United Nations S/2002/601

Security Council

Distr.: General
29 May 2002

Original: English

Letter dated 28 May 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

I write with reference to my letter of 12 April 2002 (S/2002/379).

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

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

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

02-40844 (E) 100602 140602
0240844

Annex

Letter dated 22 May 2002 from the Permanent Representative of Egypt to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter dated 22 March 2002 conveying the preliminary comments by the Counter-Terrorism Committee on the report of the Government of the Arab Republic of Egypt, I have the pleasure to enclose the response of the Government of the Arab Republic of Egypt to those comments (see enclosure).

(*Signed*) Ahmed **Aboul Gheit**
Ambassador
Permanent Representative

Enclosure

[Original: Arabic]

Reply to the preliminary comments/questions on the report of Egypt on measures to combat terrorism submitted to the Counter-Terrorism Committee pursuant to Security Council resolution 1373 (2001)

1. Subparagraph 1 (a)

Comment/question

Please outline in more detail the purport of the legislation referred to in parts I and II of the report.

Reply

What is meant by the legislation referred to in the parts mentioned above is all legislation relating to the suppression of terrorism. Such legislation, which is general and abstract, is aimed at curbing the activity of terrorist groups. It includes law No. 97 of 1992 on terrorism, which includes amendments to the Penal Code and the Code of Criminal Procedure, establishes State security courts and deals with bank secrecy and weapons and ammunition; law No. 32 of 1964 on private associations and institutions; law No. 153 of 1999 on the promulgation of the law on non-governmental organizations and institutions; bank secrecy law No. 205 of 1990; banking and credit act No. 163 of 1957; law No. 34 of 1971 organizing the imposition of custodianship and ensuring the safety of the people; and law No. 182 of 1960 on the control of narcotic drugs.

2. Subparagraph 1 (b)

Comment/question

What does the term “financing”, mentioned in article 86 (a) of the Penal Code, mean, and does it cover economic assistance and other related resources?

Reply

It should be mentioned at the outset that the Egyptian legislator, in prohibiting the financing of terrorist elements by the legal text mentioned above, used a broad and general term, i.e. “supplying”. This term comprises any items in kind or material items given to such elements and permitting or helping them to carry on terrorist activities.

In addition, the text contains a detailed description of the nature of the items with which terrorist organizations or groups can be expected to be supplied or financed, starting with weapons, ammunition and explosives, inasmuch as those are the primary means on which terrorist activity is based. It then goes on in broader terms, mentioning “or materials, instruments or information” of any type whatsoever that are provided to such groups, so long as they contribute to their subsistence and continued existence and the pursuit of their activities. Next, it refers to economic assistance by means of the term “funds”, which includes cash amounts, paper securities and every movable or immovable corporeal thing to which a monetary value can be attributed.

Thus the terms “financing” or “supplying” in article 86 (a) of the Code unquestionably cover all economic assistance and other related resources.

3. Subparagraph 1 (c)

Comment/question

Concerning the socialist public prosecutor law, is there a difference between the imposition of custodianship and the freezing of assets?

Reply

The imposition of custodianship must be based on a judicial decision, under the conditions stipulated in law No. 34 of 1971 organizing the imposition of custodianship and ensuring the safety of the people and in accordance with rules set out therein, pursuant to article 1 of that law. This differs from the freezing of assets, which is not subject to the issuance of a judicial decision but rather left to the discretion of the competent authorities, as provided in the socialist public prosecutor law and the bank secrecy law.

Comment/question

Do decisions of the Central Bank relating to the freezing of funds have the force of law? Is non-compliance by banks an offence? What penalties are provided for violations?

Reply

The Central Bank of Egypt issues instructions to all the banks under its supervision and to the Arab International Bank to freeze all assets, private accounts and funds pertaining to organizations connected with terrorist acts.

It should be pointed out that article 58 of banking and credit act No. 163 of 1957 provides as follows: “the wilful fraudulent indication of incorrect facts or concealment of facts in declarations, records of proceedings or other papers presented to the Central Bank hereunder shall be punishable by imprisonment and a fine of not less than one hundred pounds and not more than one thousand pounds or by either of those penalties”.

The meaning of the said article is that penalties are imposed in the event that banks misrepresent facts or conceal facts from the Central Bank of Egypt.

Article 98 (e) of the Penal Code provides that assets which have been proven to be earmarked for expenditure on terrorist groups or organizations must be confiscated.

Comment/question

What legal provisions exist for the freezing of property or funds in Egypt that belong to persons or entities outside Egypt who are connected with terrorism but are not named in the lists attached to the resolution?

Reply

There are numerous legal texts that make it possible to monitor and examine financial sources of terrorism, take custody of them and freeze them.

The bank secrecy law allows the attorney general or any person empowered thereby to examine or obtain any data or information pertaining to accounts, deposits, trusts or safes and transactions related thereto if so required to ascertain the facts in a terrorist offence.

Socialist public prosecutor law No. 34 of 1971, as amended by law No. 95 of 1980, permits the imposition of custodianship over an individual's property if there exists substantial evidence that his assets have grown as a result of unlawful operations.

Article 98 (e) of the Penal Code also provides that assets which have been proven to be earmarked for expenditure on terrorist groups or organizations must be confiscated.

Comment/question

What are the further steps referred to in paragraph 15 (b) of Egypt's report?

Reply

The draft law on money-laundering, for whose submission to the legislative authority steps are currently being taken, provides a sufficient answer to this question.

Comment/question

What provisions will cover future requests, if any, for such action from other countries?

Reply

We consider that the Arab Republic of Egypt spares no effort when it receives any request for legal or judicial assistance for the prevention of crime in general, whether organized crime, such as money-laundering, terrorist offences or ordinary crimes, whatever their legal description may be. Such efforts take place within the framework of bilateral or multilateral agreements to which Egypt is a party or in accordance with the principle of reciprocity.

4. Subparagraph 1 (d)

Comment/question

Please indicate any regulations governing alternative money-transfer methods or agencies (i.e., as an alternative to banks).

Reply

The vast majority of money-transfer operations, whether to or from Egypt, are effected through banks, inasmuch as money-changing companies are not licensed to transfer funds abroad or to receive funds for the account of agents. Only two companies operating in Egypt are authorized to receive funds under licences issued by the Ministry of Economy and Foreign Trade under specific rules governing their activity, which can be summarized as follows:

(a) A foreign-currency account is opened at a bank in the name of the company and amounts in foreign currency which the agents of the company wish to transfer abroad are paid into that account. Transfers from the account to foreign countries are effected within the limits of the account's current credit balance. Transfers from abroad are also paid into the account;

(b) It is forbidden for the company to receive any cash amounts in foreign currency directly from agents; rather, the agents deposit amounts intended for transfer abroad in the company's account with the bank;

(c) The bank at which the company's account has been opened sends to the Central Bank of Egypt a monthly statement of the amounts transferred from the company's account;

(d) Disbursements are made up to the amount of $100,000 from the account opened at the bank to the company in order for it to make disbursements to payees in amounts not greater than $5,000;

(e) The company agrees not to disburse to payees cash amounts greater than $5,000, such payments being made by cheques drawn on the account opened at the bank.

On 8 December 1997 the Minister of Economy and Foreign Trade agreed that no further licences would be granted to new companies for carrying on this activity. Moreover, the two companies referred to above would not be permitted to carry on their business through their agents in Egypt, such business being conducted solely through their branches. The purpose of this was to tighten control over them and verify their compliance with the monetary obligations issued in respect of them.

It should also be mentioned that the draft law against money-laundering that has been prepared makes all financial institutions, including the two money-transfer companies, subject to that law, under which such institutions are required to report transactions suspected of involving money-laundering.

Comment/question

Please inform the Committee on the progress made on Egyptian legislation against money-laundering and the promulgation of new legislation.

Reply

Regarding the draft law on money-laundering referred to in Egypt's report, the committee formed by decision of the Minister of Justice has completed the final draft, which has been submitted to the constitutional institutions for review. It is now in the final stages prior to submission to the legislative authority with a view to its promulgation within the shortest possible time.

Comment/question

Are the relevant provisions of the Penal Code of Egypt applicable in the following circumstances:

(1) Acts committed by an Egyptian national or a person habitually resident in Egypt, whether currently present in Egypt or not;

(2) Acts committed outside Egypt by a foreign national who is currently in Egypt?

Reply

The provisions and rules of the Egyptian Penal Code apply to:

– Acts committed by an Egyptian in Egypt or abroad if they affect Egyptian security;

– Acts committed by an Egyptian abroad, provided that such acts are punishable under the law of the country in which he perpetrated them and that he has not been exonerated by the competent foreign courts or, in the case of a final judgement issued by them against him, fully served the sentence (article 4 of the Penal Code);

– Acts committed in Egypt by an alien, whether or not resident there;

– Acts committed by an alien abroad which affect Egypt's national interests;

– The permissibility of trying an alien in Egypt for an offence committed by him abroad, provided that such offences are among those prohibited by Egyptian law.

5. Subparagraph 2 (b)

Comment/question

Please clarify whether the cooperation referred to in Egypt's report can take place under existing Egyptian law or only by virtue of bilateral and multilateral treaties or conventions.

Reply

International cooperation takes place under Egyptian law or under bilateral and multilateral conventions or treaties to which Egypt is a party, through diplomatic or security channels, depending on the case.

6. Subparagraph 2 (f)

Comment/question

Egypt's report states that Egypt applies the Arab Convention for the Suppression of Terrorism. Are the means of cooperation referred to in that Convention available to other countries not parties to it?

Reply

Under article 26 of the Vienna Convention on the Law of Treaties, a convention is binding only on those who have concluded it, in accordance with the principle of the relative normativity of conventions. Consequently, the provisions of the Arab Convention for the Suppression of Terrorism do not apply to any State not a party to it. This principle is contained in article 40, paragraph 2, of the latter Convention, which states the following:

> "This Convention shall enter into force for any other Arab State only after the instrument of ratification, acceptance or approval has been deposited and 30 days have elapsed from the date of that deposit."

This has been the international practice in the context of regional conventions, as in the case of the European Convention on the Suppression of Terrorism.

7. Subparagraph 2 (g)

Comment/question

The Committee requests information on the system of existing cooperation between agencies and security authorities in connection with narcotics control, monitoring of financial transfers and security, with particular regard to border controls for preventing the movement of terrorists.

Reply

The Arab Republic of Egypt participates actively in the efforts of the international community to control illicit drug traffic through its accession to the

various international conventions concluded for that purpose, from the International Opium Convention, signed at The Hague in 1912 to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Egypt also signed the Arab Strategy for Control of Illicit Use of Narcotic Drugs and Psychotropic Substances in Tunis in 1994, in addition to signing numerous bilateral and multilateral treaties to promote and support cooperation in various control areas. Egypt has also participated since 1930 in the activities of the agencies concerned with narcotics in the League of Nations and subsequently the United Nations. It has been an active member of the United Nations Commission on Narcotic Drugs since its establishment in 1964 and of its Subcommission on Illicit Drug Traffic and Related Matters in the Near and Middle East. In recent years it has participated in many important meetings held in Arab, African and international contexts for the purpose of seeking approaches to international and regional cooperation for the control of narcotics and international cooperation in dealing with smuggling on the high seas.

It should be mentioned that the Government of Egypt tends to except drug offences from the sphere of operation of treaties concluded by it for the transfer of persons against whom prison sentences have been handed down so that they may serve them in the States to which they belong. This position reflects the insistence of the Egyptian authorities on dealing resolutely with the perpetrators of such offences.

The border security measures adopted by the Government of Egypt to prevent the movement of terrorists are as follows:

– Stepping up operations for the pursuit of fugitive terrorist elements in order to apprehend them quickly where they are suspected of having disappeared; tightening controls on all land, air or sea exit/entry points; and providing them with state-of-the-art equipment to check for forged documents, weapons and explosives;

– Coordinating with the security authorities in neighbouring countries with a view to taking concerted steps to prevent terrorist elements from infiltrating into Egyptian territory;

– Improving the performance of persons employed in security bodies responsible for securing exit/entry points and reinforcing them with persons specially trained in the detection of the latest means of forgery to which terrorist elements have recourse in order to enter or leave the country;

– Furnishing to border-crossing points the latest information, data and photographs available on terrorist elements and leaders and the means employed by them to cross borders illegally;

– Reinforcing the security presence at the various border points, enhancing the efficiency of securing and guarding systems and expanding and working with the list of suspects in accordance with the nature of each border region.

8. Subparagraphs 3 (a) and (b)

Comment/question

Please clarify whether the reply in subparagraph 16 (b) of Egypt's report, which refers to subparagraph 2 (b) of the resolution, also covers the requirements of subparagraphs 3 (a) and (b) of the Security Council resolution.

Is the relevant information also available to any requesting country?

Has Egypt any institutional mechanism available for the exchange of operational information, and is there any law which provides for such mutual assistance?

Reply

The relevant information is provided to any requesting State in accordance with the principle of reciprocity and in the light of the objective grounds put forward for each request and the reasons for the request. Where the requested information is obtained through third countries, existing obligations with these countries may not be violated.

Egypt's institutional mechanism for exchanging information at national, regional and international levels is as follows:

- The work of the various security apparatuses and the law enforcement apparatus within Egypt is coordinated by means of specific mechanisms and channels, and by liaison officers who implement coordinating measures.
- The principles and rules on which this mechanism is based differ according to the nature of the subject and the authority with which information is to be exchanged.
- Decision No. 2977 of 1989 of the Minister of the Interior established an international cooperation committee to work with the various security apparatuses and the Ministries of the Interior and State Security of various States and international and governmental organizations specialized in all types of crime (including terrorist crimes).
- Decision No. 847 of 1998 of the President of the Council of Ministers set up the national technical committee for international cooperation. Its members include the Ministry of the Interior, the Foreign Ministry, the Ministry of Justice, the Public Prosecution Service and the National Security Apparatus. Its task is to cooperate with various States in combating terrorism.
- Bilateral and multilateral agreements have been signed between Egypt and a number of other States governing exchanges of information and common measures in combating terrorism.
- Egypt participates in all international conferences and symposia which discuss combating terrorism and the links between this phenomenon and other crimes and criminal acts.

9. Subparagraph 3 (c)

Question

Please provide a list of the relevant bilateral agreements to which Egypt is a party.

Reply

The Arab Republic of Egypt has concluded a number of judicial cooperation agreements on crime with Arab, African and other States, as shown in the following table:

Table of cooperation agreements relating to crime signed between the Arab Republic of Egypt and Arab and non-Arab States

I. Non-Arab States

No.	*State*	*Area of agreement*	*Comments*
1	France	Judicial cooperation agreement on crime	
2	Greece	Agreement concerning the extradition of criminals	
3	Turkey	Agreement for the transfer of sentenced persons	
4	Greece	Judicial cooperation agreement on crime	
5	Greece	Agreement concerning the transfer of sentenced persons	
6	Hungary	Judicial cooperation agreement on crime	
7	Poland	Two judicial cooperation agreements (a) on crime and (b) on the transfer of sentenced persons and the extradition of criminals	
8	Cyprus	Two judicial cooperation agreements in civil and criminal matters (a) the transfer of sentenced persons and (b) the extradition of sentenced persons	
9	United Kingdom of Great Britain and Northern Ireland	Agreement on the transfer of sentenced persons	
10	Spain	Agreement on the transfer of sentenced persons	
11	Pakistan	Agreement on the extradition of sentenced persons	
12	China	Judicial cooperation agreement in civil, commercial and criminal matters (a) judicial assistance in civil matters	
13	Switzerland	Judicial cooperation agreement on crime	
14	Italy	Judicial assistance agreement on crime	
15	Italy	Agreement concerning the transfer of sentenced persons	
16	Italy	Agreement concerning the extradition of criminals	
17	Malta	Agreement on the transfer of sentenced persons	
18	Albania	Agreement on the extradition of criminals	

II. Arab and African States

No.	*State*	*Area of agreement*	*Provisions concerning crime*	*Comments*
1	Sudan	Reciprocal notification of judicial documents and the extradition of perpetrators of crimes	Article 2 of the agreement	
2	Algeria	Reciprocal aid and legal and judicial cooperation	Chapter 6 of the Agreement concerning the extradition of criminals	
3	Iraq	Reciprocal aid and legal and judicial cooperation	Chapter 4 of the Agreement concerning the extradition of criminals	
4	Tunisia	Legal and judicial cooperation agreement in civil, commercial, personal status and criminal matters	Chapter 6 of the Agreement concerning the extradition of criminals	
5	Kuwait	Legal and judicial cooperation agreement in civil, commercial and criminal matters	Chapter 6 of the Agreement concerning the extradition of criminals, article 26:56	
6	Morocco	Judicial cooperation agreement concerning crime and the extradition of criminals		
7	Bahrain	Agreement for the transfer of sentenced persons		
8	Kuwait	Agreement for the transfer of sentenced persons		
9	Libya	Judicial cooperation agreement in civil and criminal matters (a) the extradition of criminals (b) the transfer of sentenced persons	Section 5, article 49:67, section 6, article 68:91	

10. Subparagraphs 3 (d) and (e)

Question

Please provide a report on progress with the ratification of the Conventions referred to in paragraph 29 of the report. What are the intentions of Egypt in regard to ratification of the Convention on the Physical Protection of Nuclear Material of 1979?

Reply

Egypt has ratified the overwhelming majority of the international conventions relating to terrorism concluded within the framework of the United Nations. As far as the Convention on the Physical Protection of Nuclear Material is concerned, there is an imbalance in the Convention between the State through which the material passes and the State transporting such material in terms of the division of financial responsibilities in protecting nuclear material. This imposes an enormous financial and technical burden on Egypt in ensuring the security of and protecting this material, especially given the possibility of it passing through the Suez Canal, which is located in Egyptian territory. Egypt addresses the problem of protecting nuclear material passing through its territory on the basis of an agreement with the transporting State on a case-by-case basis.

Question

Please outline how Egypt gives effect to those conventions and protocols which it has already ratified. Are separate enactments required, or are the instruments incorporated into existing law?

Reply

The measures Egypt is taking to give effect to those conventions and protocols which it has already ratified are as follows:

Article 151 of the Egyptian Constitution provides that:

– The President of the Republic shall sign conventions and transmit them to the People's Assembly, accompanied by appropriate comments. They shall enter into effect after they have been signed, ratified and published in accordance with established procedures.

– Since other agreements signed and ratified by Egypt become part of domestic law and apply like any other laws, no additional measures are required for their incorporation into national legislation.

Question

Have the crimes set forth in the relevant international conventions been included as extraditable offences in the bilateral extradition treaties to which Egypt is party?

Reply

The Egyptian Ministry of Justice has made it a practice, with regard to the legal cooperation agreements concluded by it on crime and the extradition of criminals, to provide that crimes of terrorism are not to be considered political crimes for which extradition will be denied. Such agreements, by way of example and without limitation, include those contained in article 6 of the Convention on the

Extradition of Criminals between the Government of the Arab Republic of Egypt and the Government of the Italian Republic and in Article 4 of the Convention on the Extradition of Criminals between the Government of Egypt and the Government of South Africa.

11. Subparagraph 3 (g)

Question

How does Egypt fulfil the requirements of this subparagraph, particularly in regard to those who are given refugee status?

Reply

Decision No. 331 of 1980 of the President of the Arab Republic of Egypt was promulgated in compliance with the United Nations Convention relating to the Status of Refugees signed in Geneva on 28 July 1951, and was published in Official Gazette No. 48 of 26 November 1981. Since the date of its accession to this Convention, the Egyptian Government has abided by all the provisions thereof in its treatment of refugees, and in particular taken the necessary measures to comply with the definition of the term "refugee" in article 1 of the Convention, which provides that "... this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(a) He has committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(c) He has been guilty of acts contrary to the purposes and principles of the United Nations."

Article 53 of the Egyptian Constitution prohibits the extradition of political refugees. Egypt would like the conventions it concludes respecting terrorism to include provisions ensuring that terrorist crimes are not considered as a kind of political crime.

Question

Please indicate whether Egypt has an extradition law, or whether extradition is contingent on the existence of bilateral treaties.

Reply

The Arab Republic of Egypt does everything within its power to provide assistance whenever it receives a request relating to judicial cooperation on crime. The bilateral and multilateral agreements to which Egypt is a party form the legislative framework which the Egyptian authorities respect in this matter.

A judicial cooperation bill is currently being drawn up regarding the extradition of criminals to supplement a number of existing bilateral conventions on the extradition of criminals concluded with European, African and Arab States, as indicated in subparagraph 3.

12. Paragraph 4

Question

Has Egypt addressed any of the concerns expressed in paragraph 4 of the Resolution? (Paragraph 4 of the Security Council resolution reads as follows: *Notes* with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical and biological and other potentially deadly materials, and in this regard *emphasizes* the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security).

Reply

Egypt understood from an early stage the danger posed by the links between international terrorism and transnational organized crime, as indicated below:

- Egypt signed the Convention Against Transnational Organized Crime (Palermo, December 2000);
- Egypt was one of the first States to draw the attention of the international community to the links between organized crime and terrorism. For example, it has endeavoured — though Egyptian delegations at international conferences — to emphasize these links, firstly at the World Ministerial Conference on Organized Transnational Crime (Naples, 1994) and subsequently at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Cairo, 1995) and the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Vienna, April 2000).

13. Other matters

Question

Could Egypt please provide an organizational chart of its administrative machinery (such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.

Reply

Please consult the Ministry of the Interior's organizational chart on the government services' Internet web site. Its address is:

http://www.alhokoma.gov.eg/ministry-profile-asp ? Ministry iD = 21& partiD=3.