United Nations S/2002/796

Security Council

Distr.: General
19 July 2002

Original: English

Letter dated 18 July 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/2002/445).

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

I should be grateful if you could arrange for this 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 (2002) concerning counter-terrorism

02-50459 (E) 130802 160802
0250459

Annex

Letter dated 8 July 2002 from the Permanent Representative of Brazil to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

In response to your letter dated 15 April 2002, I have the honour to enclose herewith a complementary Brazilian report to the Counter-Terrorism Committee, pursuant to paragraph 6 of Security Council resolution 1373 (2001), with further information regarding the matters identified in the above-mentioned correspondence.

(*Signed*) Gelson **Fonseca Jr.**
Ambassador
Permanent Representative of Brazil to the United Nations

Enclosure

[Original: Spanish]

Supplementary report submitted to the Security Council Counter-Terrorism Committee on implementation of Security Council resolution 1373 (2001)

1. Subparagraph 1 (a)

Text of the resolution: "*Decides* that all States shall:

"(a) Prevent and suppress the financing of terrorist acts;"

Question: *Please outline the provisions of Act No. 9613/98 and explain how these provisions achieve the implementation of this subparagraph.*

Reply: Act No. 9613 of 3 March 1998 characterizes the offences of laundering or concealing property, rights and assets and seeks to prevent the use of the financial system to carry out the unlawful acts specified therein.

Article 1 of the Act lists the offences that may give rise to money-laundering. These include terrorism (art. 1, para. II). Money-laundering is considered to be a separate offence from that which generated the funds and is punishable by three to ten years' imprisonment and a fine (in addition to forfeiture of the funds).

Act No. 9613/98 qualifies as a crime the provision, directly or indirectly, by any physical or legal person of any funds, financial claims, economic or financial resources or other related financial services to persons who perpetrate or intend to perpetrate, facilitate or participate in the carrying out of such acts, or to entities that are owned or controlled, directly or indirectly, by such persons, or to persons or entities acting on their behalf or at their direction.

Under article 14 of Act No. 9613/98, financial institutions are required to report to the Financial Activities Control Council (COAF) of the Ministry of the Treasury all operations considered to be suspicious. COAF, in turn, will ensure that proceedings are initiated as appropriate when it is determined through evidence or it is believed that there is sufficient evidence that crimes are being committed.

Article 8 of Act No. 9613/98 further stipulates that, at the request of the competent foreign authorities, a judge may, independently of any international treaty, order the seizure or attachment of property, rights or assets derived from crimes carried out abroad when the Government of the requesting country has agreed to reciprocity with Brazil.

Act No. 9613/98 establishes the administrative responsibility of legal persons for the offences set out therein. Enterprises and other financial institutions operating in the marketplace are required to report any suspicious operations to COAF.

As currently drafted, Act No. 9613/98 makes the financing of terrorism through the unlawful activities listed in article 1 thereof a punishable offence and promotes collaboration among the country's principal economic actors in this area. The public authorities are being provided with instruments to combat efforts to conceal the illegal origin of funds obtained through criminal means and often

diverted to finance criminal activities. Thus the Act's broadest objective is to weaken criminal organizations and make the perpetration of crimes more difficult.

Question: *Describe how the federal laws relating to anti-terrorism are implemented in Brazil's states. How is coordination achieved amongst the enforcing agencies of the federal and state Governments on the one hand and among state agencies?*

Reply: In Brazil responsibility for anti-terrorist activities lies chiefly with the Ministry of Justice and the Institutional Security Cabinet in the Office of the President of the Republic.

The Ministry of Justice holds terrorism to be a threat to public order. The National Secretary for Public Security, whose post was created by Decree No. 3695/2000, has responsibility for coordinating the activities of security bodies in national territory through the Public Security Intelligence Subsystem (SISP).The constituent bodies of SISP are the Institutional Security Cabinet in the Office of the President of the Republic, the Ministry of Defence, the Ministry of Regional Integration (Civil Defence), the Ministry of the Treasury (the Federal Tax Department and COAF), the Federal Police Department, the Federal Highway Police and the Brazilian Intelligence Agency (ABIN). Within their particular areas of competency, members identify, monitor and evaluate real or potential threats to public security and prepare studies and reports in support of action to neutralize, curb and punish criminal acts of any type, including terrorism. The Ministry of Justice interacts with Brazil's federal units (states) chiefly through the Federal Police Department, the Department of Alien Affairs, the Department for the Coordination of Joint Police Action and the Department of Cooperation and Coordination of Security Activities.

The Institutional Security Cabinet considers terrorism to be a threat to the State and to society, and thus to institutional security. Decrees No. 1895/96, No. 2009/96 and No. 3203/99 establish and regulate the activities of the Chamber of Foreign Affairs and National Defence (CREDEN) of the Council of Government. The CREDEN Executive Secretariat is provided by the Institutional Security Cabinet. The functions of this body include formulating policy, establishing guidelines and adopting programmes and monitoring their implementation, including programmes to combat drug trafficking and other transnational offences such as terrorism.

Among the functions attributed to ABIN, which reports to the Institutional Security Cabinet, under Act No. 9883 of 7 December 1999 is the evaluation of internal and external threats to the constitutional order, including terrorism. This Act also establishes the Brazilian Intelligence System (SISBIN) under the coordination of ABIN. SISBIN will become operational upon the issuing of a decree which is in the final stages of drafting. SISBIN oversees the planning and execution of Brazil's intelligence activities and advises the President on matters of national interest. Its purpose is to strengthen the execution of anti-terrorist activities in Brazil, and its underlying principles are preservation of national sovereignty, defence of the democratic State governed by the rule of law and the dignity of the human person. SISBIN also ensures the enjoyment of and safeguards individual rights and guarantees and other provisions of the Constitution and international treaties, conventions and agreements to which the Federative Republic of Brazil is party.

SISBIN is made up of those organs and bodies of the Federal Public Administration that can, directly or indirectly, produce information of interest concerning intelligence activities, particularly those responsible for external defence, internal security and foreign relations. On the basis of specific agreements and conventions, once the body responsible for monitoring intelligence activities (the Joint Committee for the Monitoring of Intelligence Activities (CCAI) of the National Congress has been consulted), states of the federation may join SISBIN.

The purpose of both SISP and SISBIN is to expand the activities of local bodies aimed at combating crime, including terrorism, by improving coordination between federal and state bodies.

2. Subparagraph 1 (b)

Text of the resolution: States shall "criminalize 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".

Question: *How is the criminalization of the funding of terrorism achieved under Brazil's money-laundering legislation, given that the funds involved may not be the result of crimes of the kinds described in article 1 of Act No. 9613/98?*

Reply: With a view to rendering Act No. 9613/98 more effective, the Brazilian Government submitted a bill to the legislature for approval which added a paragraph to article 1 that included the financing of terrorism ("*tout court*") as one in the "range of crimes that may constitute an antecedent to money-laundering". Thus efforts to combat the financing of terrorism are being made, not only through the adoption of measures aimed at curbing the concealment of the illicit origin of funds obtained from criminal activity but also through the adoption of measures to deal with the concealment of funds obtained from licit activities when it is the intention of the perpetrators to use those funds in terrorist activities in the future.

Brazil's lawmakers wish to reiterate their readiness to criminalize this new type of crime: financing terrorism. This intent was also made clear by Brazil's signing of the United Nations Convention for the Suppression of the Financing of Terrorism (the text of which is soon to be transmitted to the National Congress) and by the drafting of a presidential decree providing for the implementation of Security Council resolution 1373 (2001).

Question: *Outline the legal provision that prohibits the collection of funds for terrorist purposes.*

Reply: The provisions of Brazilian domestic law that seek to prevent or suppress the financing of terrorist acts must be viewed in the light of Act No. 9613 of 3 March 1998 (Money-Laundering Act) and other legislation in force, particularly Act No. 7170 of 14 December 1983 (National Security Act). Articles 20 and 24 of the latter Act seek to combat the voluntary and involuntary financing of terrorism through the application of penalties that may reach 30 years' imprisonment.

Article 20 contains an explicit, though not exhaustive, reference to "acts of terrorism": devastating, looting, extorting, robbing, kidnapping, holding in confinement, setting fire, plundering, causing an explosion, carrying out attacks on individuals or acts of terrorism, for reasons of political dissent or to obtain funds to

support clandestine or subversive political organizations. Through force or intimidation, terrorist organizations may, for example, collect funds from third parties to finance their activities.

Article 24 makes it unlawful to "establish, join or support an illegal organization of a military nature, regardless of form or type, armed or unarmed, with or without uniforms, for the purpose of engaging in combat". The term "to support" means "to assume responsibility for expenses, to sustain". Such organizations are of "a military nature" and are formed "for the purpose of engaging in combat"; they have a "cause" to be won through combat, either armed or unarmed. Article 24 is also directed at terrorist organizations that are not armed but engage in terrorist acts via the Internet (cyberterrorism) or by spreading pathogenic agents (bioterrorism) that are "of a military nature, regardless of form or type, armed or unarmed".

Under articles 20 and 24 of Act No. 7710/83, the financing of terrorism does not constitute to be subordinate to an act of terrorism. Even though a terrorist act is not carried out, it is possible to commit the offence of financing terrorism: it is sufficient to devastate, loot, extort, rob, kidnap, hold in confinement, set fire, plunder, cause an explosion, carry out an attack on an individual or an act of terrorism in order to obtain funds to support a clandestine or subversive political organization or to support or finance terrorist organizations.

Question: *Are the provisions of Act No. 9613/98 applicable to individuals and entities not residing in Brazil but holding funds in financial institutions in Brazil and supporting terrorism outside the territory of Brazil?*

Reply: Section IV of Act No. 9613/98 deals with "property, rights or assets derived from crimes perpetrated abroad". Article 8, in its chapeau, stipulates: "In the event that an international treaty or convention exists, and at the request of the competent foreign authority, the judge shall order the seizure or attachment of property, rights or assets derived from the offences described in article 1 that are perpetrated abroad". Paragraph 1 of the same article stipulates: "This article shall apply, independently of any international treaty or convention, when the Government of the requesting country has undertaken to grant reciprocity of treatment to Brazil". Funds belonging to individuals or organizations in respect of which there is evidence of terrorist acts (prior offence) may, on the basis of Act No. 9613/98, be seized and attached (frozen).

3. Subparagraph 1 (c)

Text of the resolution: States shall: "Freeze without delay funds and other financial assets or other 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".

Question: *Given the provisions of articles 4 and 8 of Act No. 9613/48, how are funds and other financial assets belonging to persons and entities associated with terrorism and not derived from crimes frozen?*

Reply: Act No. 7170/83, articles 20 and 24, punishes the financing of terrorism. Funds belonging to terrorists may be frozen through seizure (Code of Criminal

Procedure, section VII, chapter XI) or attachment (Code of Criminal Procedure, section VI, chapter VI). Such funds may also be confiscated. Article 91 of the Penal Code stipulates: "The following are the effects of the sentence: II — forfeiture to the Union, reserving the right of the injured party or of a third party in good faith: (…); (b) the proceeds of the offence or any property or asset constituting proceeds obtained by the agent through the perpetration of a criminal act". Funds "from any property or asset" of a terrorist organization are "proceeds" obtained through the perpetration of a criminal act — terror — jointly with non-sympathizers, through intimidation (involuntary financing), or with sympathizers (voluntary financing).

Question: *Explain how the economic resources of persons and entities providing support for terrorism can be frozen.*

Reply: The seizure and attachment (freezing) of financial assets belonging to individuals and entities that support terrorist entities (i.e. that finance them) may initially be carried out inaudita altera parte, without the individuals or entities whose assets are involved being heard, if the judge believes that this procedure is necessary to ensure that the assets are actually frozen.

Question: *Outline the legal provisions that allow the freezing of funds, financial assets and economic resources that are held by persons or entities in Brazil who support terrorist activities outside Brazil.*

Reply: The Brazilian Government is in the process of introducing the Security Council resolutions into the national legal order by publishing decrees in the country's *Official Gazette*. In the area of anti-terrorism legislation, Decree No. 3267 of 30 November 1999 implemented Security Council resolution 1267 (1999), Decree No. 3755 of 19 February 2001 implemented Security Council resolution 1333 (2000), Decree No. 3976 of 18 October 2001 implemented Security Council resolution 1373 (2001) and Decree No. 4150 of 6 March 2002 implemented Security Council resolution 1390 (2002).

Decree-Law No. 2848 of 7 December 1940 (Penal Code) and Decree-Law No. 3689 of 3 October 1941 (Code of Criminal Procedure), as amended over the years, provide for the seizure and attachment (freezing) of funds and other financial assets or economic resources of persons or entities that finance terrorist activities inside or outside Brazil.

Question: *Explain how the restrictive interpretation given by the Supreme Court to attachment of property ordered by the court of another country will enable compliance with the requirement of this subparagraph.*

Reply: The Federal Supreme Court is a constitutional court. The Constitution prohibits "extraordinary courts or tribunals" (art. 5, para. XXXVII). The freezing of funds and other financial assets or economic resources of persons or entities that support terrorist activities are subject to due process.

4. Subparagraph 1 (d)

Text of the resolution: States shall "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;"

Question: *Are there legal provisions that govern the collection and use of funds by bodies such as charitable institutions? How does Brazil ensure that the funds received by such bodies are not diverted from their stated purpose?*

Reply: Brazil places no legal restrictions on the operations of non-governmental organizations, such as charitable institutions. However, such organizations are constituted as not-for-profit civil corporations, legal entities governed by private law, as determined by the Civil Code of Brazil. They may be dissolved by an act of Government, which may withdraw its authorization to operate, when the legal entity commits acts that are contrary to its stated purpose or harmful of the public interest, as set out in article 21 of the old Civil Code (which will remain in force until January 2003 — Act No. 3071 of 1 January 1916 and successive amendments thereto) or in chapters II and III, articles 40 to 69, of the new Code (which will enter into force in January 2003 — Act No. 10406 of 10 January 2002).

Article 26 of the Civil Code of 1916 and article 66 of the Civil Code of 2002 provide that "foundations shall be supervised by the Public Prosecutor's Office of the state in which they are located". The term "supervise" means precisely to ensure that the funds collected by charitable institutions are not diverted from their stated purpose. The supervision of charitable institutions is part of the responsibility of the Public Prosecutor's Office.

It should be mentioned that "international transfers" in national currency through the accounts of persons legally resident abroad of amounts greater than 10,000 reals and all exchange transactions are recorded in the Central Bank Information System (SISBACEN). Based on the data available in the System, the Central Bank monitors transfers to and from countries abroad and, on the basis of previously established criteria, selects certain transactions for closer scrutiny. The criteria include amounts entering the country or sent abroad in the form of donations. Financial institutions, moreover, were alerted to the latter remittances by notice BCB 9068 of 4 December 2001.

In addition to its efforts to combat all types of illegal transactions, the Brazilian Government, as always, has been open to cooperation with other countries both within and outside the region to investigate suspicious activity and uncover illegal transnational transactions of any kind, particularly those associated with the phenomenon of terrorism, which use charitable institutions to further their aims.

Other government agencies that may take action include: the federal police of the Ministry of Justice, the Public Prosecutor's Office, the Brazilian Intelligence Agency of the Institutional Security Department in the Office of the President of the Republic (ABIN), the Financial Activities Control Council of the Ministry of the Treasury (COAF), and the Department to Combat Illegal Exchange and Financial Transactions of the Central Bank (DECIF).

Question: *How does Brazil propose to give effect in its domestic law to the International Convention for the Suppression of the Financing of Terrorism? In particular, how does it propose to incorporate into its penal laws the offences referred to in that Convention?*

Reply: In accordance with article 49, paragraph 1, of the Constitution (which gives the National Congress the authority to pronounce definitively on treaties), the Government of Brazil will shortly submit for the consideration of the legislative branch the International Convention for the Suppression of the Financing of Terrorism, which was adopted by the United Nations General Assembly on 9 December 1999. Should the Congress authorize its ratification, this instrument will allow for the more specific characterization as crimes of financial transactions associated with terrorist acts. In order for it to have effect in domestic law, the Convention will have to be promulgated and published in the country's *Official Gazette*, immediately following the act of ratification. In addition, complementary legislation in this area will also have to be passed in order to give full effect to the provisions of the Convention for the Suppression of the Financing of Terrorism within the national territory.

This complementary legislation will have to be drafted by a commission or inter-ministerial working group. It is possible that one or more draft laws might be prepared to characterize as crimes and prescribe penalties for the acts set out in the Convention, as well as to authorize provisions governing other aspects of the instrument.

Among other commitments undertaken, States Parties are required to establish the financing of terrorism as a separate criminal offence so that it can be punished independently of whether or not the terrorist acts are actually carried out (art. 4), and to take legal measures for the freezing or seizure of funds belonging to terrorists (art. 8). States Parties are also urged to expand their international cooperation mechanisms for the investigation, detention, prosecution and extradition of persons involved in the financing of terrorism.

Question: *Does Brazil have any provisions for regulating alternative money transfer agencies?*

Reply: Act No. 9613/98 provides that legal entities offering national and international money transfer services must register their clients and record transactions involving amounts greater than R$10,000.00 (or approximately US$ 3,700.00 at the rate of exchange of R$2.70 = US$ 1.00) and report them to the regulatory body (Central Bank, CVM, etc.), or, in the absence of a regulatory body, directly to the Financial Activities Control Council (COAF). Council decision 10/2001 extended these reporting requirements to include wire transfers.

It should be pointed out that "money transfers" to or from countries abroad can be executed only by institutions that are authorized by the Central Bank to operate as exchange houses in Brazil and as such are subject to the Bank's supervision. Even the Postal and Telegraph Service of Brazil, which issues international money orders, and entities such as Western Union, while not supervised by the Central Bank, can execute exchange operations only with establishments that are authorized to operate. It should also be mentioned that only banks can send and receive bank drafts. Money transfer arrangements between institutions belonging to the National Financial System, headquartered in Brazil, are subject to regulation and oversight by the Central Bank and required to report evidence of the crime defined in Act No. 9613/98.

5. Subparagraph 2 (a)

Text of the resolution: States shall: "Refrain 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".

Question: *How would article 288 of the Penal Code prevent the recruitment in Brazil to terrorist groups outside Brazil?*

Reply: Article 5 of the Constitution provides that all persons are equal before the law, without any distinction whatsoever, and Brazilians and foreigners resident in Brazil are assured of inviolability of the right to life, liberty, equality, security and property. Paragraph XLIII of the same article states that the law shall consider the practice of torture, unlawful trafficking in narcotics and similar drugs, terrorism and crimes defined as heinous crimes to be crimes not entitled to bail or to mercy or amnesty, and shall hold responsible individuals who order or commit such acts and those who, though in a position to stop them, refrain from doing so. These legal provisions, together with the constitutional principle of the repudiation of terrorism, enshrined in article 4, paragraph VIII, constitute broad supplementary legislation that punishes individuals who provide support, succour or shelter to terrorists in Brazil.

Act No. 8072 of 25 July 1990 governing heinous crimes provides more rigid rules for the serving of sentences. Article 2 of the Act provides that individuals convicted of the crime of terrorism may not receive amnesty, mercy, pardon or bail. It further provides that the entire sentence must be served under incarceration. Article 7 of Decree-Law No. 2848 of 7 December 1940 (Penal Code), as amended by Act No. 7209/84, deals with the application of Brazilian law to crimes committed by Brazilians abroad, which acts as a further deterrent to the recruitment of nationals by terrorist groups.

Article 288 of the Penal Code of 1940 limits itself to criminalizing the association of more than three persons for the purpose of committing a crime. In order to update the concept of "gang, armed group or criminal organization", the Federal Government sent to the National Congress Bill No. 2858 of 27 April 2000, which seeks to include among crimes against public order criminal organization by three or more persons who use violence, intimidation, corruption, fraud or other such means in a structured manner and with a division of tasks to commit a crime. This definition will make it easier for terrorist groups to be brought within the scope of Brazilian legislation.

Other police and intelligence agencies that may take action to investigate complaints or suspicions of recruitment of nationals include: the federal police of the Ministry of Justice and the Brazilian Intelligence Agency of the Institutional Security Department in the Office of the President of the Republic (ABIN).

6. Subparagraph 2 (b)

Text of the resolution: States shall: "Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information".

Question: *Apart from the cooperation it has with other MERCOSUR countries and with the United States of America, what other early warning systems has Brazil implemented to prevent the commission of terrorist acts?*

Reply: In the area of intelligence, the Brazilian Intelligence Agency (ABIN) maintains cooperation and exchanges information with its counterparts in MERCOSUR, the United States of America and other countries. At the domestic level, whenever there is suspicion that a terrorist attack will be carried out, ABIN communicates this information to its regional agencies, which in turn pass on the alert to other security organs within their area of competence. For nearly a decade now, ABIN has been investigating all reports and suspicions of terrorist activities, but so far has found no basis for any of the reports. For its part, the federal police force has cooperation arrangements with similar organs in other countries and with Interpol.

7. Subparagraph 2 (c)

Text of the resolution: States shall: "Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;"

Question: *Describe the particular provisions of Brazilian law that cover the procedures relating to cooperation on matters of criminal investigation and judicial proceedings.*

Reply: Book V of the Code of Criminal Procedure, which deals with jurisdictional relations with foreign authorities, contains provisions governing compliance with letters requisitorial in respect of summonses, inquiries, and other measures required for the pre-trial phase of a criminal proceeding. This traditional instrument of communication between international jurisdictions facilitates close cooperation in criminal investigations and criminal proceedings to obtain evidence for the effective provision of jurisdictional protection.

More expeditious mechanisms than letters requisitorial designed to facilitate more direct cooperation, such as the temporary transfer of detained persons to enable them to give evidence in person, are provided in international treaties. The provisions governing international cooperation in criminal investigations and criminal proceedings contained in international agreements signed by Brazil and duly promulgated domestically have the force of ordinary law and take effect from the date of their promulgation. Consequently, the collaboration authorized by treaty may be implemented by the judicial branch without any need for complementary legislation. Article 1, paragraph 1, of the Code of Criminal Procedure guarantees the implementation of treaties, conventions and rules of international law in criminal proceedings in Brazil.

8. Subparagraph 2 (d)

Text of the resolution: States shall: "Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens."

Question: *Please explain the provisions of law that prohibit persons and entities legitimately operating in Brazil from providing support to terrorism outside Brazil.*

Reply: In implementation of article 5, paragraph XLIII, of the Constitution, Brazilian law prescribes penalties for individuals who order or commit terrorist acts and those who, though in a position to stop them, refrain from doing so. The possibility that natural and legal persons resident in Brazil may be involved in international crimes such as terrorism, contraband, drug or arms trafficking, money laundering and piracy is a matter of concern for the Government of Brazil. When the issue is raised by representatives of concerned States, the Brazilian authorities always request concrete information that would assist in the launching or expansion of investigations in Brazil. Act No. 9034 of 3 May 1995, in article 2, paragraph V, allows for infiltration by agents of the police or the intelligence services as part of an investigation undertaken by the relevant specialized bodies and authorized by a reasoned judicial order delivered in secret. Investigative resources were strengthened with the passage of Act No. 10446 of 8 May 2002, which contains provisions governing criminal acts with inter-State and international repercussions that must be prevented and punished in Brazil based on uniform standards. It is important to note that, in keeping with the constitutional principles of a democratic State based on the rule of law, the Government does not accept denunciations or follow up rumours, allegations and insinuations unsubstantiated by solid evidence. Where it detects the existence of a system of support for terrorist activities, the Federal Government takes the appropriate domestic legal measures and notifies the target State of the criminal act so that it could alert its security organs.

Other government agencies that may take action in this area include: the federal police force of the Ministry of Justice, the Public Prosecutor's Office, the Brazilian Intelligence Agency of the Institutional Security Department of the Office of the President of the Republic (ABIN), the Financial Activities Control Council of the Ministry of the Treasury (COAF), and the Department to Combat Illegal Exchange and Financial Transactions of the Central Bank (DECIF).

9. Subparagraph 2 (e)

Text of the resolution: States shall: "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".

Question: *Explain how "terrorism" and "terrorist acts" are interpreted in Brazilian law, given that there is no precise legal description of the crime of terrorism in Brazil.*

Reply: The constitutional imperatives and international commitments undertaken by Brazil are the basis of extensive legislation that supports and provides the tools and legitimacy for the fight against terrorism in the national territory. Although there is still no criminal characterization that includes a specific and detailed definition of the crime of terrorism, the legislation contains a series of provisions that describe criminal conduct inherent in terrorist acts (including criminal association, currency fraud, and trafficking in arms, ammunition and explosives). The fight against terrorism requires action by the executive and judicial branches if it is to succeed and the legislative branch has the power to elaborate laws and adopt international

instruments to channel efforts aimed at the prevention, punishment and eradication of terrorism.

The main legal texts include: Decree-Law No. 2848 of 7 December 1940 (Penal Code); Decree-Law No. 3689 of 3 October 1941 (Code of Criminal Procedure); Act No. 4595 of 31 December 1964 (Financial System Act); Act No. 6815 of 18 August 1980 (Statute on Aliens); Act No. 7170 of 14 December 1983 (National Security Act); Act No. 8072 of 25 July 1990 (Heinous Crimes Act); Act No. 9112 of 10 October 1995 (oversight of the export of services and items for military use, dual use and use in the nuclear, chemical or biological fields); Act No. 9474 of 22 July 1997 (Statute on Refugees); Act No. 9613 of 3 March 1998 (Money Laundering Act); Act No. 9883 of 7 December 1999 (establishing the Brazilian Intelligence System — SISBIN); Supplementary Act No. 105 of 10 January 2001 (increases the flexibility of existing banking secrecy laws).

This legislation is being continuously strengthened. The National Congress is currently reviewing three draft laws of great importance to the fight against terrorism: (i) Bill No. 6764/2002, which proposes, inter alia, in article 301, that terrorism should be established as a crime in the Penal Code of Brazil and penalties ranging from two to 10 years imprisonment provided for those who commit such acts (Decree-Law No. 2848 of 7 December 1940); (ii) Bill No. 1117/2002, which includes the crime of "financing of terrorism" in Act No. 9613 (Money Laundering Act) of 3 March 1998, as a crime associated with "money laundering"; and (iii) Bill No. 2858/2000, which updates the concept of criminal organization in article 288-A of the Penal Code (Decree-Law No. 2848 of 7 December 1940).

Question: *Are all the relevant provisions of the Penal Code of Brazil applicable in the following circumstances: (i) acts committed outside Brazil by a person who is a citizen of, or is habitually resident in, Brazil (whether that person is currently in Brazil or not); and (ii) acts committed outside Brazil by a foreign national who is currently in Brazil*?

Reply: Article 7 of Act No. 7209 of 11 July 1984, amending the general part of Decree-Law No. 2848 (Penal Code) of 7 December 1940, contains provisions on the extraterritoriality of Brazilian criminal legislation. Under those provisions, offences committed by Brazilian or foreign nationals outside Brazil may be punished in the cases covered by the paragraphs and subparagraphs of the Act.

With respect to terrorist acts, reference should be made to section II, covering three cases in which the Act may be applied to the perpetrators of offences committed abroad, subject to the conditions laid down in article 7, paragraph 2. These are cases of conditional extraterritoriality: (i) offences which Brazil has undertaken, by treaty or convention, to punish (such as terrorism); (ii) offences committed by Brazilians; (iii) offences on board Brazilian aircraft or vessels, whether of the merchant marine or under private ownership, when committed in foreign territory and not prosecuted there. Application of the Act is, however, subject to the following conditions: (i) the person concerned has entered Brazilian territory, whether for a short stay or a long stay, whether on business or for pleasure, whether voluntarily or not, whether legally or clandestinely. The person's departure shall not interfere with the conduct of legal proceedings already instituted; (ii) the act must also be a punishable offence in the country where it was committed; (iii) the offence must be one for which Brazilian legislation authorizes extradition; (iv) the person must not have been acquitted abroad or have served a sentence

abroad. Brazilian law may be applied only where the person has not been tried abroad or, if convicted, has not served the sentence; (v) the person must not have been pardoned abroad and must not have been absolved of responsibility for any reason, in accordance with more favourable legislation.

10. Subparagraph 2 (g)

Text of the resolution: It is the obligation of States to "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."

Question: *What is the mechanism for cooperation between the federal and provincial authorities responsible for narcotics control, financial tracking, and security, with particular regard to the border controls preventing the movement of terrorists*?

Reply: Under article 144 of the Constitution, public security in Brazil is the responsibility of federal agencies (the Federal Police Department, the Federal Highway Police and the Federal Railway Police), provincial agencies (civil police, military police and military firebrigades) and municipal agencies (with provisions authorizing the establishment of a force of unarmed municipal guards). The Constitution defines the respective areas of responsibility and provides that supplementary legislation shall govern the organization and operation of the agencies involved. The police may be brought in to combat various offences, including terrorist activity, money-laundering and illegal trafficking in drugs. The federal Government is seeking to modernize its administrative structures by improving collaboration with the provincial governments. Among other measures, the Institutional Security Cabinet in the Office of the President of the Republic has instructed the Brazilian Intelligence System (SISBIN) to devise comprehensive and permanent mechanisms to gather intelligence within Brazil (Act No. 9883 of 7 December 1999). The Ministry of Justice is seeking to improve the Public Security Intelligence Subsystem (Decree No. 3695/2000), in the light of the experience of recent years. In sum, the Government is constantly trying to strengthen the police and intelligence areas.

With regard to the movement within Brazil of wanted individuals, the Federal Police Department of the Ministry of Justice is responsible for the constitutional tasks of marine police, and airport, border and immigration controls.

In the Federal Police Department, the General Directorate for Marine Police and Airport and Border Controls has functional and organizational responsibility for the Department of Immigration and Alien Registration (CIMCRE), the Deportation and Expulsion Department (COPREC), the Immigration Department (CPOI), the Passport Control Department (COCEP) and the Police Analysis and Investigation Department (SAIP). The responsibilities are divided as follows:

(i) CIMCRE manages the national system of alien registration, containing basic data on foreign nationals without diplomatic status residing in Brazil for more than 90 days;

(ii) COPREC manages the national register of wanted and banned individuals, containing basic data on Brazilians and foreigners who, by legal

warrant, are wanted by Brazilian or foreign authorities, and on Brazilians or foreigners who are banned from entering or leaving Brazil;

(iii) CPOI manages the national system of international traffic, containing essential data on the entry and departure of foreigners;

(iv) COCEP manages the national passport system; and

(v) SAIP is the central police intelligence agency for immigration.

The names of persons under transit restrictions by decision of the United Nations Security Council and the names of wanted individuals (on the basis of information sent by Interpol and other police and intelligence agencies) are included in the national register of wanted and banned individuals, together with the legal instrument authorizing the restriction of their rights.

SAIP tries to collect information on the movements of wanted individuals and persons forbidden to travel through Brazil. One of the control measures is the verification of the names and other personal data of passengers upon their arrival in and departure from Brazil. When a wanted or banned individual is identified, it is the duty of the Federal Police Department to notify the government agency responsible for enforcement, as well as the operational police unit, so that appropriate measures may be taken. All federal police units and all regular checkpoints for the international movement of persons in border areas have appropriate equipment to consult the operational databases. This system already supplies information to the Public Security Intelligence Subsystem and should feed data into the Brazilian Intelligence System.

Within the framework of MERCOSUR, several agreements on border controls and the movement of persons have been adopted, to supplement the relevant federal legislation. In 1996 a tripartite command for the border region shared by Argentina, Brazil and Paraguay was established to improve coordination of border activities, especially in the light of the terrorist attacks in Argentina in the 1990s.

In other words, even before the attacks of 11 September, border controls were being applied by the Brazilian police and intelligence agencies with greater intensity and meticulousness. Such measures also made it possible to strengthen controls in 2001 and 2002, with the establishment of task forces bringing together various municipal, provincial and federal security agencies. These activities are being stepped up, especially in the border region shared by Argentina, Brazil and Paraguay, but to date there has been no indication of the movement of terrorist suspects or of the existence of terrorist cells or training camps in Brazil.

In the effort to combat illicit drug trafficking, the National Anti-Drug Council (CONAD) has been formulating a Brazilian policy and coordinating its work with that of other federal and provincial agencies. CONAD was established in 1998 and its Chairman reports to the Minister in charge of the Institutional Security Cabinet in the Office of the President of the Republic. In order to streamline those activities, the National Anti-Drug Secretariat (SENAD) was also established. Measures aimed at stamping out drug trafficking are being implemented by the Federal Police Department, in accordance with the Constitution, with the collaboration of other agencies, especially the Federal Tax Department and the Federal Highway Police, and, when necessary, with logistical support and intelligence from the armed forces.

With regard to illicit financial transactions, the decisions of the United Nations Security Council are transmitted by the Central Bank to banking and other related institutions, which are obligated to implement the approved measures, pursuant to article 9 of Act No. 4595 of 31 December 1964. Under that Act, it is the responsibility of the Central Bank to carry out and enforce the provisions mandated by applicable legislation. Article 10, section VIII, of the Act authorizes the Central Bank to monitor financial institutions.

The current regulations are regularly consolidated by the Central Bank for review and circulation among the financial institutions, through circulars that are also available on the Central Bank page on the Internet. This is a flexible system making it possible to report provisions of financial legislation that have been revoked or added, including those that are in response to Security Council decisions.

The Central Bank's department combating illicit exchange and financial transactions (DECIF) has the authority to establish administrative procedures when it identifies activities harmful to the market or detects illicit practices. DECIF must report to the competent public agencies any irregularities or administrative violations coming to its attention, with a view to: (i) investigation of the case (essentially by the Federal Police Department and the public prosecutor's office); or (ii) ongoing monitoring of pertinent information (by, inter alia, the Federal Tax Department, the Financial Activities Control Council of the Ministry of Finance (COAF) and the Brazilian Intelligence Agency (ABIN). By the same token, if there is a substantial indication of illicit practices, COAF may decide to institute action to refer the case to the Federal Police Department and the public prosecutor's office for investigation.

11. Subparagraph 3 (d)

Text of the resolution: States are called upon to "become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999."

Question: *Explain how the Government of Brazil is implementing the relevant international conventions and protocols relating to terrorism that it has ratified.*

Reply: International agreements are incorporated in Brazilian domestic legislation with the same status as ordinary law, through their promulgation in the nation's *Official Gazette*. In addition, many international agreements call for new legislative provisions to ensure their application at the national level. Under article 5, section XXIX, of the Constitution, and under article 1 of the Penal Code, acts not previously defined by law as offences may not be treated as such. It is possible that certain offences covered by international agreements are included under other classifications in internal legislative provisions. If that is not the case, it will be necessary to pass a law that not only categorizes the acts as offences, but also establishes the respective penalties. There is no offence without a penalty, and international agreements do not lay down penalties. Brazil is concerned to bring its criminal legislation into line with its international commitments. All the international instruments are strictly subject to the supremacy and normative authority of the Constitution.

Question: *Have the offences under the relevant conventions been included as extraditable offences in bilateral treaties*?

Reply: Many of the extradition treaties concluded by Brazil, especially the oldest ones, do not list extraditable offences, but refer in general to offences for which Brazilian legislation establishes a minimum penalty of at least one year's imprisonment. This is a broad provision under which terrorist acts could be included. The treaties listing offences usually do not lay down specific penalties for terrorism. In the past few years, action has been taken to rectify this situation. Multilateral conventions themselves usually include a clause to the effect that, if the modalities governing the offences are not envisaged in bilateral treaties, the text of the convention may be taken as a basis for extradition.

Article 5 (c) of the 1988 MERCOSUR Agreement on Extradition states that persons committing acts of a terrorist nature shall be subject to extradition. The text gives as examples some of the offences constituting terrorism: (i) an attack on the life, physical safety or freedom of internationally protected persons, including diplomatic agents; (ii) hostage-taking and kidnapping; (iii) an attack on persons or property involving the use of bombs, grenades, rockets, mines, firearms, letters or parcels containing explosives, or other devices capable of causing general danger or public commotion; (iv) the illicit seizure of vessels or aircraft; (v) in general, any act not included above that is committed for the purpose of terrorizing a population or classes or sections of a population, damaging the economy of a country, or its cultural or environmental heritage, or carrying out reprisals on the basis of politics, race or creed. In May 2002, Brazil ratified the MERCOSUR Agreement on Extradition, upon its legislative approval.

Question: *Please provide a progress report on the ratification of the relevant conventions and protocols which Brazil has signed*.

Reply: The Brazilian Government is taking the necessary action to associate Brazil with the 12 international agreements negotiated at the United Nations and the International Atomic Energy Agency, in keeping with the importance Brazil attaches to the primacy of law in combating terrorism. Nine agreements have already been incorporated in domestic legislation, and three are in various stages of analysis, with a view to final approval.

The three agreements whose ratification is still pending are:

(i) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, which Brazil signed on 10 March 1988. It is currently before the National Congress, with a view to the necessary legislative approval;

(ii) The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, which Brazil signed on 10 March 1988. It is currently before the National Congress, with a view to the necessary legislative approval;

(iii) The International Convention for the Suppression of the Financing of Terrorism, which Brazil signed on 10 November 2001. It is under review by the executive branch, with a view to submission to the National Congress in the near future.

Two OAS Conventions are currently in force in Brazil: the 1971 Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance (which was incorporated in Brazilian legislation by Decree No. 3018 of 6 April 1999); and the 1977 Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (Decree No. 3229 of 29 October 1999).

At its thirty-second session, held in Barbados from 2 to 4 June 2002, the General Assembly of OAS signed the Inter-American Convention against Terrorism. This Convention does not contain an explicit definition of terrorism or terrorist acts. The General Assembly opted for the procedure of including acts by reference to the texts of earlier and future conventions on terrorism. Such texts are listed, with a description of the offences, in an annex to the Convention, and are an integral part thereof.

12. Subparagraph 3 (f)

Text of the resolution: States shall: "Take appropriate measures in conformity with 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;"

Question: *Please describe the procedures and mechanisms in place to ensure that asylum-seekers have not been involved in terrorist activity before being granted refugee status.*

Reply: Requests for refugee status are subject to a decision taken by the National Committee for Refugees (CONARE) with prior consultation with the Federal Police, the Ministry of Foreign Relations and the Office of the United Nations High Commissioner for Refugees on the applicant's background. In addition, an analysis is carried out of the objective situation in the applicant's country of origin (which is continually updated) and of the account provided by the applicant during his interview with technical specialists from that body. This practice makes it possible to identify, with a high degree of accuracy, activities that are in violation of the letter and spirit of Act No. 9474 of 22 July 1997 in order to reject applications for refugee status.

If an individual has been wrongly granted refugee status or commits acts that are incompatible with his refugee status, such as terrorist acts and related offences, he will lose his status by virtue of being subject to the provisions of article 3 (exclusion clause) or article 39 (situations involving the loss of refugee status). The Brazilian Government is prepared to investigate, by means of its police and intelligence agencies, specific situations of persons who are suspected of being terrorists or who are associated with terrorism, after receiving relevant information on such matters. Once having lost refugee status, the person involved remains subject to the application of Act No. 6815 of 18 August 1980, which, among its other provisions, regulates procedures for the extradition, deportation and expulsion of foreigners from the national territory.

Act No. 9474 of 22 July 1997 does not provide the possibility of safe haven for terrorists or protect them against prosecution for offences committed. On the

contrary, the system makes it possible to identify persons involved in terrorist activities and ensure the subsequent revocation of refugee status.

13. Subparagraph 3 (g)

Text of the resolution: States shall: "Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers 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;"

Reply: *It is not clear from the replies to paragraphs 2 (c) and 3 (g), whether claims of political motivation are recognized as grounds for refusing extradition. Please elaborate on this matter.*

Constitutional requirements form the basis for the procedures of the Brazilian legal system with regard to the question of extradition. The basic constitutional norms are article 5, paragraph LII (no Brazilian shall be extradited, except naturalized citizens, in the case of a common offence committed prior to naturalization or for proven participation in illegal trafficking in narcotics and related drugs), paragraph LIII (there shall be no extradition of foreigners for any political offence or for holding an opinion); and also article 102, paragraph 1 (g), (which establishes the jurisdiction of the Federal Supreme Court). All these precepts, which are contained in article 5 of the Constitution, are immutable clauses, which, therefore, cannot be changed through a constitutional amendment (article 60, paragraph 4, subsection IV, of the Constitution).

Act No. 6815 (Statute on Aliens) of 18 August 1980 is designed, in articles 76 to 94, to regulate extradition procedures. It should be pointed out that article 77, which provides that the Federal Supreme Court may refrain from considering as a political offence attempted assassinations of heads of State or any other authorities, and acts of anarchism, terrorism, sabotage, kidnapping, war propaganda or violent acts to subvert law and order. Criminal conduct constituting terrorist acts is defined in other laws, including Decree-Law No. 2848 of 7 December 1940 (Penal Code), Act No. 7170 (National Security Act) of 14 December 1983, and Act No. 9613 (Money-Laundering Act) of 3 March 1998.

Act No. 9474 (Statute on Refugees) of 22 July 1997 regulates the implementation of the 1951 Statute on Refugees. Two articles should be mentioned: article 3 (exclusion clause) and article 39 (other situations that may result from loss of refugee status). The legislation specifically provides that persons who have participated in terrorist acts are not entitled to refugee status in Brazil. In addition, it provides for the loss of refugee status when it has been proved that information provided for the granting of refugee status is false; that acts which, if they had been known when refugee status was granted, would have resulted in a refusal; or that activities which are contrary to national security or law and order were carried out. An individual who loses such status is subject to the provisions of Act No. 6815 of 18 August 1980 which governs the question of extradition.

Act No. 66851 of 18 August 1980 and Act No. 9474 of 22 July 1997 are complementary and in conformity with the legal precepts of the Constitution. Under the Brazilian legal system, extradition requires the intervention of the executive and judicial branches in order to prevent the granting of refuge to terrorists and make it possible to extradite, deport or expel them from the national territory.

Neither the Constitution nor ordinary legislation lays down the obligation to institute legal proceedings against a Brazilian or foreign national whose extradition is denied by the Federal Supreme Court. At the same time, Brazil has signed bilateral agreements which provide that, if the accused cannot be extradited the State assumes the responsibility to try him. Some multilateral agreements, in particular those relating to combating international terrorism, include a mechanism under which jurisdiction must be exercised wherever the perpetrator of a criminal act is situated, regardless of his nationality. This is the principal of universal justice or jurisdiction for the suppression of particular crimes to which a number of countries are subjected ("no-safe-haven clause"). The requesting State must submit the case to the competent authorities, with material evidence or the trial documents in order to institute legal action under the Brazilian justice system. Lastly, article 7 of Decree-Law No. 2848 of 7 December 1940 (Penal Code), as amended by Act No. 7209/84, relates to the implementation of the Brazilian law concerning offences committed outside the national territory by Brazilians or foreigners under the conditions provided for in its paragraphs and subsections. These legal provisions guarantee that there is no impunity for an offence committed in another country by a Brazilian national or a foreigner residing in or passing through Brazil, although extradition, owing to the constitutional prohibition, cannot be granted.

14. Paragraph 4

Text of the resolution: "*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, 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;"

Question: *Has Brazil addressed any of the concerns expressed in paragraph 4 of the resolution*?

Reply: Brazilian legislation makes it possible to participate in and expand international cooperation in combating money-laundering, illicit drug trafficking, terrorism, organized crime, illegal arms trafficking and unlawful access to weapons of mass destruction. This readiness to cooperate with the international community reflects the importance that Brazil attaches to the primacy of law in the fight against transnational crime.

The Ministry of the Treasury's Financial Activities Control Council (COAF), a financial intelligence unit, has received approximately 16,000 communications on suspicious operations since its establishment in 1998. At the current time, the Council is processing 223 applications for information concerning the transfer of securities and money-laundering including 110 requests made by foreign Governments. This exchange of information, which is speedy and informal, does not require the signing of an international treaty since it is carried out on the basis of the rule of reciprocity in accordance with Act No. 9613/98 (Act on money-laundering). When necessary, memorandums of understanding, based on the Egmont Group model can be signed in order to regulate the exchange of information. Updated information on the memorandums already assigned is contained in the Brazilian

report on the implementation of Security Council resolution 1373 (2001) submitted in December 2001.

In July 2000, the Financial Action Task Force (FATF), established in 1989 under the auspices of the Organisation for Economic Cooperation and Development (OECD), accepted Brazil as a member, following a positive evaluation by a group of experts of Brazilian legislation and action taken in the country to combat that type of crime. The Task Force's 2000-2001 annual report, drawn up in June 2001, places Brazil among the 10 countries that completely carried out the 28 measures in the field of law, finance and international cooperation recommended by the Task Force. This body currently comprises 31 countries.

On the initiative of the South American Ministers of the Economy and with the support of the Task Force, the South American Financial Action Group (GAFISUD) was set up, whose permanent executive secretariat is located in Buenos Aires.

Brazil participates in discussions on ways to strengthen, from the perspective of combating terrorism, multilateral regimes relating to disarmament and chemical, biological, nuclear and missile non-proliferation in the competent forums (the Organization for the Prohibition of Chemical Weapons (OPCW), the Conference on the Biological Weapons Convention, the International Atomic Energy Agency (IAEA), the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR), among others). Brazil understands that the danger of terrorist acts underscores the need not only to strengthen security and non-proliferation activities, but also to carry out the commitments undertaken in order to achieve nuclear disarmament. The existence of nuclear arsenals increases the possibility that individuals or non-governmental actors might illegally gain access to materials that could be used in terrorist attacks. This danger can be overcome only with the complete elimination of those arsenals. The activities of IAEA aimed at combating nuclear terrorism should be planned in a gradual manner in view of the different vulnerabilities and potential threats of each type of material or installation. The Brazilian Government is completely bound by the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and is a full party to the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), participating actively in its committees and conferences in order to strengthen international and regional cooperation in the field of nuclear non-proliferation and disarmament.

With regard to small arms and light weapons, the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (CIFTA), an instrument which should mark the regional response in efforts to combat terrorism in this field has still been ratified by only a limited number of countries.

Within the framework of MERCOSUR, in 2000 Brazil promoted the establishment of the working group of MERCOSUR and associated States on firearms and munitions, whose first meeting was held in May 2001 in Asunción. The issues dealt with included harmonization of legislation on firearms and munitions, cooperation in regulating trade in firearms and munitions, coordination on the topic in international forums, the development of technologies for reducing the number of accidents in the use of firearms and munitions, and the link between illicit trafficking in firearms and munitions and the illegal drug trade.

Brazil understands that it might be acceptable, at the hemispheric level, to build on the outcome of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, held in New York in July 2001. The Programme of Action adopted recognizes, in its preamble, the link between the topic and the problem of terrorism and sets forth a series of preventive and cooperation measures to be adopted by States with a view to combating unlawful trafficking in small arms and light weapons.

In the area of combating organized crime, the Brazilian Government launched, in 2000, the National Public Security Plan, which includes a series of 15 commitments, which are taking the shape of 124 comprehensive activities. The Plan was conceived on the basis of the principles of interdisciplinarity, organizational and managerial pluralism, legality, decentralization, impartiality, transparency of actions, community participation, professionalism, attention to special regional features, strict respect for human rights and greater regional and international cooperation to combat forms of transnational crime. The Brazilian Government is using the studies and documents drawn up by the United Nations, and, more specifically, the action proposals recommended by the Commission on Crime Prevention and Penal Justice.

Brazil participated in the work that resulted in the elaboration of the United Nations Convention against Transnational Organized Crime (Palermo Convention) and its three Protocols: (i) the Protocol against the Smuggling of Migrants by Land, Sea and Air; (ii) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and (iii) the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. The text of the Convention has already been submitted for consideration to the National Congress for ratification. In addition, Brazil is not only adopting internal procedures for acceding to the international treaties on combating terrorism but is also concluding penal cooperation agreements with various States. This set of instruments is designed to create a universal body of law and establish the correct legal framework for developing international cooperation in this field. At the subregional level, mention should be made of the efforts carried out in MERCOSUR resulting from the obligations undertaken within the framework of the 1996 Protocol on Mutual Legal Assistance in Criminal Matters, the 1998 Agreement on Extradition, as well as the 1999 Protocol on Mutual Coordination and Cooperation for Regional Security. Within the framework of the latter protocol, the six States parties (Brazil, Argentina, Bolivia, Chile, Paraguay and Uruguay) are joining operational and intelligence efforts to combat various forms of transnational organized crime, including terrorism. In September 2001, the Permanent Working Group was established in order to evaluate and propose joint and coordinated actions against this type of crime.

15. Other matters

Question: *Could Brazil provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give general effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution*?

Reply: The Brazilian Intelligence System (SISBIN) will have to respond with regard to anti-terrorist actions. The System's operational structure is in the final phase of elaboration. As soon as it is available, the System's organizational chart will be sent to the Counter-Terrorism Committee.