



Security Council

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Letter dated 28 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 Burundi, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

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

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



Annex

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

I have the honour to transmit to you the report (see enclosure) of the Government of Burundi prepared pursuant to paragraph 6 of Security Council resolution 1373 (2001).

You will also find appended hereto two preambles and two draft presidential decrees (see appendix) which are shortly to be signed by the country's highest authorities:

- Draft decree establishing a National Commission to Combat International Terrorism;
- Preamble to this decree;
- Draft decree prohibiting the financing of terrorism and the facilitation of acts of international terrorism;
- Preamble to this decree.

(Signed) Marc **Nteturuye**
Ambassador
Permanent Representative

Enclosure

Report of the Government of the Republic of Burundi, submitted to the Security Council Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Like the other members of the international community, Burundi was deeply shocked by the tragic attacks of 11 September 2001. It welcomed the Security Council's swift reaction in adopting resolution 1373 (2001) in order to prevent such barbaric acts and atrocities from ever happening again and to ensure that their perpetrators are severely punished.

Burundi is firmly resolved to cooperate with the United Nations, its Member States and, in particular, the Security Council Counter-Terrorism Committee in combating international terrorism by fully implementing resolution 1373 (2001) and all other resolutions and recommendations against international terrorism.

To this end, Burundi has already taken the measures which are described in this report following the questionnaire prepared as guidance for the submission of reports to the Security Council Committee.

Paragraph 1

Subparagraph (a) — What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) and (d)?

A draft decree prohibiting the financing of terrorism and the facilitation of acts of international terrorism has been drafted and will be considered by the Council of Ministers at its next meeting, on its return from the end-of-year recess. This draft constitutes a provisional statutory measure pending the adoption of a counter-terrorism law, the constitutional process for the adoption of laws usually being very lengthy.

In addition to this draft decree, the Burundi Penal Code (Decree Law No. 1/006 of 4 April 1981) already prohibits the activities of criminal gangs organized for the purpose of killing, looting or destroying public or private property, socio-economic infrastructure, the environment, cultural property, etc., acts which are similar to terrorist acts without actually being qualified as such (articles 417, 419 et seq. of the Penal Code, Book II).

Subparagraph (b) — What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

The activities constituting offences under the aforementioned draft decree are as follows:

1. Organization of terrorist groups (article 2, paragraph 1, and articles 3, 4 and 5 of the draft decree);
2. Collection of funds and other financial assets with the intention that they should be used to prepare or carry out terrorist acts (article 2, paragraph 3, articles 3, 4 and 5 of the draft decree);

3. Provision of funds or financial assets to any of the following persons or entities:

(a) Any person who may, with good reason, be suspected of preparing or carrying out an offence referred to in articles 1 and 2 of the aforementioned draft decree;

(b) Any entity owned by the suspect or over which he or she has significant influence;

(c) Any person or entity acting on behalf of or at the direction of the suspect or entity referred to in paragraph (b) above (articles 3, 4 and 5 of the draft decree).

All these categories of offences are punishable by penal servitude for life. Analogous offences under the Penal Code are punishable by the death penalty (articles 417, 419 et seq. of the Penal Code, Book II).

Subparagraph (c) — What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

The draft decree provides, in article 4, paragraphs 1 and 2, that:

“When a person is suspected, with good reason, of preparing or carrying out an act referred to in articles 1 and 2, the Public Prosecutor’s Office shall take the necessary measures to freeze without delay all property belonging to:

(a) The suspect;

(b) Any entity owned by the suspect or over which he or she has significant influence; or

(c) Any person acting on behalf of or at the direction of the suspect or entity referred to in paragraph (b) above.”

Any financial institution which suspects that a transaction is linked to an act referred to in articles 1 or 2 automatically transmits all information likely to expose this offence to the Public Prosecutor’s Office. The financial institution must, at the request of the Public Prosecutor’s Office, provide all useful information concerning the suspected offence. It does not inform any client or third person that such information has been transmitted. The officials of the financial institution are also subject to the obligation of confidentiality.

Examples of measures taken by the Government

The Government has already conducted checks in the country’s financial and banking institutions with a view to identifying individuals, entities and bank accounts indicated in the new consolidated list prepared pursuant to Security Council resolutions 1267 (1999) and 1333 (2000).

Thus far, the Government has uncovered no evidence of those individuals and entities or of bank accounts belonging to the networks of the Taliban, Osama bin Laden or al-Qa`idah.

Subparagraph (d) — What measures exist to prohibit the activities listed in this subparagraph?

The measures taken to prohibit terrorist activities are as follows:

- Establishment of a National Commission to Combat International Terrorism under the chairmanship of the Minister of the Interior and Public Security;
- Checks conducted in the immigration services and financial institutions to establish the existence of individuals, entities, assets or property belonging to terrorist networks;
- Strengthening of security measures at airports and borders;
- Institution of systematic searches of baggage and passengers at airports;
- Designation of the Focal Point for the Security Council Committee.

Paragraph 2

Subparagraph (a) — What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

The Government has prepared a draft decree prohibiting the financing and facilitation of international terrorism in order to give effect to this subparagraph (articles 2, 3, 4 and 5 of the draft decree). In addition, the Penal Code already prohibits these offences. The draft decree will subsequently be elevated to the status of a law, once the lengthy constitutional process for the adoption of laws has been completed.

In prohibiting recruitment to terrorist groups and the supply of weapons to terrorists, the draft decree makes perpetrators liable to penal servitude for life (articles 3, 4 and 5). In addition, the Penal Code prohibits the formation of armed gangs (articles 417, 419 et seq. of the Penal Code, Book II). Terrorist groups may in fact begin organizing as armed gangs.

The import, acquisition and bearing of firearms are regulated by the Decree of 21 February 1950 enacting rules governing firearms and ammunition and general enforcement measures.

Subparagraph (b) — What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

The Office of the Superintendent of the Criminal Investigation Department of the Public Prosecutor's Office is cooperating with the International Criminal Police Organization (Interpol) in the exchange of information.

The National Commission to Combat International Terrorism is responsible for gathering data and information and bringing them to the attention of the Government and the Focal Point, who exchanges them with the Security Council Committee and other countries.

Subparagraph (d) — What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

Burundi strictly observes the Charter of the United Nations and other rules of international law categorically prohibiting the use of the territory of one State as a base for terrorist groups that are destabilizing the territory of another State.

There are also agreements on mutual judicial assistance and extradition between Burundi and its neighbours to ensure that terrorist criminals do not evade punishment simply by moving to a neighbouring country (for instance, the Judicial Convention between Burundi, the Democratic Republic of the Congo and Rwanda, signed on 21 June 1975; the Convention between Burundi and the United Republic of Tanzania on Extradition and Mutual Judicial Assistance in Criminal Matters, which was signed on 27 April 1988 but has yet to be ratified; draft conventions on judicial cooperation and extradition between Burundi and the Russian Federation, Burundi and Uganda, Burundi and Zambia, and Burundi and Namibia).

Subparagraph (e) — What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

The Burundi Penal Code establishes very severe penalties for participation in armed gangs, which may in fact turn out to be terrorist groups (articles 417, 419 et seq. of the Penal Code, Book II). Its provisions are fairly broad in scope. They prohibit all acts that constitute offences against the person, from murder to kidnapping to assassination. Clearly, appeal judges will regard acts categorized as “terrorist” acts as particularly aggravating circumstances.

The draft decree prohibiting the financing of terrorism and the facilitation of terrorist acts institutes the punishment of penal servitude for life in respect of terrorist acts.

Subparagraph (f) — What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

The Government of Burundi is a member of Interpol. Accordingly, there is within the Office of the Superintendent of the Criminal Investigation Department of the Public Prosecutor’s Office a unit responsible for gathering and exchanging information with Interpol.

Burundi also cooperates with other States through the following mechanisms, inter alia:

- United Nations organs, in particular the Security Council through the Counter-Terrorism Committee;
- The Organization of African Unity (OAU) Mechanism for Conflict Prevention, Management and Resolution in Africa;
- The United Nations Standing Advisory Committee on Security Questions in Central Africa;

- The United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI).

Subparagraph (g) — How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery?

There is a governmental organ, the Border and Aliens Police, which was established by Decree-Law No. 100/087 of 13 June 1997. This organ, which is under the authority of the Minister of the Interior and Public Security, is responsible for monitoring cross-border movements into and out of the country. Naturally, it cooperates with the other customs and security services.

The monitoring of cross-border movements, the procedures for the issuance of identity papers and travel documents and measures to prevent their forgery are governed by the following laws and regulations:

- Decree-Law No. 1/007 of 20 March 1989 regulating the access of aliens to the territory of Burundi, their stay and establishment therein and their removal;
- Decree No. 100/026 of 30 January 1996 specifying measures for the enforcement of the Act of 1 August 1962 on the issuance of passports and equivalent documents;
- Ministerial Order No. 530/626 of 23 August 2000 specifying measures for the implementation of Decree No. 100/026 of 30 January 1996 on the issuance of passports and equivalent documents;
- Ministerial Order No. 530/038/96 of 1 February 1996 establishing the tariffs for passports and equivalent documents, travel documents, visas and identity cards for aliens;
- Ministerial Order No. 530/166 of 10 July 1989 establishing measures for the enforcement of Decree-Law No. 1/007 of 20 March 1989 regulating the access of aliens to the territory of Burundi, their stay and establishment therein and their removal.

Moreover, the Penal Code provides severe penalties for false entries in certain administrative documents, including the forgery of passports and other travel documents (articles 257 et seq. of the Penal Code, Book II).

Paragraph 3

Subparagraph (a) — What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

Burundi is already cooperating in the exchange of operational information through Interpol. The establishment of a National Commission to Combat International Terrorism will strengthen this exchange of information.

Subparagraphs (b) and (c) — What steps have been taken to exchange information and to cooperate in the areas indicated in these subparagraphs?

Besides the mechanisms listed under paragraph 2, subparagraph (f), Burundi has signed the following international legal instruments concerning international terrorism through which it is able to cooperate and exchange information with other States:

- International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999. Burundi signed the Convention on 13 November 2001;
- Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism. Burundi signed the Convention on 14 July 1999;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, concluded at Montreal on 24 February 1988. Burundi signed the Protocol on 6 March 1992 and ratified it on 6 June 1998;
- International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997. Burundi signed the Convention on 4 March 1998;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971. Burundi signed the Convention on 6 March 1972 and ratified it on 6 June 1998;
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970. Burundi signed the Convention on 17 February 1971 and ratified it on 6 June 1998;
- Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963. Burundi signed the Convention on 14 July 1971 and deposited its instrument of ratification with ICAO on 12 October 1971;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations in New York on 14 December 1973. Burundi acceded to the Convention on 17 December 1980.

In the context of administrative and judicial cooperation, Burundi has already signed a number of judicial assistance agreements (on extradition and judicial cooperation) with neighbouring countries (the Democratic Republic of the Congo, Rwanda, the United Republic of Tanzania) and plans to sign other such agreements with, inter alia, the Russian Federation, Uganda and Zambia.

Subparagraph (d) — What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Burundi has already signed the International Convention for the Suppression of the Financing of Terrorism. It plans to accede to the other conventions which are no longer open for signature. The process of ratifying the International Convention for the Suppression of the Financing of Terrorism and of acceding to the other conventions relating to terrorism has already been initiated.

Subparagraph (e) — Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

The aforementioned draft decree is aimed specifically at the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

Other laws will be adopted, but they require a longer constitutional process for adoption.

Subparagraph (f) — What legislation, procedures and mechanisms are in place for ensuring that asylum-seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

The legislation and mechanisms in place are those referred to in the reply to paragraph 2, subparagraph (g).

Subparagraph (g) — What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists.

The Government of Burundi has increased its vigilance in the implementation of immigration laws and regulations. It will cooperate with the Office of the United Nations High Commissioner for Refugees in order to ensure, before granting refugee status, that applicants have not organized or facilitated the commission of acts of terrorism or participated in such acts.

Moreover, article 1, paragraph 2, of the aforementioned draft decree prohibits claims based on political motivation.

3.3. States may include in their reports additional relevant information, including information on the issues covered by paragraph 4 of resolution 1373 (2001). They may also include general observations on the implementation of the resolution and outline any problems encountered.

The fight against international terrorism is closely linked to transnational organized crime, including drug trafficking and money-laundering. Burundi is joining in efforts undertaken by the international community to combat all these scourges.

In order to do this, Burundi has established a drug control unit within the Office of the Superintendent of the Criminal Investigation Department of the Public Prosecutor's Office. It has created a financial and economic branch of the police. Moreover, it is participating in international forums on money-laundering, transnational organized crime and trafficking in arms and drugs. It is also a member of the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI).

Burundi has signed the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

4. Assistance

4.1. States may, if they wish, identify in their reports or separately inform the Committee of areas in which they require or would benefit from technical assistance or additional guidance in aspects covered by resolution 1373 (2001) or in preparing reports for the Committee under paragraph 6 of that resolution. The Committee will explore the capacity of States and international and regional organizations to offer such assistance. It intends to collate information on possible sources of assistance and will give careful consideration to how it can facilitate the provision of assistance in response to any such requests.

The Government of Burundi would like to receive comments from the Security Council Counter-Terrorism Committee and from other countries on its report and on its draft decree prohibiting the financing and facilitation of acts of terrorism. It would also like to be able to follow all the work on the steps to be taken to counter terrorism and to be informed of the efforts made by other countries.

Given its lack of know-how and skills in this area and its limited means, the Government will obviously encounter difficulties in implementing the resolutions and conventions against terrorism, especially in preparing national implementing legislation and in drafting reports thereon.

Bujumbura, 26 December 2001