



Security Council

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Letter dated 10 June 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 September 2002 (S/2002/1013).

The Counter-Terrorism Committee has received the attached supplementary report from the Niger, 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) Inocencio F. **Arias**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

Annex

[Original: French]

Letter dated 3 June 2003 from the Permanent Representative of the Niger 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 attach herewith the supplementary report submitted by the Niger to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism (see enclosure*).

The Niger reiterates its readiness to participate fully, as in the past, in the implementation of the resolutions adopted by the Security Council in the fight against terrorism.

However, the offices of certain technical ministerial departments particularly involved in the suppression of terrorism have already expressed some concrete needs which are transmitted in the attachments,* which the Committee will be able to consider and arrange for onward transmission to the most appropriate bodies for a speedy response.

In any case, I should like to assure you, on instructions from my Government, of the steadfast commitment of the Niger to continue to participate fully in the efforts of the international community to eradicate terrorism in all its forms and manifestations.

With that in view, this interim report will be supplemented and expanded to reflect progress made in acquiring the information requested, adopting legislative and regulatory measures and organizing the means that may be forthcoming from the international community.

I should be grateful if you would have the text of this letter and its enclosure distributed as a Security Council document.

(Signed) Ousmane **Moutari**
Ambassador
Permanent Representative

* Attachments are on file with the Secretariat and are available for consultation.

Enclosure

[Original: French]

Republic of the Niger**Ministry of Foreign Affairs and Cooperation****Supplementary report of the Niger****Paragraph 1**

Please describe the legal and other measures available to comply with the requirements of this paragraph of the resolution. Please provide answers in respect of each subparagraph.

Subparagraph (a)

With regard to the implementation of Security Council resolution 1373 concerning the financing of terrorist groups, the Government has given full latitude to banks established in the territory to monitor the names of persons and establishments transmitted by the United Nations.

To date, the financial establishments cited have no accounts in the name of a terrorist or group of terrorists.

At the regional and subregional levels, the Government of the Niger expressed its solidarity with the United States following the attacks perpetrated on 11 September 2001.

The heads of State and Government of the Economic Community of West African States (ECOWAS), pursuant to a decision of 12 November 1999, set up an Intergovernmental Action Group against Money-Laundering. This group has the task of coordinating action to suppress money-laundering and assisting Governments in adopting the appropriate legislation.

As the Ministers and the Governors of Central Banks had undertaken at their meeting in Abidjan in April 2001, the three currency-issuing areas within the franc area (West African Economic and Monetary Union, Central African Economic and Monetary Community, and the Comoros) devised legal frameworks aimed at suppressing money-laundering and the financing of terrorism, in accordance with the international norms in force, particularly the recommendations of the Financial Action Task Force on Money-Laundering.

In addition, in 2002 the Council of Ministers of the West African Economic and Monetary Union adopted community regulations to combat the financing of terrorism. These regulations are applicable in all member States in their efforts to combat money-laundering.

At their meeting in Niamey on 8 April 2003, the Ministers of Finance and the presidents of the regional institutions of the franc area requested the anti-money-laundering committee to continue to give its support to the competent authorities of the franc area in particular with a view to facilitating implementation of the legal frameworks adopted by member States.

Subparagraph (b)

The Code of Criminal Procedure recently adopted by the National Assembly incorporated provisions regarding the competence of national courts in cases of acts of terrorism in article 673 (1), (2), (3) and (4); and articles 679 and 680.

Subparagraph (c)

Under the Code of Criminal Procedure, bank secrecy cannot be invoked before the judge. Any assets suspected of belonging to a terrorist group and so identified may be frozen.

Subparagraph (d)

The Code of Criminal Procedure and the Penal Code criminalize such acts in articles 673, 673 (1), and (2), 674, 674 (4) and 679.

Could the Niger outline the existing or proposed laws and regulations which aim at preventing, suppressing and criminalizing the financing of terrorist acts?

The Penal Code and the Code of Criminal Procedure were adopted in the form of laws on 5 and 7 May 2003 respectively.

Are there any mechanisms available for the freezing of funds, assets and other financial resources as required by subparagraph 1 (c) of the resolution?

The International Convention for the Suppression of the Financing of Terrorism provides for such measures, and the Code of Criminal Procedure contains provisions to this end.

Please outline the existing or proposed laws which aim at prohibiting persons from making funds, financial assets and economic resources available for the benefit of the persons described in subparagraph 1 (d).

The Commission on Legislative Reforms has decided to incorporate criminal provisions from the International Convention for the Suppression of the Financing of Terrorism in specific laws.

In addition, the Code of Criminal Procedure recently enacted by the National Assembly incorporated provisions regarding the competence of national courts in cases of acts of terrorism in article 673 (1), (2), (3) and (4); and articles 679 and 680.

Does the Niger have any provision for regulating informal banking networks (e.g. *Hawala*)? Please outline such provisions.

The Government has given full latitude to banks established in the territory to monitor the names of persons and establishments described as terrorists or carrying on activities linked with terrorism transmitted by the United Nations. Some replies are given under paragraph 1 on page 2.

Paragraph 2

Please describe the legal and other measures available to comply with the requirements of this paragraph of the resolution. Please provide answers in respect of each subparagraph.

Subparagraph (a)

The recently adopted Penal Code of the Niger provides for terms of imprisonment for persons who have taken part in activities with a view to committing crimes in the national territory.

The moratorium of ECOWAS on illicit traffic in light arms prohibits the import, export and manufacture of light arms save for exceptional cases.

A National Commission on the Collection and Control of Illicit Weapons was set up in the Niger in 2000 under the Office of the President of the Republic. Through this Commission, which is in charge of collecting and destroying small-calibre light weapons, a pilot project for the collection of illicit weapons and support for sustainable development was set up in the N'Guigmi department (eastern part of the country).

This project is part of the wider implementation of the ECOWAS moratorium, signed on 31 October 1998 in Abuja.

Also under this moratorium, the Niger has regulated the possession, import and carrying of arms in the national territory.

Subparagraphs (b), (c) and (d)**Legislation on the entry and stay of foreign nationals**

A National Committee on Terrorism, comprising 10 members, was set up by means of Regulation No. 35 dated 4 December 2002 issued by the Minister for Foreign Affairs and Cooperation.

Subparagraph (e)

Niger courts are competent to try crimes and offences committed in the territory by a Niger citizen or a foreign national.

The Niger ratified the Algiers Convention on the Prevention and Combating of Terrorism of the Organization of African Unity in March 2003.

Subparagraph (f)

Bilateral agreements on mutual assistance in criminal matters to which the Niger is a party.

Multilateral treaties:

- ECOWAS Convention on Mutual Assistance in Criminal Matters (A/P1/7/92), signed on 29 July 1992 in Dakar;
- ECOWAS Convention on Extradition (A/P1/8/94), signed on 6 August 1994 in Abuja;
- Rome Statute of the International Criminal Court of 17 July 1998; this Statute was the subject of Act No. 2002-005 of 22 March 2002 authorizing ratification of the Rome Statute, and of Decree No. 2002 064/PRN/MAE/C/IA of 22 March 2002 for its publication in the *Journal Officiel*;

- Convention on Mutual Assistance in Criminal Matters among the signatories to the Agreement on Non-Aggression and Assistance in Matters of Defence (ANAD), signed on 21 April 1987 at Nouakchott;
- New York Convention of 14 December 1973 on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, to which the Niger became a party by Ordinance No. 8510 of 13 May 1985.

The police authorities in charge of general information work in collaboration with Interpol, the Ministry of Justice and Guardian of the Seals, and the National Commission on Action to Combat Drugs.

Is there any provision in the law of the Niger to prohibit the acquisition of firearms without a licence (especially at the time of purchase)?

Yes: the acquisition, purchase and possession of firearms are subject to a special authorization in the Niger.

Which are the institutions responsible in the Niger for providing early warning to other States for the purposes of subparagraph 2 (b)?

The police authorities in charge of general information, in collaboration with Interpol.

What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings, including those relating to the financing or support of terrorist acts, must be met and how long does it actually take in practice to implement such a request in the Niger?

Please outline the articles of the Penal Code which are relevant to the implementation of subparagraph 2 (e) of the resolution.

Offences relating to the hijacking of aircraft covered by the Tokyo Convention were incorporated in the Penal Code of the Niger by Ordinance No. 7637 of 11 November 1976.

Code of Criminal Procedure, articles 399 (1), (2), (3) and (4), and 399 bis, title IV; and articles 673, 673 (1), (2), (3) and (4); 679 and 680.

What is the competence of the courts of the Niger to deal with criminal acts of each of the following kinds:

- **An act committed within the Niger by any person (whether that person is currently present in the Niger or not);**

Under article 674 (4) of the Code of Criminal Procedure, Niger courts have jurisdiction over the offences covered by articles 399 (1) to (4) of the Penal Code, where the perpetrator or his accomplice are present in the Niger.

Under article 674 of the Code of Criminal Procedure, any foreigner who commits an offence outside the territory of the Republic of the Niger either as the perpetrator or an accessory may be prosecuted and tried in accordance with the laws of the Niger, where the victim is a Niger citizen.

Article 679 of the Code of Criminal Procedure provides that any foreigner who is the direct perpetrator of or accomplice to an offence or misdemeanour outside the territory of the Republic of the Niger of undermining State security or counterfeiting

the legal tender may be prosecuted and tried in accordance with the laws of the Niger or laws applicable in the Niger, whether he is arrested in the Niger or whether the Government obtains his extradition.

- **An act committed outside the Niger by a person who is a citizen of, or habitually resident in, the Niger (whether that person is currently present in the Niger or not);**

Under article 673 of the Code of Criminal Procedure, any Niger national who commits an offence outside the country that is punishable under the laws of the Niger may be prosecuted and tried by the courts of the Niger.

Any Niger national who commits an offence outside the territory of the Niger that is punishable under the laws of the Niger may be prosecuted and tried by the courts of the Niger if such act is criminalized under the law of the country where it was committed.

- **An act committed outside the Niger by a foreign national who is currently in the Niger?**

Article 673 (1) of the Code of Criminal Procedure provides that any foreign national who is the direct perpetrator of or accessory to an offence committed outside the Niger may be prosecuted and tried in accordance with the laws of the Niger, where the victim of such offence is a national of the Niger.

Under article 673 (2) of the Code of Criminal Procedure, the courts of the Niger have jurisdiction over offences committed aboard aircraft registered in the Niger. They also have jurisdiction over any offence or misdemeanour committed outside the Niger against an aircraft registered in the Niger.

Paragraph 3

Has the Niger entered into bilateral agreements to prevent and suppress terrorist attacks and to take action against perpetrators of such acts?

The Niger has entered into agreements through bilateral conventions on cooperation in judicial matters.

With which countries has the Niger entered into bilateral treaties on extradition and mutual assistance?

- The Niger and Mali: General Convention in the field of justice, signed on 22 April 1964 at Niamey, in force since 1965;
- The Niger and Algeria: Convention on Judicial Cooperation, signed on 12 April 1984, in force since 1986;
- The Niger and Nigeria: Agreement on Judicial Cooperation, signed on 18 July 1984 at Maiduguri, in force since 1990;
- The Niger and France: Agreement on Cooperation in the field of Justice, signed at Paris on 24 April 1961.

The CTC would welcome a progress report, in relation to the 12 relevant international conventions and protocols relating to terrorism, on:

- The steps taken in order to become a party to the instruments to which the Niger is not yet a party.**

1. On 25 April 2003, the Council of Ministers adopted and transmitted to the National Assembly bills ratifying a number of international conventions relating to terrorism.
2. Such conventions had been considered and ratified by the National Assembly at its first session of 2003.

The Niger has become a party to the following conventions on terrorism:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963), ratified on 27 July 1969;
- Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970), ratified on 15 October 1971;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, 1971), ratified on 1 September 1972;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988), signed on 24 February 1988;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 1973); date of accession: 17 June 1985;
- International Convention against the Taking of Hostages, adopted by the United Nations General Assembly in 1979;
- Convention on the Prevention and Combating of Terrorism (Algiers, 1999), signed on 10 December 2001;
- International Convention for the Suppression of Terrorist Bombings, adopted by the United Nations General Assembly in 1997; the Niger has begun accession procedures;
- International Convention for the Suppression of the Financing of Terrorism, adopted by the United Nations General Assembly in 1999;
- Vienna Convention on Physical Protection of Nuclear Material of 3 March 1980, signed on 7 January 1985;
- International Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, adopted in 1988 at Rome;
- Organization of the Islamic Conference resolution 59/26-P on terrorism adopted at Ougadougou in July 1999, in the process of ratification;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1991);

- ECOWAS Convention on Mutual Assistance in Criminal Matters of 29 July 1992 (A/P1/7/92);
- ECOWAS Convention on Extradition of 6 August 1994 (A/P1/8/94).
- **Progress made in enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.**

The conventions on terrorism have been ratified and enacted in the form of acts. The most recent were ratified by the National Assembly during its first session of 2003.

Please describe the legal and other measures available to comply with the requirements of subparagraph 3 (f).

There is a National Eligibility Commission composed of many members which deals with all matters relating to the granting of refugee status. The Commission complies with the rules of international law and complies with human rights standards. It is assisted in its work by the Ministry of the Interior and Decentralization.

Please explain whether there is a law on extradition or whether extradition is dependent on bilateral treaties.

The ECOWAS conventions on mutual assistance in criminal matters and on extradition are applicable in the Niger.

Are claims of political motivation recognized as grounds for refusal of extradition of alleged terrorists?

No claim of political motivation may prevent the application of the law or of conventions to which the Niger is a party.

Paragraph 4

Has the Niger addressed any of the concerns expressed in paragraph 4 of the resolution in addition to the measures taken in the field of nuclear non-proliferation?

In addition to international conventions, article 27 of the 9 August 1999 Constitution of the Fifth Republic of the Niger makes the transit through, import into, stockpiling, burying or dumping in the Niger territory of toxic waste an offence against the State (article 208 bis).

Ecological terrorism is covered under the Code of Criminal Procedure, which sets penalties under chapter IX dealing with offences relating to toxic waste (article 208 bis).

Other matters

Could the Niger 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?

As soon as feasible.