security and police officers who process passengers and cargo. They also provide surveillance, act as a deterrent, and respond as necessary to security matters.

76. The Grantley Adams International Airport operates in conformity with the relevant guidelines of the International Civil Aviation Organisation (ICAO), and meets the requirements of FAA Air Carrier Standard Security Programme**.** The Government cooperates fully with the Federal Aviation Administration of the United States and the relevant Authorities of other Governments, in ongoing efforts to maintain and strengthen airline and airport security worldwide.

77. Since September 11 substantial funds have been provided for the upgrading of security facilities at the airport and seaport consistent with the nature of the increased threat.

"Calls upon all States to:

3 (a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movement of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups."

78. Barbados is seeking to strengthen its capacity to gather information relevant to these illegal activities, and will, as with any information that is gathered in the fight against any criminal activity, be willing to share the information with other relevant entities and countries.

79. The Government has announced its intention to introduce legislation regarding interception of communications subject to judicial control.

"Calls upon all States to:

3 (b) Exchange information in accordance with international and domestic law and cooperate in judicial matters to prevent the commission of terrorist acts."

80. This mandate has already been substantially addressed in the response to paragraph 2 (f).

"Calls upon all States to:

3 (c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts."

81. Barbados, as a small island developing state recognises the importance of global institutions and international co-operation to combat the multilateral problems of the twenty-first century. Barbados views the United Nations Security Council as the most appropriate body to develop the necessary framework to combat terrorism and views international cooperation in the sharing of information and technical expertise as essential to developing a successful global response.

82. Several of its bilateral and international cooperation arrangements in this regard have been detailed in other sections of this report. In addition it should be noted that Barbados is a member of the Caribbean Financial Action Task Force (CFATF), which is affiliated to the Financial Action Task Force (FATF). The CFATF is in the process of reviewing the special recommendations on terrorist financing emanating from the Extraordinary Plenary Meeting called by the FATF to discuss its response to the events of September 11th, and has devised a Plan of Action to combat terrorist financing in the Caribbean Basin.

"Calls upon all States to:

3 (d) become party as soon as possible to the relevant international conventions and protocols related to terrorism including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999."

83. Barbados has consistently supported United Nations Security Council Resolutions condemning terrorism and has become a state party to seven of the twelve major terrorist related United Nations Convention which are as follows:

(a) The Convention on Offences and Certain Acts Committed on Board Aircraft (1963) (ratified 1972) **Civil Aviation (Tokyo Convention) Act CAP 123 B**

(b) The Convention for the Suppression of Unlawful Seizure of Aircraft (1970) (ratified 1973) **Hijacking Act CAP 135 A**

(c) The Convention for the Suppression Unlawful Acts against the Safety of Civil Aviation (1971) (ratified 1976) **(Civil Aviation (Montreal Convention) Act**

(d) The Convention on the Prevention and Punishment of Crimes against International Protected Persons, including Diplomatic Agents (1973) (acceded1979) (**The International Protected Persons Act, CAP. 19)**

(e) The International Convention against the Taking of Hostages (1979) (acceded 1981)

(f) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988) (acceded 1984)

(g) The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988) (acceded 1984)

84. In addition Barbados signed in 2001, **The International Convention for the Suppression of the Financing of Terrorism (1999)** and is party to the **Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.**

85. Barbados is currently examining the International **Convention for the Suppression of Terrorist Bombings**, the **Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation** and the **Convention on the Marking of Plastic Explosives for the Purpose of Detection** with a view to acceding to them. Barbados is also currently reviewing the **Chemical Weapons Convention.**

86. Technical and financial assistance in this area remains essential to facilitate the legal and reporting requirements of the Conventions.

"Calls upon all States:

3 (e) Increase cooperation and fully implement the relevant international conventions and protocols related to terrorism and Security Council Resolutions 1269 (1999) and 1368 (2001)."

87. The action taken, or being contemplated in this regard has already been indicated. Barbados intends to comply with the provisions of all relevant conventions to which it becomes a party, and will enact the necessary enabling legislation, where relevant, to allow it to do so.

"Calls upon all States to:

3 (f) Take appropriate measures in conformity 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."

88. Barbados is not a party to the Convention on the Status of Refugees or the 1967 Protocol, but is a party to the American Convention on Human Rights which states, in Article 22, support for the principle of asylum and non-refoulement.

89. **The Immigration Act CAP 190** of Barbados makes no specific mention of refugees and policies pertaining to them. In effect, Barbados has no domestic legislation to regulate the question of refugees, and is not a refugee receiving country, although it has on occasion provided transit arrangements for a small number of refugees at the request of the United Nations High Commission for Refugees.

"Calls upon all States to:

3 (g) Ensure, in conformity with international law that refugee status is not abused by the perpetrators, organisers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists."

90. As indicated earlier, Barbados has no programme for the granting of refugee status, and does not grant such status to persons for the purpose of residing permanently in Barbados.

91. **The Extradition Act Cap 189**, does recognise offences of a political character as exceptions to extradition, but the definition of these offences is extremely restrictive.

Paragraph 4. Notes with concern the close connection between international terrorism and transnational organised crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasises the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security.

92. The Government of Barbados and its Security and Law Enforcement Authorities share the Security Council's concerns about the inter-relationship among the various components of transnational crime, and are participating fully at the national, regional and international levels in the response to these threats to security.

93. As a small vulnerable country, Barbados is concerned that it has no capacity to defend itself against weapons of mass destruction. It is particularly concerned that despite the events of September 11th, and despite the emphatic objections of all Caribbean Basin states, the Caribbean Sea continues to be used as a route for the transhipment of hazardous nuclear materials, thus exposing these countries to the risk of a potential catastrophe in the event of terrorist action or accident.

Technical Cooperation

94. With respect to paragraph 1.4 of the Guidance For the Submission of Reports Pursuant to Paragraph 6 of Security Council Resolution 1373 (2001) of 28 September 2001, regarding the identification of areas in which states require additional guidance or technical assistance in implementing the resolution, Barbados as a small state with limited financial and technical resources, will require assistance in the implementation of some of the required counter-terrorism measures.

95. Technical assistance is required, both in the acquisition, and maintenance of appropriate technology as well as in the training of personnel in counter-terrorism techniques including detection of fraudulent travel documents. Financial assistance in acquiring additional equipment in order to upgrade the security of its ports of entry is also an urgent priority. Barbados' border control measures can be made more effective and more efficient through having early access to passenger, carrier and cargo information. This advance information should be provided electronically by the carriers, both airlines and ships, so that better profiling and targeting can be undertaken by the Law Enforcement Agencies. The technology already exists and is in use in other jurisdictions such as the United Kingdom, the United States, Canada, Australia, France and the Netherlands, but has not yet been shared with Barbados. Finally additional technical and financial assistance may be required to undertake technical studies reviewing our legislative and administrative capacity to implement many of the necessary actions to fight terrorism and the financing of the same.

96. The Government of Barbados remains committed to the fight against terrorism in whatever guise and wherever it occurs and against its financing, and will ensure that it does all that it can do given the challenges it faces.

Annexes to the Barbados report pursuant to paragraph 6 of Security Council resolution 1373 (2001)*

- Nassau Declaration on International Terrorism: The CARICOM Response
- Foreign Incursions and Mercenaries Act (Cap 174)
- Hijacking Act (Cap 135A)
- Money Laundering (Prevention and Control) Act (1998)
- Money Laundering (Prevention and Control) – (Amendment Act, 2001, Sec. 8A)
- Extradition Act (Cap 189)
- The International Business Companies Act (Cap 77)
- Offshore Banking Act (Cap 325)
- International Business (Miscellaneous Provisions) Act, 2001-29
- Income Tax Act (Cap 73)
- Foreign Sales Corporation Legislation (Cap 59C)
- The Companies Act (Cap 308)
- The Convention between the Government of Barbados and the Government of the United States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (1984)
- Proceeds of Crime Act (Cap 143)
- Exchange Control Act (Cap 71)
- Mutual Assistance in Criminal Matters Act. (Cap. 140 A)
- Financial Institutions Act (1996)
- The Public Order Act (Cap 168A Section 27 C)
- Criminal Procedure Act (Cap 127 Sec. 17 (1)
- Firearm Act, 1998-32
- Defence Act (Cap 159)
- Immigration Act (Cap 190)
- The Drug Abuse (Prevention and Control) Act (Cap 131)
- Administrative Justice Act (Cap 109B)
- Internationally Protected Persons (Cap 19)

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* The annexes are on file with the Secretariat and are available for consultation.