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Letter dated 3 March 2003 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/2002/448).

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

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

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Annex

Letter dated 28 January 2003 from the Permanent Representative of Mauritius to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to refer to the letter dated 30 October 2002 from the Chairman of the Counter-Terrorism Committee and to forward (see enclosure) the reply of the Government of Mauritius to questions and comments raised in the letter.

(*Signed*) K. **Jingree**
for Jagdish Koonjul
Ambassador
Permanent Representative

Enclosure

MAURITIUS RESPONSE TO THE QUESTIONS CONTAINED IN THE LETTER FROM THE CHAIRMAN OF THE COUNTER-TERRORISM COMMITTEE DATED 30 OCTOBER 2002*

Introduction

Mauritius has always been supportive of all international initiatives designed to combat international terrorism. After the terrorist attacks in the United States of America on 11 September 2001, Mauritius pledged along with other members of the United Nations, its full commitment to work together with the international community to eradicate forever terrorism in all its forms and manifestations and to make this world a safer place for future generations. By unreservedly condemning the acts of terror against the USA and by extending its unqualified support to Resolutions 1368 and 1373 adopted on 12 and 28 September 2001 respectively, Mauritius is resolved to fight the scourge of international terrorism.

In December 2001, when Mauritius submitted its First Report pursuant to para. (6) of Resolution 1373 (2001), the United Nations Counter-Terrorism Committee (CTC) was informed of the measures put in place despite the absence of appropriate legislation to combat international terrorism. However, the resolve of the Government of Mauritius to put in place appropriate legislation was conveyed. In July 2002, a second report was submitted to the Counter-Terrorism Committee on progress made in implementing measures as stipulated in the Security Council resolution 1373 (2001).

Following the enactment of the Prevention of Terrorism Act 2002, the Financial Intelligence and Anti-Money Laundering Act 2002 and the Prevention of Corruption Act 2002, the Prevention of Terrorism (Special Measures) Regulations were passed and have come into operation on 25 January 2003.

Paragraph 1.2: Progress Report on regulations being prepared under the Prevention of the Terrorism Act 2002 to provide for the freezing of assets and funds of suspected international terrorists and terrorist groups

The Prevention of Terrorism (Special Measures) Regulations 2003 have come into operation on 25 January 2003.

A copy of the Prevention of Terrorism (Special Measures) Regulations is at annex 1.

Paragraph 1.3: Confirmation that the Financial Intelligence and Anti-Money Laundering Act 2002 has come into force and that the Financial Intelligence Unit is in operation

The Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA 2002)[1] was proclaimed on 10 June 2002 and the Financial Intelligence Unit (FIU) has become operational in December 2002.

If the candidacy of Mauritius is sponsored by the FinCEN, Mauritius intends to join the Egmont Group as soon as possible.

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* Enclosures are on file with the Secretariat and are available for consultations.

[1] Please refer to annex II of report (document S/2002/880) submitted in July 2002.

Paragraph 1.4: Does the Financial sector control regime apply in the same way to local banking institutions and to offshore banking operations?

The word "bank" in FIAMLA has the same meaning as in the Banking Act. The financial sector control regime under FIAMLA applies, therefore, both to banks holding "Category 1 banking licences" (domestic banking licences) and "Category 2 banking licences" (offshore banking licences).

Paragraph 1.5: For the effective implementation of subparagraphs 2 (d) and (e), each State needs to criminalize the acts of financing, planning and facilitating and committing, terrorists acts aimed at other States or their citizens, using the territory of the State, even though the terrorist acts may not be attempted or committed. In that connection, the CTC makes the following observations:

- ***The act of terrorism as defined in section 3 (2) of the Prevention of Terrorism Act 2002 may not fully cover acts of financing, planning and facilitating terrorist acts, using the territory of Mauritius, aimed at other States or their citizens, because it refers to preparation without there being any specific reference to such acts such as financing which might be held by a court to be too remote to be considered preparation***
- ***Section 11 of that Act which relates to the suppression of the financing of, inter alia "an offence in breach of an enactment specified in the Second Schedule". That Schedule specifies only the offences created by sections 4'5'6 and 6A of the Civil Aviation (Hijacking and other Offences) Act and offences against section 12 of the Prevention of Terrorism Act 2002 (which relates specifically to hostage-taking)***

Explanation on how those provisions of the Act fully covers the requirements of the Resolution and, if no, how it is proposed to meet requirements.

Mauritius has signed the Convention for the Suppression of Financing of Terrorism on 11 November 2002. Prior to the ratification of the Convention, a new Bill is being prepared and will explicitly and more clearly deal with the above two points raised.

Paragraph 1.6: Subparagraph 3 (d) calls upon all States to become parties as soon as possible to the relevant international Conventions and protocols relating to terrorism. Report on the progress made by Mauritius in doing so and in giving effect to those instruments

The Committee of Senior Officials set up by the Government of Mauritius to monitor implementation of UNSC resolution 1373 (2001) is coordinating with various ministries and departments for action to be initiated regarding the relevant Conventions and protocols related to terrorism to be signed or ratified.

The status report of the Conventions and protocols related to terrorism is at annex 2.

However, prior to the ratification/accession of the remaining Conventions and protocols, appropriate legislation is being prepared so as to strengthen the legislative framework to effectively meet the obligations under the Conventions and protocols related to terrorism.

Paragraph 1.7: In the supplementary report, in reply to a question in relation with subparagraph 3 (g), it is stated "it is possible under Mauritius Law for requests for extradition of alleged terrorists to be refused on political grounds". Subparagraph 3 (g) calls upon States to ensure, in conformity with international law that ... Claims of political motivation are not recognized as grounds for refusing requests for extradition of alleged terrorists"

How does Mauritius propose to deal with the requirement in paragraph 3 (g) of the resolution?

Section 7 of the Extradition Act[2] provides that an offender shall not be surrendered to a foreign state "Where —

(a) the offence in respect of which the request for his surrender is made is one of a political character; or

(b) he proves to the satisfaction of the Minister that the request for his surrender has in fact been made with a view to trying or punishing him for an offence of a political character

It is clear from those provisions that mere "claims of political motivation" will not suffice as a basis for refusing requests for extradition of alleged terrorists.

Conclusion

The Counter-Terrorism Committee will recognize the efforts undertaken by the Government of Mauritius, in spite of its limited resources, to meet its obligations to fight terrorism by putting in place necessary legislation and institutions for its implementation.

The Government of Mauritius will appreciate receiving updates on progress made regarding the request for assistance submitted in its report (ref S/2002/880) of July 2002.

Finally, the Government of Mauritius avails itself of this opportunity to, once again, reaffirm its full collaboration with the Counter-Terrorism Committee in the implementation of UNSC resolution 1373 (2001).

[2] Please refer to annex XII of report (document S/2001/1286) submitted in December 2001.