United Nations S/2002/27

Security Council

Distr.: General
4 January 2002
English
Original: Spanish

Letter dated 4 January 2002 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 Bolivia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the present 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: Spanish]

Note verbale dated 2 January 2002 from the Permanent Mission of Bolivia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Bolivia to the United Nations presents its compliments to the Secretariat of the Security Council Committee established pursuant to resolution 1373 (2001) and has the honour to transmit the first report on the measures taken by the Bolivian Government to implement Security Council resolution 1373 (2001) of 28 September 2001.

Enclosure

First report of the Government of the Republic of Bolivia to the Security Council Committee established pursuant to resolution 1373 (2001) of 28 September 2001

Since the attacks perpetrated in the territory of the United States of America on 11 September 2001, the fight against terrorism has taken on primary importance, with regard to not only the adoption of emergency measures to enable concerted action by the international community to eradicate this scourge, but also the challenges involved in new forms of terrorist threats to international peace and security.

Bolivia unequivocally and immediately rejected such acts of violence against fundamental human rights, and considering its status as a multi-ethnic and multicultural country, has reaffirmed its decision to promote tolerance and social progress within a framework of freedom and respect for the rule of law and democratic institutions.

It has also joined in solidarity with the efforts of the international community to implement the relevant resolutions of the United Nations and the Organization of American States to face together the fight against terrorism in all its forms and the emerging problems of this phenomenon which are beyond the ability of individual States to solve.

In this context, as a first step in the application of its foreign policy on terrorism, Bolivia has established a High-Level Working Group, chaired by the Foreign Ministry of the Republic and composed of representatives of the Ministries of Government, National Defence, Justice and Human Rights and the Financial Intelligence Unit, with the mandate, inter alia, to examine the scope of resolution 1373 (2001) and its application.

This report has been prepared in accordance with the Guidance for the Submission of Reports in implementation of paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001 which accompany note No. SCA/20/01 (6) of 29 October 2001 from the Chairman of the Security Council Committee.

Responses to the guidance

Paragraph 1

(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) to (d)?

The Financial Intelligence Unit (FIU) is the national institution responsible for preventing, detecting and investigating offences related to legitimizing illegal profits (money-laundering). As part of its responsibilities, it has taken the following measures:

1. FIU provided instructions to national financial entities so that they could meticulously monitor suspect financial operations carried out to and from Bolivia.

2. The Unit informed the Office of the Attorney General about the implementation of those measures.

3. As a member of the Egmont Group, which groups together financial intelligence units throughout the world, the FIU is authorized to exchange information through secure mechanisms.

4. Bolivia, as a member of the South American Financial Action Group (GAFISUD), participated in the meeting held in Santiago, Chile, from 3 to 7 December 2001, which adopted the eight new recommendations of FATF against terrorism.

5. On 14 December 2001, FATF held the annual course on prevention and detection of money-laundering in the banking sector, for the purpose of disseminating the eight new recommendations of GAFI and their immediate implementation as a control measure for the national financial system.

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

Article 185 bis of Act No. 1768 amending the Bolivian Criminal Code describes the crime of legitimizing illicit profits or money-laundering in the following terms:

> "Anyone who acquires, converts or transfers property, resources or rights arising from crimes related to traffic in controlled substances, crimes committed by public officials in the exercise of their duties or crimes committed by criminal organizations, with the intent of concealing or covering up their nature, origin, location, destination, movement or true ownership, shall be punished by one to six years' imprisonment and a fine of 100 to 500 days. This criminal classification shall be applied to the aforementioned conduct, even if the offences from which the illicit profits were derived were committed either fully or partially in another country, as long as those acts are considered criminal in both countries".

(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.

As far as the crime of legitimizing illicit profits is concerned, in accordance with article 39 of Supreme Decree 24771 of 31 July 1997, once the FIU receives a report from the Obligated Subject [regarding a suspicious transaction], it may order the continuation of the transaction or its administrative suspension for up to 48 hours, counting from receipt of the report. If a suspension of more than 48 hours is required a court order must be obtained.

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

There are as yet no mechanisms prohibiting this type of activity.

Paragraph 2

(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 Bolivian Criminal Code (Book Two, Special Part, Chapter Three) which deals with "Public Tranquillity", contains six articles concerning maintenance of the country's internal security, from which we will cite the relevant portions:

Article 132 bis (Criminal Organization) "Anyone who is part of an association of three or more individuals organized in a permanent manner, under rules of discipline or control, existing for the purpose of committing the following crimes: genocide, destruction or damage to State property or national resources, abduction of a child or incompetent person, deprivation of liberty, harassment and torture, kidnapping, legitimization of illicit profits, manufacture of or illicit traffic in controlled substances, environmental crimes covered in special laws, offences against intellectual property, or who utilizes commercial or business structures to commit such crimes, shall be punished by one to three years' imprisonment.

Those who direct such an organization shall be punished by two to six years' imprisonment.

The sentence shall be increased by one third when the organization utilizes minors or incompetent persons to commit the crimes referred to in this article, and when the member of the organization is a public official responsible for preventing, investigating or judging the commission of crimes."

Under Article 133 (Terrorism) the following is considered criminal: "Anyone who participates in, acts in the service of or collaborates with an armed organization existing for the purpose of committing crimes against common security, life, physical integrity, freedom of movement or property, with a view to subverting the constitutional order or spreading a state of unrest, alarm or collective panic among the populace or a sector thereof, shall be punished by 15 to 20 years' imprisonment, without prejudice to the penalty to be imposed should such crimes be committed."

Chapter IV of the Bolivian Criminal Code, which deals with offences against international law, contains the following articles:

Article 136 (Violation of Immunities) establishes that "Anyone who violates the immunities of the Head of State or the representative of a foreign power or anyone having diplomatic immunity shall incur a prison sentence of six months to two years.

The same sentence shall be imposed on anyone who offends the dignity or decorum of such persons while they are in Bolivian territory."

Article 139 (Piracy) states that "Anyone who seizes a vessel or aircraft, diverts it from its established route or destroys it, or who captures, kills or injures its crew or passengers, or commits any act of depredation, shall be punished by two to eight years' imprisonment.

The same sentence shall be imposed on anyone who knowingly traffics with pirates or provides them with assistance from the territory of the Republic."

Other measures

A draft “Weapons, munitions, explosives and dual-use chemical agents” is in the process of approval by the National Congress. It covers the following offences:

– Illicit manufacture of conventional and non-conventional weapons, munitions, explosives, dual-use chemical agents and other related substances.

– The clandestine import, export and trade in conventional and non-conventional weapons, munitions, explosives and dual-use chemical agents.

– Illicit traffic in conventional and non-conventional weapons, munitions, explosives and dual-use chemical agents.

– Unauthorized use of military and police weaponry.

(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?

Internal preventive measures consist in obtaining and supplying timely and reliable information through the appropriate mechanisms.

Externally, ongoing contacts are maintained and early warning information is exchanged through police attachés, bilateral intelligence meetings between intelligence units, Interpol, intelligence agencies of neighbouring countries, and in the context of MERCOSUR, through the subcommittee on follow-up and oversight and the various working groups dealing with terrorism and crime.

(c) What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

When there is knowledge or reasonable suspicion concerning a foreigner who has obtained a visa through the National Office of Migration, the case is evaluated and, in conformity with article 48 of Supreme Decree 24423, that individual is immediately expelled.

Article 48 of Supreme Decree No. 24423 of 29 November 1996, concerning legal immigration procedure, regulates the expulsion of foreigners, stating in its subparagraph (f) that anyone who “is involved directly or indirectly in activities relating to white slavery, drug trafficking, terrorism ...” shall be expelled.

Likewise, Chapter IV of the aforementioned Supreme Decree covers the annual renewal of residence permits for beneficiaries of asylum or refugee status.

The cases in which refugee status is denied are governed by the exclusion clauses applied by the Office of the United Nations High Commissioner for Refugees (UNHCR).

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

So far there is no legislation on the matter.

(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.

So far no steps have been taken to establish terrorist acts as serious criminal offences. It follows that the second part of the question is not applicable.

(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.

Current national legislation provides for supplying information requested by a State and executing requests for follow-up or investigation.

(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, etc.?

The following steps have been taken:

1. Vigilance has been increased at the main border points, along highways, at airports and at river and lake ports, entailing rigorous inspection and verification of personal entry and exit documents;

2. The granting of visas to nationals of countries under international suspicion of possible links with terrorism has been restricted by raising the requirements for obtaining entry visas to Bolivia;

3. To obtain an identity document, foreign nationals, in addition to presentation of a valid passport, must supply the following: a police record certificate from the country of origin and an Interpol certificate;

4. Appropriate steps have been taken to reduce to a minimum the possibility of forging Bolivian passports, which are now equipped with bar codes for security.

Paragraph 3

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

A set of operational information procedures are in effect for the Bolivian security services.

(b) What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

Information is exchanged, in accordance with the requirements and needs of the service at the domestic level, with the various police attachés and Interpol units within MERCOSUR. Requests from United Nations Member States and members of the Organization of American States are also handled.

The chapter of the Code of Criminal Procedure dealing with international judicial and administrative cooperation sets out the rules for cooperation within the following parameters:

Article 238 (Cooperation) — The Bolivian State, in keeping with the Political Constitution, international treaties in force and the provisions of the New Code of Criminal Procedure, shall afford the greatest possible assistance in response to requests from foreign authorities. Such requests shall be effected through the Ministry of Foreign Affairs and Worship, which is responsible for transmitting them to the competent authorities.

Article 149 (Extradition) — Extradition shall be governed by the international treaties in force and subsidiarily by the rules of the New Code of Criminal Procedure or by the rules of reciprocity in the absence of other applicable provisions.

Cooperation in the administrative and judicial spheres to prevent the commission of acts of terrorism is within the competence of the Ministry of the Interior and the judiciary.

(c) What steps have been taken to cooperate in the areas indicated in this subparagraph?

The Government of the Republic of Bolivia has deemed it a high priority to sign, ratify or accede to the international conventions concluded under the auspices of the United Nations and the Organization of American States as an effective means of cooperating fully in international efforts to eliminate terrorism.

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

In keeping with its foreign policy in regard to terrorism, the Government of Bolivia has ratified or acceded to the 10 international instruments indicated below, which were made laws of the Republic on 27 November and 5 December 2001. Bolivia has thus complied with the provisions of paragraph 3 (d) of Security Council resolution 1373 (2001).

International conventions relating to terrorism to which the Republic of Bolivia is a party

I. Conventions made law in Bolivia since 11 September 2001

A. Conventions concluded under the auspices of the Organization of American States (OAS)

1. OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance, concluded on 2 February 1971

– Promulgated as Act No. 2284 of 5 December 2001;

– Instruments of ratification (*).

B. Conventions concluded under the auspices of the United Nations

2. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973

– Promulgated as Act No. 2289 of 5 December 2001

– Instruments of accession (*)

3. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979

– Promulgated as Act No. 2280 of 27 November 2001

– Instruments of ratification (*)

4. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980

– Promulgated as Act No. 2288 of 5 December 2001

– Instruments of accession (*)

5. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation), signed at Montreal on 24 February 1988

– Promulgated as Act No. 2290 of 5 December 2001

– Instruments of accession (*)

6. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988

– Promulgated as Act No. 2286 of 5 December 2001

– Instruments of accession (*)

7. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988

– Promulgated as Act No. 2291 of 5 December 2001

– Instrument of accession (*)

8. Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991

   – Promulgated as Act No. 2285 of 5 December 2001

   – Instruments of ratification (*)

9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997

   – Promulgated as Act No. 2287 of 5 December 2001

   – Instruments of accession (*)

10. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999

   – Promulgated as Act No. 2279 of 27 November 2001

   – Instrument of ratification (*)

(*) In the process of preparation.

II. Conventions in force in Bolivia prior to 11 September 2001

A. Conventions adopted under the auspices of the International Civil Aviation Organization (ICAO)

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963

   Bolivia acceded by Supreme Decree No. 15641 of 21 July 1978.

2. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970

   Bolivia acceded by Supreme Decree 15640 of 21 July 1978.

3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971

   Bolivia acceded by Supreme Decree 15642 of 21 July 1978.

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

In domestic legal practice, international conventions promulgated as acts of the Republic must be incorporated in current legislation or harmonized with it.

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

Bolivia has ratified the 1951 Convention relating to the Status of Refugees and the Protocol thereto. In keeping with the Convention, it has established the National Commission for Refugees (CONARE), which is the agency responsible for monitoring implementation of the Convention, along with constitutional safeguards

and human rights standards, and evaluating and sorting applications prior to the granting of refugee status.

(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. Please supply examples of any relevant cases.

Bolivia adheres strictly to the provisions of the 1951 Convention that relate to the exclusion from refugee status of persons who have committed crimes against peace and the like. It is also committed to making a detailed evaluation of applicants for refugee status so that they cannot use that status as a cover for the commission of terrorist offences.

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.

We found the period of 90 days for submission of the initial report rather short in view of the complexity of the mandates contained in resolution 1373 (2001) and the variety of spheres in which it is to be implemented.

3.4 In supplying examples as requested above, States will not be expected by the Committee to supply information in respect of ongoing investigations or judicial processes if to do so would prejudice the proper conduct of an investigation or judicial process.

Not applicable.

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 Counter-Terrorism 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.

In a subsequent report, the Republic of Bolivia will ask the Counter-Terrorism Committee for the assistance it requires to implement resolution 1373 (2001) effectively.

La Paz, 25 December 2001