

**Security Council**

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Letter dated 26 March 2004 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 19 December 2003 (S/2003/1194). The Counter-Terrorism Committee has received the attached fourth report from Belarus 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

Letter dated 26 March 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Belarus to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

On instructions from my Government, I should like to transmit to you herewith the fourth report of the Republic of Belarus to the Counter-Terrorism Committee, submitted in accordance with paragraph 6 of the Security Council resolution 1373 (2001) (see enclosure).

(Signed) **Aleg Ivanou**
Chargé d'affaires a.i.

Enclosure*

[Original: Russian]

Fourth report of the Republic of Belarus to the Counter-Terrorism Committee, submitted in accordance with paragraph 6 of Security Council resolution 1373 (2001)**Effectiveness in the protection of the financial system**

1.1 *Effective implementation of paragraph 1 (a) requires States to have in place effective executive machinery for preventing and suppressing the financing of terrorist acts. In this regard, could the Republic of Belarus please elaborate on the functions of its agencies which are responsible for the implementation of paragraphs 1 (a), 1 (c) and 1 (d) of the resolution and the legislative provisions they are responsible for enforcing? How does the Republic of Belarus ensure adequate cooperation and information-sharing among the different Government agencies that may be involved in investigating the financing of terrorism (e.g. police, customs and other competent authorities)? Has the Republic of Belarus created any appropriate mechanisms (such as a “task force”) in this regard?*

A legal and regulatory framework has been created in Belarus to prevent the financing of international terrorism and freeze accounts linked to terrorist organizations.

For example, the following legislative acts constitute the legal basis for monitoring banking transactions in Belarus:

- Act of the Republic of Belarus of 19 July 2000 “On measures to prevent the legalization of funds obtained by illegal means”, which governs the procedure for monitoring financial transactions subject to special oversight, including the international transfer of funds from areas where the relevant State agencies have reported illicit production of narcotic drugs or psychotropic substances or a concentration of significant funds belonging to persons regarding whom there are sufficient grounds for suspecting that they are involved in the illicit production or distribution of weapons or in international crime;
- Act of the Republic of Belarus of 26 June 1997 “On measures to combat organized crime and corruption”;
- Banking Code of the Republic of Belarus;
- Criminal Code of the Republic of Belarus;
- Code of Criminal Procedure of the Republic of Belarus.

In accordance with article 8 of the Act “On State security agencies” and articles 6 and 7 of the Act “On counter-terrorism”, the Republic’s State security agencies are responsible, within the framework of their competence, for:

- Combating terrorism by preventing, identifying, suppressing and detecting terrorist acts and preventing, identifying and suppressing international terrorist activity;

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

- Gathering information on the activities of foreign and international terrorist organizations and conducting preliminary investigations in criminal cases concerning terrorist offences that fall within their jurisdiction in accordance with the law of criminal procedure.

Cooperation and information-sharing between State security agencies and Government agencies involved in investigating the financing of terrorism are undertaken within the framework of the Act of the Republic of Belarus “On measures to prevent the legalization of funds obtained by illegal means” and the Act of the Republic of Belarus “On counter-terrorism”. In addition, the Anti-Terrorist Centre of the State Security Committee of the Republic of Belarus was established to enable the actors directly involved in counter-terrorism to work together more effectively.

In order to implement paragraph 1 (a) of Security Council resolution 1373 (2001), pursuant to article 3 of the Banking Code of the Republic of Belarus and Decision No. 10 of the Board of Directors of the National Bank of the Republic of Belarus of 28 January 2002 on the suspension of credit and debit transactions in respect of accounts belonging to terrorists, terrorist organizations and persons associated therewith, the National Bank regularly transmits to banks the list of persons and entities involved in terrorist activities. This Decision directs banks, in the event that they discover accounts belonging to natural persons or entities with links to terrorist organizations, to suspend transactions in respect of the accounts of those persons or entities.

1.2 Effective implementation of paragraph 1 (a) of the resolution and article 18 of the International Convention for the Suppression of the Financing of Terrorism requires that financial institutions and other intermediaries engaged in brokering (such as, for example, lawyers, accountants and notaries) be placed under a legal obligation to identify their clients and report suspicious transactions to the financial intelligence unit or other relevant authorities. The Counter-Terrorism Committee would appreciate receiving an outline of the legal provisions which enable the Republic of Belarus to meet these requirements in full. In their absence, could the Republic of Belarus indicate the steps which it intends to take in order fully to comply with this aspect of the resolution?

Pursuant to paragraph 41 of the Legislative Drafting Plan for 2004, approved by Decree No. 57 of the President of the Republic of Belarus of 9 February 2004, a draft law of the Republic of Belarus amending and supplementing the Act of the Republic of Belarus “On measures to prevent the legalization of funds obtained by illegal means” is being prepared by the National Centre for Legislative Activity operating under the authority of the President of the Republic of Belarus, together with the Government agencies concerned. In this connection, a working group has been established consisting of representatives of the competent Government agencies. In the course of the group’s work, amendments will be made to the Act with a view to creating a legal mechanism for the effective prevention of the financing of terrorism.

1.3 In regard to the effective implementation of paragraph 1 (a) of the resolution, the Counter-Terrorism Committee would be grateful for information on the criteria which the Republic of Belarus has established in order to identify transactions “of an illegal nature” (page 4 of the supplementary report) with a view to enabling the agencies and professionals engaged in financial transactions to report such

transactions to the relevant authorities. In this context, would the Republic of Belarus please provide the Counter-Terrorism Committee with the number of suspicious transaction reports (STR) received by its competent authorities? The Counter-Terrorism Committee is particularly interested in suspicious transaction reports from:

- Insurance sector;*
- Bureaux de change;*
- Securities firms.*

Please also indicate the number of such reports which have led to investigations, prosecutions or convictions.

In accordance with the Act of the Republic of Belarus “On measures to prevent the legalization of funds obtained by illegal means”, the criteria used to identify transactions of an illegal nature are as follows:

With regard to financial transactions carried out with cash:

- Banking and other financial transactions by subjects of law where there are circumstances indicating that these transactions are not connected with the nature of the activities of at least one of the parties to the transaction (transactions) and where there are grounds for suspecting, based on their sphere of activities and other circumstances, that the amount of the funds involved in the transaction (transactions) is clearly inconsistent with the income and/or property status of the subjects of law concerned;
- Placement of funds in bank deposits where the certificate of deposit is made out to bearer;
- Payment of funds into a deposit simultaneously with their transfer to another person;
- Purchase or sale of foreign currency;
- Acquisition of payment instruments, cheques or other securities;
- Issuance of cash to subjects of law, with the exception of natural persons, that usually make non-cash payments;
- Receipt of funds in the form of a traveller’s cheque or a cheque for an amount declared as winnings;
- Cash payments into and withdrawals from an account;
- Payment of funds into an account on which there have been no transactions or insignificant transactions with instructions that they should be paid out in cash.

With regard to financial transactions involving bank accounts:

- Opening for a client of several accounts with similar purposes where funds are paid into these accounts;
- Payment of funds received into the account of the funds’ owner where there are grounds indicating that the receipt of these funds is not connected with the owner’s activities;

- Payment of funds into an account by means of a cheque issued by a non-resident of the Republic of Belarus;
- Payment into an account of funds declared as winnings;
- Opening of an account where funds are paid into it in cash.

With regard to financial transactions involving international transfers of funds:

- International transfers of funds with a requirement that they should be paid out in cash;
- International transfers of funds by subjects of law, with the exception of natural persons that are not individual entrepreneurs, within six months of their registration by the State, or by such subjects of law where transactions on their accounts have been insignificant;
- International transfers of funds to legal persons and other subjects of law registered in offshore zones, or transfers of funds to accounts opened in such zones;
- International transfers of funds from areas where the relevant State agencies have reported illicit production of narcotic drugs or psychotropic substances or a concentration of significant funds belonging to or destined for persons regarding whom there are sufficient grounds for suspecting that they are involved in the illicit production or distribution of weapons and/or in international crime.

Financial transactions involving the purchase or sale of securities and other transactions involving securities.

With regard to financial transactions involving loans:

- Granting or receipt of a loan secured by a deposit made by the borrower in a foreign bank;
- Granting or receipt of a loan secured by financial assets of the borrower located in another credit and financial institution where the origin of these assets is unknown or the amount is clearly inconsistent with the income and property status of the borrower;
- Simultaneous receipt of loans from two or more creditors where the loans are secured by the same property of the borrower;
- Receipt of loans on one or more occasion where the funds received are transferred abroad.

With regard to financial transactions involving movable or immovable property:

- Financial transactions involving property where there are indications that the transactions are invalid;
- Financial transactions involving property that violate the legally established registration procedure, including the requirement for certification by a notary or registration by the State;
- Transfer of custody to a bank or depository institution or pledging at a pawnshop of securities, precious metals, precious stones or other valuables

where there are circumstances indicating that the transaction is not connected with the nature of the activities, income and property status of the subject of law;

- Transfer of custody of items where the owner is not identified and this is not stipulated by the conditions of custody or the nature of the items;
- Donation of property to non-residents of the Republic of Belarus.

Financial transactions involving the transfer of debt or the assignment of claims that violate the legally established registration procedure, including the requirement for certification by a notary or registration by the State.

- Provision of grants, subsidies and subventions.

These financial transactions are subject to special oversight when at least one of the following conditions obtains:

- The amount of the financial transaction, in the case of a one-off transaction, is equal to or greater than 2,000 times the minimum wage for natural persons or 20,000 times the minimum wage for other subjects of law;
- Over a period of one month, several financial transactions are carried out the total value of which is equal to or greater than 2,000 times the minimum wage for natural persons or 20,000 times the minimum wage for other subjects of law and the facts available point to a connection between these financial transactions.

In accordance with established procedure, persons carrying out financial transactions must, within 24 hours of registering a financial transaction subject to special oversight, send special forms containing relevant information on financial transactions in the currency of the Republic of Belarus and in foreign currency to the tax authority for the place in which the financial transaction concerned was carried out; information on financial transactions in foreign currency must also be sent to the State Monitoring Committee of the Republic of Belarus and/or its territorial agencies.

In 2003, the State Monitoring Committee received more than 6,800 special forms relating to currency transactions. When these transactions were analysed, 156 transactions that appeared suspicious were identified. Materials on these operations were forwarded to the law enforcement agencies. Three criminal cases have been instituted.

Since the Act of the Republic of Belarus “On measures to prevent the legalization of funds obtained by illegal means” does not provide for the transmission of information from the insurance sector, a draft law of the Republic of Belarus amending and supplementing the Act is currently being prepared; the draft law is scheduled to be taken up in September 2004. It will broaden the range of transactions subject to special oversight to include insurance activities, as well as stipulating detailed criteria for categorizing financial transactions as suspicious.

1.4 *In this context, please also explain the rules for identifying persons or entities:*

- *Who maintain a bank account; or*
- *On whose behalf a bank account is maintained (for example, beneficial owners); or*

- *Who are the beneficiaries of transactions conducted by professional intermediaries; as well as*
- *Any person or entity connected with a financial transaction.*

Are any identification obligations imposed on customers who operate trust funds to obtain information concerning the trustees, settlers/grantors and/or beneficiaries? Please also outline the procedures which are in place to afford the enforcement agencies of foreign States or other counter-terrorist entities the opportunity to obtain and use this information in cases where terrorism is suspected.

Taking account of international experience, as well as the recommendations of the Financial Action Task Force on Money Laundering (FATF) and the Basel Committee on Banking Supervision, the National Bank of the Republic of Belarus has developed and transmitted to banks recommendations on organizing internal monitoring systems in banks (non-bank credit and financial institutions) in order to comply with the “know your customer” principle; these recommendations define the procedure for identifying the persons and entities referred to in this paragraph.

In accordance with article 122 of the Banking Code of the Republic of Belarus, information on accounts and deposits, including information on the presence of an account in a given bank, its owner, number and other particulars and on the amount of funds in an account or deposit, as well as information on specific transactions, on transactions in respect of an account or deposit and on property in the custody of a bank, is subject to banking secrecy and may not be disclosed. Such information may be obtained by law enforcement agencies as provided in the legislation of the Republic of Belarus.

1.5 With reference to articles 124, 125, 126 and 289 of the Criminal Code of the Republic of Belarus, the Counter-Terrorism Committee notes that, for the effective implementation of paragraph 1 (b) of the resolution, it is not necessary that the funds should actually be used to carry out a terrorist offence (see article 2, paragraph 3, of the International Convention for the Suppression of the Financing of Terrorism). The Counter-Terrorism Committee would welcome an indication of the measures which the Republic of Belarus intends to take in order to meet the requirements of this aspect of the resolution in full.

The Criminal Code of the Republic of Belarus does not contain a separate provision establishing criminal responsibility for the financing of terrorism. In individual cases, criminal responsibility may be incurred under article 16 of the Criminal Code for complicity in the commission of offences that, on the basis of the international counter-terrorism instruments, should be categorized as terrorist offences. These are such offences as:

- Terrorist acts against representatives of foreign States (article 124);
- Attacks on institutions enjoying international protection (article 125);
- International terrorism (article 126);
- Recruitment, training, financing and use of mercenaries (article 132);
- Establishment of an illegal armed formation (article 287);
- Threatening to commit a terrorist act (article 290);
- Hostage-taking (article 291);

- Seizure of buildings and installations (article 292);
- Hijacking of a train, aircraft or vessel or their seizure for purposes of hijacking (article 311);
- Commission of an actual terrorist act, that is an explosion, arson or other action that endangers human life or could cause physical injury, large-scale damage or other serious consequences for the purpose of intimidating the public, influencing the taking of decisions by Government bodies or preventing political or other public activity (article 289. Terrorism);
- Complicity in the establishment of a criminal organization or participation in such an organization if the terrorist organization constitutes a criminal organization in the sense of article 19 of the Criminal Code (article 285).

However, the legislation of the Republic of Belarus does not allow criminal prosecution of a person who finances terrorism not with a view to the commission of a specific terrorist offence, but for the purpose of supporting a group's terrorist activities or criminal ends, unless such group can be declared a criminal organization.

There is thus a need to draft a separate provision establishing criminal responsibility for the financing of terrorism, which would also include the financing of a terrorist organization or group for the purpose of supporting its activities. The introduction of additions to the legislation of the Republic of Belarus is being considered in the context of the ratification of the International Convention for the Suppression of the Financing of Terrorism.

1.6 With regard to effective implementation of paragraph 1 of the resolution, the CTC notes that there is no appropriate monitoring mechanism in place in the Republic of Belarus to ensure that funds collected by organizations, which have or claim to have charitable, social or cultural goals, are not diverted to purposes other than their stated purposes, in particular to the financing of terrorism. Could the Republic of Belarus please indicate the steps which it intends to take in order to register, audit and monitor the collection of funds and other resources by those organizations with a view to meeting these aspects of the resolution?

The Republic of Belarus notes that the information provided in its third report to the Committee on the implementation of Security Council resolution 1373 (2001) does not justify the categorical conclusion that there is no appropriate monitoring mechanism in place in the Republic of Belarus to ensure that funds collected by organizations, which have or claim to have charitable, social or cultural goals, are not diverted to purposes other than their stated purposes, in particular to the financing of terrorism.

Although there is no special normative and legal mechanism to prevent the financing of terrorist activities by charitable, religious or other non-profit organizations, their activities are monitored under existing laws on financial control and auditing, within the limits of the competence of law enforcement and special State monitoring agencies.

The relevant legislative acts include: the Act "On auditing activities" of the Republic of Belarus; the Act "On community associations" of the Republic of Belarus; the Act "On freedom of worship and religious organizations" (under the jurisdiction of the government department dealing with religious affairs) of the

Republic of Belarus; and the Act “On culture” of the Republic of Belarus. The draft act on charitable activities and charitable organizations of the Republic of Belarus, under consideration in the National Assembly (Parliament) of the Republic of Belarus, contains provisions making charitable organizations accountable to State agencies and requiring monitoring of their activities.

For example, in accordance with article 25 of the Act “On community associations” of the Republic of Belarus, the following procedures are in place to monitor compliance of the relevant activities of community associations with the law and regulations, including with respect to the possible involvement of these associations in criminal activities.

- The Prosecutor-General of the Republic of Belarus and prosecutors reporting to him ensure that the activities of community associations are in compliance with the Constitution and laws of the Republic of Belarus.
- The agencies that have registered community associations monitor compliance of the activities of such associations with their statutes.
- Officials of agencies that have registered community associations have the right, within the limits of their mandates, to take part in all events organized by such associations, study their documents and decisions and request and receive information on their statutory activities.
- The State tax authorities monitor the financial activities of community associations, including their sources of income, the amount of funds received and their tax payments.

The Republic of Belarus is ready to provide the above-mentioned legislative acts, if necessary.

The legislative acts of the Republic of Belarus on foreign non-reimbursable assistance also permit monitoring of activities of charitable organizations and other persons so as to prevent the financing of terrorism.

A mechanism to monitor the financial records and distribution of foreign humanitarian assistance has been developed and is being implemented in accordance with Presidential Decree No. 24 “On the receipt and use of foreign non-reimbursable assistance” of 28 November 2003 and Presidential Decree No. 537 “On the establishment of procedures for monitoring special-purpose use of foreign non-reimbursable assistance” of 28 November 2003.

Foreign non-reimbursable assistance is thus used for the following purposes:

To mitigate the consequences of natural and man-made disasters;

To conduct scholarly research, development and studies and also to implement scientific research programmes;

To promote the preservation, restoration and creation of historical and cultural assets and development of nature reserves;

To provide medical assistance;

To provide social assistance to needy and vulnerable citizens;

To achieve other goals as set out by the Belarusian President’s Administration by agreement with the President of the Republic of Belarus.

Foreign non-reimbursable assistance and property and other assets derived from such assistance may not be used for activities designed to change the constitutional structure of the Republic of Belarus, seize power or overthrow government authorities, or incite persons to carry out such acts, for war propaganda, politically motivated violence or stirring up social, ethnic, religious or racial hostility or for other acts forbidden by law.

State monitoring of special-purpose use of foreign non-reimbursable assistance by its beneficiaries, and of property and assets derived from such assistance, is carried out by the State Control Committee, Ministry of Internal Affairs, Ministry of Taxes and Duties, State Security Committee, State Customs Committee, and their regional agencies, the Belarusian President's Administration and other government bodies and organizations in accordance with the law.

Recipient organizations that do not use foreign non-reimbursable assistance (fully or partly) for its intended purpose are liable to fines of up to 100 per cent of the value of the foreign non-reimbursable assistance received or to confiscation of goods or property received.

Representatives of foreign organizations and international non-governmental organizations in the territory of the Republic of Belarus who provide foreign non-reimbursable assistance for purposes prohibited under decree No. 24 may be required to cease their activities in accordance with established procedure.

Foreign nationals or stateless persons who receive foreign non-reimbursable assistance for purposes prohibited under decree No. 24 may be deported from the Republic of Belarus in accordance with established procedure.

1.7 The Republic of Belarus states, in reply to subparagraph 1 (c), in its supplementary report (page 4) that there are three possible ways of freezing bank accounts under the laws of Belarus. Please outline how these methods have been used in response to relevant requests from foreign authorities (during the period 2001-2003).

No accounts of persons or organizations involved in terrorist activities were found within the banking system of the Republic of Belarus between 2001 and 2003, and no bank accounts were frozen.

1.8 As regards the implementation of subparagraphs 1 (a) and (c), the CTC would be grateful to know whether the Republic of Belarus has established a separate authority or agency with responsibility for the seizure and confiscation of terrorist-related assets. The CTC would appreciate receiving an outline of the legal basis for the establishment of such an authority or agency as well as an outline of its functions. The CTC would also welcome receiving an account of the legal provisions which allow for the review of the decisions taken by such an authority or agency. Please indicate the financial magnitude of the assets frozen, seized or confiscated.

There are provisions for seizing funds and other assets of physical and legal persons held in a bank in the event of criminal proceedings against them for crimes within the jurisdiction of the State security agencies, in accordance with the Act "On operational and investigative activities" and article 122 of the Banking Code of the Republic of Belarus. Such assets may be confiscated following:

A court decision;

A decree issued by a body of inquiry or pre-trial investigation in cases covered by the Code of Criminal Procedure of the Republic of Belarus;

A decision of the tax authorities in cases covered by Belarusian legislation.

A subdivision of the Ministry of Taxes and Duties of the Republic of Belarus is responsible for receiving and analysing reports of unusual or suspicious financial transactions.

The Belarusian Department of Financial Monitoring of the State Control Committee, established in accordance with recommendations by the Financial Action Task Force on Money Laundering, is responsible for collecting, processing and analysing information on financial transactions subject to special control and serves as a national centre monitoring the dissemination of information on suspicious financial transactions. The Department sends reports to the law enforcement agencies where there is sufficient evidence of an illegal transaction.

Effectiveness of counter-terrorism machinery

1.9 *Effective implementation of legislation related to Security Council resolution 1373 (2001) covering all aspects of the resolution requires States to have in place effective and coordinated executive machinery as well as to create and utilize adequate national and international anti-terrorist strategies. In this context, could the Republic of Belarus please outline how its counter-terrorist strategy and/or policy targeting (at the national and/or at subnational levels) deal with the following aspects of counter-terrorist activity?*

- *Criminal investigation and prosecution;*
- *Counter-terrorist intelligence (human and technical);*
- *Special forces operations;*
- *Physical protection of potential terrorist targets;*
- *Strategic analysis and forecasting of emerging threats;*
- *Analysis of the efficiency of anti-terrorist legislation and relevant amendments;*
- *Border and immigration controls;*
- *Control and prevention of the trafficking of drugs, arms, biological and chemical weapons, their precursors and the illicit use of radioactive materials.*

Would the Republic of Belarus please outline its legal provisions, administrative procedures and best practices in this regard?

The State Security Committee of the Republic of Belarus is cooperating with other competent State bodies to take targeted steps towards improving the normative and legal basis for counter-terrorism.

In addition to the Act “On counter-terrorism”, the following laws have been enacted:

Decision on the operational staff for counter-terrorist operations;

Decision on procedures for providing material, technical and financial resources, information, transportation and communications, medical equipment and medicines during counter-terrorist operations;

List of State bodies participating, within the limits of their competence, in the prevention, identification and suppression of terrorist activities.

In accordance with Security Council resolution 1373 (2001), the Republic of Belarus is taking measures to combat international terrorism. They include refraining from providing any form of support to terrorism, as well as denying terrorists a safe haven, preventing the movement of terrorists and becoming a party to the relevant international agreements.

Belarus is a party to 11 major international anti-terrorist agreements. It expects soon to become a party to the International Convention for the Suppression of the Financing of Terrorism.

Belarus is actively cooperating with other States within the framework of the Commonwealth of Independent States to combat terrorism. It is a party to the Treaty on Cooperation among States Members of the Commonwealth of Independent States in Combating Terrorism. It has been cooperating effectively with the Anti-Terrorist Centre of the Commonwealth.

State security agencies are investigating and prosecuting criminal cases within the framework of their competence, in accordance with the anti-terrorist articles of the Criminal Code of the Republic of Belarus.

Belarus has a special subdivision to combat terrorism: the A Group, which has the necessary special resources and weapons to conduct effectively the armed phase of counter-terrorist operations.

The State Security Committee of the Republic of Belarus within the framework of its competence makes strategic analyses and forecasts of emerging threats and reviews the effectiveness of counter-terrorism laws.

For counter-terrorist purposes, competent organs gather intelligence (human and technical) and combat trafficking in drugs, weapons, biological and chemical weapons and their precursors and illicit use of radioactive materials.

The State Border Troops Committee of the Republic of Belarus is combating terrorism by preventing, identifying and suppressing terrorists' attempts to cross the State border of the Republic of Belarus as well as movement across the border of the Republic of Belarus of weapons, ammunition, explosives, hazardous and radioactive substances and other objects that may be used to commit terrorist acts.

The Ministry of Defence is conducting training courses that it has developed in conjunction with the State security agencies and the Ministry of Internal Affairs to prevent terrorist acts and coordinate relief efforts to deal with emergencies in populated areas and close to places where military troop units are deployed and eliminate the possible consequences of terrorist acts, catastrophes and natural disasters.

Rapid response sub-units have been established in military garrisons in commandants' offices and military units to promptly meet challenges that may arise suddenly during the elimination of the possible consequences of terrorist acts, catastrophes and natural disasters. Within the armed forces of the Republic of Belarus, there are regular sub-units and combined forces (detachments) to eliminate the consequences of accidents and terrorist acts, such as the centre for the coordination of activities of military medical institutions dealing with the

consequences of terrorist acts and disasters, combined detachments to eliminate the consequences of emergencies, including military units and sub-units of military engineers and troops for radiation, chemical and bacteriological defence, medical troops and other sub-units.

With a view to providing information on counter-terrorism and establishing a single automated database, the Belarusian Ministry of Internal Affairs has prepared and sent to all its subdivisions its Instruction "On the provision of information on the counter-terrorism activities of the Ministry of Internal Affairs of Belarus" on 9 January 2004.

The information and analysis division of the Ministry of Internal Affairs of Belarus is taking steps to meet the requirements resulting from the Directive "On additional measures to ensure the security of society and prevent manifestations of extremism and terrorism in the territory of the Republic of Belarus", confirmed by order of the President of the Republic of Belarus on 23 September 1999.

On 6 February 2004, the Ministry of Internal Affairs completed the technical task of developing an automated database on criminal terrorist organizations and persons involved in them, and on terrorist acts that have occurred and the measures taken to prevent them and eliminate their consequences and to remove objects and substances intended for terrorist purposes.

1.10 Subparagraph 2 (a) of the resolution requires each Member State, inter alia, to criminalize the recruitment in its territory to terrorist groups operating either inside or outside its territory. In this connection, the supplementary report from the Republic of Belarus refers (page 7) to article 132 of the Criminal Code of the Republic of Belarus. However, the articles in question would not appear to meet the requirements of the resolution as far as it concerns the recruitment of mercenaries for the purpose of participating in military action against a foreign State. The CTC would appreciate receiving an outline of the legal provisions in place which comply fully with this aspect of the resolution or, in their absence, an indication of the steps which the Republic of Belarus intends to take with a view to remedying the situation.

Article 285 of the Criminal Code of the Republic of Belarus ("Establishment of a criminal organization or participation in it") provides for prosecution for the recruitment of terrorists, if such recruitment is carried out by a member of a terrorist organization (criminal organization) or aimed at the establishment of a terrorist organization.

However, this article does not cover cases in which one person (who is not a member of or connected to a terrorist organization) recruits another person for the purpose of involving the latter in the commission of a terrorist act (rather than for theoretical membership in a terrorist organization or the establishment of a criminal terrorist organization as such).

Consequently, there is a need to establish liability for recruitment of a person to be a member of a terrorist group (organization) or for participation in the commission of a terrorist act. At the expert level, consideration is being given to introducing the necessary amendments to the laws of the Republic of Belarus.

1.11 The CTC notes, from the supplementary report (page 10) that a draft Decree of the President of the Republic of Belarus concerning the Interdepartmental Commission on Counter-Terrorism is in preparation at present. The CTC would

appreciate receiving a progress report from the Republic of Belarus concerning the enactment of this draft decree, together with an outline of the functions and procedures of the proposed Commission.

In accordance with article 6 of the Act "On counter-terrorism", the Interdepartmental Commission on Counter-Terrorism is entrusted with the following tasks:

- As instructed by the President of the Republic of Belarus, formulating the bases of State policy on counter-terrorism in the Republic and recommendations on increasing the effectiveness of work to elucidate and remove the causes and conditions that give rise to terrorism and terrorist acts;
- Collecting and analysing information on the state and trends of terrorist activity in the territory of the Republic of Belarus;
- Coordinating the activities of State bodies combating terrorism for the purpose of reaching agreement on their efforts to prevent, identify and suppress terrorist acts and to elucidate and remove the causes and conditions that give rise to terrorist acts;

Developing proposals on improving the counter-terrorism laws of the Republic of Belarus;

Taking part in the preparation of international agreements on counter-terrorism by the Republic of Belarus.

1.12 The CTC would appreciate receiving a progress report on the implementation in domestic law of the international instruments relating to terrorism which the Republic of Belarus has already ratified. The CTC would be grateful for a progress report on the ratification of the last of the 12 international Conventions and Protocols relating to terrorism to which the Republic of Belarus has yet to become a party. The CTC would be glad to know whether all the offences contained in the international instruments relating to the prevention and suppression of international terrorism have been established as crimes with appropriate penalties under the laws of the Republic of Belarus.

Belarus is a party to 11 of the basic international counter-terrorism agreements concluded under the auspices of the United Nations. The National Assembly (Parliament) of the Republic of Belarus is now considering becoming a party to the International Convention for the Suppression of the Financing of Terrorism.

On 21 January 2004, the Ministry of Foreign Affairs and the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime held a joint national seminar on the incorporation of the universal international counter-terrorism agreements into Belarusian legislation. Belarusian government officials took part in the seminar and considered the question of developing counter-terrorism laws and promoting international cooperation on counter-terrorism.

A detailed analysis of counter-terrorism norms in Belarusian law was conducted, with the participation of international experts, showing the norms to be sufficiently advanced and fully in keeping with the provisions of the international counter-terrorism agreements to which Belarus is a party. The need to make additions to legislation arose, mainly in connection with ratification of the International Convention for the Suppression of the Financing of Terrorism.

1.13 *The CTC notes that, in accordance with article 22 of the law on counter-terrorism of the Republic of Belarus, an organization may be proscribed for terrorist activity. Please outline the legal provisions and procedures on the proscription of organizations, in particular — the proscription of foreign terrorist organizations. How long does it take to proscribe a terrorist organization at the request of another State? In this regard, please indicate the number of persons who have been prosecuted for inviting support (including recruitment) for:*

- *proscribed organizations; and*
- *other terrorist groups or organizations?*

In accordance with articles 22 and 23 of the Act “On counter-terrorism”, persons who have taken part in terrorist activity incur liability under the laws of the Republic of Belarus.

A determination that an organization registered in the Republic of Belarus is terrorist in nature would be made on the basis of a court decision and such organization would be closed down under the established legal procedure. When an organization determined to be terrorist in nature is closed down, property belonging to it is confiscated.

In the event that a court of the Republic of Belarus determined that an international organization (its departments, branches or missions) registered outside the Republic of Belarus was terrorist in nature, its activities in the territory of the Republic of Belarus would be prohibited, the department (branch, mission) would be closed down, and property located in the territory of the Republic of Belarus belonging to it or to the international organization would be confiscated.

Since no specific procedure has been established under the law for consideration of this category of cases, such requests have to be taken up in civil proceedings in accordance with the general rules for the consideration of cases concerning the closing down of organizations.

An application to a court (the Supreme Court, regional courts or the Minsk municipal court) to determine that an organization is terrorist in nature and should be closed down (including branches, missions and departments of international organizations) may be made by the appropriate registering body, and also by the Prosecutor-General and the prosecutors reporting to him within their areas of competence.

In accordance with article 158, parts 1 and 3, of the Code of Civil Procedure, cases in this category must be considered no later than two months from the date of receipt of the application by the court, and in the case of involvement of foreign nationals living abroad, and foreign legal entities — no later than one year.

In 2003, no cases in this category were taken up by the competent general courts of the Republic of Belarus.

1.14 *In the context of the effective implementation of subparagraph 2 (e), could the Republic of Belarus please provide the CTC with information relating to the number of persons prosecuted for:*

- *terrorist activities;*
- *the financing of terrorist activities;*

- recruiting to terrorist organizations;
- providing support for terrorists or for terrorist organizations.

In 2002-2003, no criminal cases relating to terrorist activities, their financing, recruitment to terrorist organizations or the provision of support to them were referred to the courts of Belarus.

In 2003, some cases were taken up involving the perpetration of individual crimes envisaged in article 290, part 2, of the Criminal Code (“Threat to commit an act of terrorism”) and article 291, parts 2 and 3, of the Criminal Code (“Hostage-taking”). Seven persons were sentenced to imprisonment.

1.15 Subparagraph 2 (e) of the resolution requires each Member State, inter alia, to have in place effective police, intelligence and/or other structures as well as adequate legal provisions to detect, monitor and apprehend persons who are involved in terrorist activities and persons who support terrorist activities with a view to ensuring that those persons are brought to justice. In that regard, could the Republic of Belarus please indicate whether its laws permit, for investigative and evidentiary purposes in the fight against terrorism, the use of methods such as undercover operations; controlled deliveries; pseudo-purchase techniques; the use of informants; the use of other forms of encouragement to persuade persons to supply information to the competent authorities; and the monitoring and/or the interception of communications (such as the Internet, radio, audio-visual media and other advanced communications techniques). Are there any impediments to the use of intelligence data in criminal investigation? Please outline the legal provisions and administrative procedures which Belarus has put in place as regards protection, assistance and support for victims, witnesses or other persons who provide information concerning terrorist activities with a view to providing assistance in investigative and judicial proceedings. Could the Republic of Belarus please outline whether those provisions could be used in cooperation with other States.

The Act “On operational and investigative activities” and the Code of Criminal Procedure allow law enforcement agencies, when conducting investigations, to use the following methods:

- Making controlled deliveries, pseudo-purchases and infiltrations;
- Establishing cooperation, on a paid or unpaid basis, with persons who have agreed to provide assistance on a confidential basis to the agencies conducting investigations;
- Devising and using information systems;
- Using, by agreement, premises, vehicles, communications facilities and other property of legal entities or individuals;
- Using, for the purposes of covert operations, documents disguising the identity of employees, the hierarchical status and affiliation of institutions, organizations, enterprises and divisions, premises and vehicles of agencies conducting investigations and also the identity of persons cooperating with these agencies on a confidential basis;
- Collecting and studying documents and information concerning the activities of institutions, organizations, enterprises and also individuals suspected of preparing or committing crimes;

- Where there are sufficient grounds, applying to the relevant monitoring agencies to conduct a check of the financial and economic activities of economic entities under investigation prior to the start of criminal proceedings;
- Receiving from legal entities and individuals, on a paid or unpaid basis, information on crimes which are being prepared or have been committed, and on persons who are plotting, preparing or committing crimes or have committed them, and are eluding the inquiry and investigative bodies and the courts, or have disappeared, and also enlisting their assistance in the preparation and conduct of investigations;
- Establishing, under the prescribed procedure, undercover institutions, organizations, enterprises and subdivisions.

In addition, in order to monitor and intercept communications, including those transmitted over the Internet, radio, audio-visual media and other advanced communications techniques, the operational department has the right to make inquiries and obtain the necessary information to carry out investigative activities from operational, criminal and other databases (records), information systems, and also other sources; to monitor and oversee mail, telegraph and other communications and examine them in order to find out information about criminal activities of persons under investigation and obtain other information to assist in an investigation; and to retrieve information from electronic communication channels, i.e. receive, convert and register, using technologies, various types of signals transmitted along any electronic communication channels.

Materials obtained during investigations may be admitted as evidence on condition that they were obtained in accordance with the laws of the Republic of Belarus and were submitted, verified and evaluated under the procedure established in the Code of Criminal Procedure.

Questions concerning the security of participants in criminal proceedings and of other persons, including in cases involving terrorist activities, are fully regulated in chapter 8 of the Code of Criminal Procedure. The implementation of the provisions of that chapter in the case of cooperation with foreign States is governed by the international treaties of the Republic of Belarus on the provision of legal assistance in criminal matters.

Security measures include non-disclosure of identifying information, exemption from the requirement to appear in court, closed court sessions, the possibility of using monitoring techniques where there is a threat to life and health, interception of conversations conducted over electronic means of communication and of other conversations, personal protection, protection of housing and property, alteration of passport data and substitution of documents, and prohibition on the release of information.

Non-disclosure of identifying information consists of changing the last name, first name, family name and other personal data, and changing information on the place of residence and work (study) in statements and crime reports, screening materials, reports of investigative and judicial proceedings, and also other documents of bodies conducting criminal proceedings, by replacing these data with other data. The original data, a model of the signature to be used in documents of the protected person, and the decision on the application of the security measure must be transmitted immediately by the body conducting the preliminary

investigation to the prosecutor responsible for overseeing the preliminary investigation, and are kept by him under the rules for secret proceedings.

Investigative activities involving the participation of the protected person during the preliminary investigation and also his interrogation in court may be conducted out of sight of other persons, including persons in the courtroom, or using techniques to ensure the anonymity of the protected person, and a note to that effect is entered in the record of the investigation or court session.

Protected persons may be exempted from the requirement to appear in court when this is necessitated in the interests of ensuring their security or the security of members of their families, close relatives and other persons they legitimately consider to be close to them, and also property, if it is not possible to ensure security by other means.

The interrogation of a protected person may take place outside the courtroom, using video technology to ensure his anonymity.

If there is a clear threat to the life, health or property of the protected person, monitoring techniques may be used, at his request or with his written consent, and also interception of conversations conducted over electronic means of communication.

The internal affairs and State security agencies are responsible for ensuring security in terms of personal protection and protection of the residence and property of the protected person, under a resolution (decision) of the body conducting the criminal proceedings.

The body conducting the criminal proceedings, and the officials responsible for the adoption of security measures, may not divulge information about the identity of the protected person. The release of information about the identity of the protected person by the information services of law enforcement agencies, and also enterprises, institutions, organizations and associations, is also prohibited.

Effectiveness of customs, immigration and border control

1.16 Effective implementation of subparagraphs 2 (c) and (g) of the resolution requires effective customs, immigration and border controls to prevent the movement of terrorists and the establishment of safe havens. The CTC would be grateful for information as to whether the Republic of Belarus has established a procedure for supplying advance information concerning international cargo and passengers to its own authorities as well as to those of other States with a view to screening for prohibited cargo and suspected terrorists before disembarkation.

The exchange of information between the State Security Committee and the State Customs Committee on the movement of prohibited international cargo takes place within the framework of the resolution on the principles of cooperation between the customs authorities and the State security agencies in controlling smuggling and other crimes.

In accordance with the Immigration Act, the State security agencies, within their areas of competence, screen persons wishing to immigrate into the Republic of Belarus, and also identify persons with links to international terrorist organizations, and take steps to prevent their entry into the Republic of Belarus.

Under article 14 of the Immigration Act, an alien may be denied permission for permanent residence in the Republic of Belarus, inter alia if he is or was a member of terrorist or fascist organizations, or is or was engaged in propaganda for war or social, national, religious and racial hatred.

Under the legislation governing police investigations and customs and border controls, and under bilateral agreements and international treaties, if the competent State agencies have police information about possible attempts to export prohibited cargo from the Republic of Belarus by smuggling and other criminal means, they must promptly notify the relevant agencies of other States. The exchange of information on the movement of persons suspected of terrorism is conducted in a similar manner.

1.17 In the context of the implementation of subparagraphs 2 (b) and (j), has the Republic of Belarus implemented the standards and recommendations set out in Annex 17, drawn up by the International Civil Aviation Organization (Annex 17)? Please also inform the CTC about whether the ICAO safety audit of Belarusian international airports has been completed.

The safety of civil aviation in the Republic of Belarus is protected on the basis of the international obligations of Belarus under the Chicago Convention on International Civil Aviation, the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the Montreal Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, and the Montreal Convention on the Marking of Plastic Explosives for the Purpose of Detection.

In fulfilment of its international obligations, and guided by the standards and recommendations of Annex 17 to the Convention on International Civil Aviation (“Security. Safeguarding International Civil Aviation Against Acts of Unlawful Interference”), a system of organizational, legal and practical measures has been developed and put into effect in the Republic of Belarus, aimed at preventing, controlling and eliminating adverse consequences of terrorist and other acts of unlawful interference in the activities of civil aviation.

In January 2004, the State aviation committee sent a letter to the Secretary-General of the International Civil Aviation Organization requesting him to include Belarus in the ICAO safety audit oversight programme for the second and third quarters of 2005.

1.18 The Republic of Belarus states in its first report (page 9) that “work on the preparation for the creation of an automated passport control system has been stepped up”. The CTC would appreciate receiving a progress report on the development of this process. The CTC would be content to receive a progress report on the enactment of the draft Decree of the President of the Republic of Belarus “On the introduction of amendments and additions to the Statute on the procedure for consideration of questions concerning the granting of asylum to aliens and stateless persons”.

In 2002-2003, a series of organizational and technical measures were taken with a view to the introduction of an automated passport control system (APCS) at entry points on the State border, consisting of:

- Creation of software for the “Berkut-B” border control (APCS), in line with current requirements, including checking of passport data of individuals against lists of lost and stolen documents, terrorists and persons sought through Interpol (last option blocked), control of crossings of the State border by nationals carried out by officials of the State Committee on Border Troops, and cooperation with the law enforcement agencies;
- Design and construction of local computer networks;
- Provision to them of computer hardware, and system and applied programming software;
- Start-up operations of APCS automated facilities;
- Organization of classes for training controllers to work with APCS;
- Training of service personnel (network administrators);
- Training of control staff to work at entry points using automated facilities.

The results of the organizational and technical measures were as follows:

- Installation and entry into operation of the “Berkut-B” APCS at the Minsk-2 national airport and at the Minsk-1 airport, including transmission of data along coded channels to the State Committee on Border Troops;
- Provision of automated equipment and test operation of APCS automated facilities at entry points in the Pribaltic sector of the State Border: “Urbany”, “Moldevichi”, “Kotlovka”, “Losh”, “Benyakoni-1” and “Novaya Guta”;
- Provision of APCS automated equipment to entry points in the Polish sector of the State border: “Bruzgi”, “Berestovitsa” (test operation is planned for 2004);
- Provision of automated equipment and test operation of APCS automated facilities at entry points on the State border of the Pribaltic and Polish sectors of the State border with funds from the European Union under the TACIS programme: “Kamenny Log”, “Kozlovichi” and “Varshavsky Most”.

The draft Decree of the President of the Republic of Belarus “On the introduction of amendments and additions to the Statute on the procedure for consideration of questions concerning the granting of asylum to aliens and stateless persons” is awaiting approval by the State bodies concerned.

Effectiveness of controls preventing access to weapons by terrorists

1.19 *Subparagraph 2 (a) of the resolution requires each Member State, inter alia, to have in place an appropriate mechanism to deny access to weapons to terrorists. With regard to this requirement of the resolution as well as to the provisions of the Convention on the Marking of Plastic Explosives for the Purpose of Detection and the International Convention for the Suppression of Terrorist Bombings, please provide the CTC with information relevant to the following questions:*

(a) *Legislation, regulations, administrative procedures*

- *With regard to the reference of the Republic of Belarus in the supplementary report (page 5) to national laws and regulations concerning the sale, distribution and transit of arms through its territory, please outline relevant provisions as well as administrative procedures in place to exercise effective*

control over firearms, ammunitions, explosives to prevent their export or transit by terrorists;

– *What national measures exist to prevent the manufacture, stockpiling, transfer and possession of unmarked or inadequately marked:*

- *small and light weapons;*
- *other firearms, their parts and components and ammunition;*
- *plastic explosives;*
- *other explosives and their precursors.*

The Act “On weapons”, adopted in November 2001, governs the circulation of weapons in the territory of Belarus, and is designed to strengthen international cooperation in controlling the illegal spread of weapons.

Illegal activities involving firearms, ammunition and explosives in the territory of Belarus give rise to criminal liability.

By decree No. 473 of the President of the Republic of Belarus of 30 August 2002 entitled “Measures to improve the regulation of the circulation of combat, service and civilian weapons and ammunition in the territory of the Republic of Belarus”, the following were approved: the Procedure for the circulation of combat, service and civilian weapons and ammunition in State military units and militarized organizations, customs authorities and prosecutorial bodies; the Procedure for the circulation of service and civilian weapons and ammunition in the territory of the Republic of Belarus; the Procedure whereby legal entities engaged in special assignments are able to obtain individual types and models of combat weapons and ammunition for temporary use; the Procedure for issuing weapons and ammunition to persons under State protection; the List of individual types and models of combat weapons and ammunition which legal entities engaged in special assignments are entitled to obtain for temporary use; the List of individual types and models of service and civilian weapons and ammunition authorized for use by workers of legal entities engaged in special assignments.

The Procedure for confiscation, with compensation, of combat and service weapons, with the exception of decorations acquired by citizens on legitimate grounds and kept in their possession, and also the Procedure for the circulation in the territory of the Republic of Belarus of weapons and ammunition of cultural value, were approved by decree No. 134 of the President of the Republic of Belarus of 4 April 2003 (“Some questions of the circulation of weapons in the territory of the Republic of Belarus”).

The internal affairs agencies, in accordance with the Weapons Act, exercise control over the circulation of service and civilian weapons and ammunition in the territory of the Republic of Belarus. Article 21 of the Act provides that legal entities manufacturing service and civilian weapons and ammunition on the basis of licenses for their manufacture, and also legal entities licensed to trade in service and civilian weapons and ammunition, are authorized to engage in trade in service and civilian weapons in the territory of the Republic of Belarus.

The procedure for the issuance of licenses for carrying out activities involving non-military “cold” weapons, hunting, sports and gas weapons (including gas cylinders) and ammunition, the collection and exhibition of weapons, including

related technologies and services — the manufacture, sale and repair of weapons and ammunition — is determined by decree No. 17 of the President of the Republic of Belarus of 14 July 2003 “On the licensing of certain types of activity”; resolution No. 1360 of the Council of Ministers of 20 October 2003 “On approval of the regulation on the licensing of activity involving non-military ‘cold’ weapons, hunting, sports and gas weapons (including gas cylinders), ammunition, the collection and exhibition of weapons, and the regulation on the licensing of activity to protect the security of legal entities and individuals”, and by resolution No. 250 of the Ministry of Internal Affairs of 31 October 2003 “On the licensing of certain types of activity of the Ministry of Internal Affairs of the Republic of Belarus”. As of 1 March 2004, 51 economic entities had licenses to sell such weapons and ammunition.

Every year the Ministry of Internal Affairs carries out special preventive measures in residential areas in urban and rural localities, by making complex inventories of weapons at authorized facilities and checking compliance by individuals with the procedure for storage of firearms, and also conducts special “Arsenal” operations and measures for voluntary surrender of weapons, ammunition and explosives in the country’s territory.

The number of crimes committed in 2003 involving the use of firearms declined by 15.1 per cent compared with the previous year (2003 — 213, 2002 — 251).

As a result of the work carried out by the police in conjunction with other entities involved, the technical equipment of the facilities at which firearms and explosives are stored was enhanced, and their security ensured.

Over the past five years there have been no thefts from authorized facilities of items which are subject to the control of the internal affairs agencies.

A certain amount of work has been done to identify persons engaged in excavating weapons and ammunition from the Second World War era.

Instructions have been sent to the territorial internal affairs agencies of regions concerning intensification of preventive police operations in respect of persons illegally engaged in excavating weapons and ammunition from the Second World War era.

In accordance with resolution No. 218 of the Council of Ministers of 18 March 1997 “On the establishment of prohibitions and restrictions on the transfer of items across the customs border of the Republic of Belarus”, the list of items whose transfer across the customs border is restricted at the time of import and export includes weapons and ammunition.

The transit of military goods through the territory of the Republic of Belarus takes place in accordance with the Regulation on the transit of military goods through the territory of the Republic of Belarus, approved by resolution No. 522 of the Council of Ministers of 24 April 2002. In implementation of this resolution of the Council of Ministers, the State Customs Committee adopted resolution No. 36 of 13 June 2002 “On the procedure for granting permits for the transit of military goods”. By this resolution of the State Customs Committee, the following were approved:

The regulation on the procedure for the issuance, extension and cancellation of permits to convey military goods in transit through the territory of the Republic of Belarus;

The form for permits to convey military goods in transit through the territory of the Republic of Belarus.

Instructions on the procedure for completing the annex to the application to convey military goods in transit through the territory of the Republic of Belarus, and permits for the transit of military goods through the territory of the Republic of Belarus.

The customs authorities, in accordance with the Customs Code of the Republic of Belarus, carry out customs control in order to identify cases of illegal import or export of goods, including weapons, whose transfer across the customs border of the Republic of Belarus is restricted. For this purpose, X-ray equipment is used, and specially trained dogs are used to find explosives.

(b) Export control

- Please specify procedures of export control and existing mechanism of exchange of information of sources, routes and methods of traders in arms.*
- Is it necessary to lodge and register or check the Goods declaration and supporting documents relating to firearms prior to the import, export or transit movement of the goods as well as encourage importers, exporters or third parties to provide information to Customs prior to their shipment? Please outline also any appropriate mechanism to verify the authenticity of licensing or authorization documents for the import, export or transit movements of firearms.*
- Has the Belarusian Customs Service implemented intelligence-based risk management on borders to identify high-risk goods? Please outline data elements required by Customs Administrations to identify high risk consignment prior to shipment.*

The information requested was partially reflected in the annex to the letter dated 5 April 2002 from the Permanent Representative of the Republic of Belarus to the United Nations addressed to the Chairman of the Counter-Terrorism Committee (S/2002/375) and previous reports.

Export controls are effected in accordance with the Act “On export control”. In order to improve State regulation of the import (export) of specific goods (technologies, services) and fulfil the international obligations undertaken by the Republic of Belarus, the Council of Ministers adopted resolution No. 133 of 4 February 2003 “On the implementation of measures for State regulation of the import (export) of specific goods (technologies, services)”. In implementation of this decision of the Government of the Republic of Belarus, the Ministry of Foreign Affairs and the State Customs Committee adopted resolution No. 4/27 of 4 April 2003 which established the lists of specific goods, including small arms.

The procedure for the transfer of service and civilian weapons and ammunition was approved by decree No. 473 of the President of the Republic of Belarus of 30 August 2002 “On measures to improve the regulation of the circulation of combat, service and civilian weapons and ammunition in the territory of the Republic of

Belarus". In accordance with this decree, the submission, at the time of customs processing, of individual permits, issued by the Ministry of Foreign Affairs, is a condition for the transfer (import, export and transit) of weapons and ammunition.

Customs processing of service and civilian weapons is carried out, in particular, in accordance with resolution No. 71 of the State Customs Committee of 17 November 2003 "On some questions of customs processing and customs control of weapons and ammunition".

The laws of the Republic of Belarus do not require the lodging and registration or checking of customs declarations and supporting documents relating to small arms prior to the import, export or transit movement of goods, or the provision of information to Customs by exporters, importers and third parties prior to shipment.

Checks of the authenticity of licenses and other documents issued by the competent bodies for the transfer of small arms across the customs border of the Republic of Belarus are carried out on the basis of models of such licenses or permits, and also signatures of persons authorized to issue such documents, which are sent to the State Customs Committee by the competent bodies.

(c) Stockpile Management and Security

- *Within the reference in the first report (page 5) to the order number 272 of the President of the Republic of Belarus, please outline its relevant provisions as well as administrative procedures in the Republic of Belarus to provide for the security of firearms, their parts and components, ammunition and explosives and their precursors at the time of manufacture, import, export and transit through its country:*
- *What national standards and procedures exist for the management and security of firearms and explosives stocks held by the Government of the Republic of Belarus (in particular, held by armed forces, police, etc.) and other authorized bodies?*
- *Has the Republic of Belarus implemented, using risk assessment principles, any special security measures on the import, export and transit movement of firearms, such as conducting security checks on the temporary storage, warehouses and means of transport carrying firearms, and requiring persons involved in these operations to undergo security vetting? If yes, please give details.*

In accordance with paragraph 6 of the Instructions on the Procedure for the Customs Registration and Customs Control of Arms and Ammunition, approved by decision No. 71 of 17 November 2003 of the State Customs Committee of the Republic of Belarus, the transport under customs control of service and civilian firearms and related ammunition (with the exception of firearms numbering no more than 5 units or ammunition consisting of no more than 400 units) is carried out with the mandatory escort of sub-units of the Okhrana unit under the Ministry of Internal Affairs or a militarized guard of the Belarusian Railway.

These arms and ammunition are transported in special packaging either by means of transport equipped to ship the goods or under customs stamps and seals with the mandatory application of customs identification means.

In accordance with paragraph 8 of the Instructions, civilian and service firearms and related ammunition may be kept in temporary storage warehouses and customs warehouses if the proprietors of these warehouses have the relevant permit from the internal affairs agencies to store such goods.

The temporary storage of civilian and service weapons under customs control in other places is permitted if the proprietors of the premises in question have the relevant permit from the internal affairs agencies. In such cases, customs identification means in the form of customs agencies' seals and stamps are placed on such premises until the removal of the goods in question from customs control in accordance with the established procedure.

(d) Law enforcement/illegal trafficking

- What special measures are used by the Republic of Belarus to prevent and suppress illegal trafficking in firearms, ammunition, and explosives utilized by terrorists?*
- Does your law enforcement cooperate with the Interpol system of trafficking in firearms and explosives?*

The Interpol National Central Bureau has access to the Interpol General Secretariat's computer database on terrorism, which contains information of the activities of international terrorist organizations and persons sought for terrorist and extremist acts.

The Ministry of Internal Affairs regularly receives materials on combating terrorism from the Interpol General Secretariat.

Information materials from the General Secretariat concerning the Interpol General Assembly's sessions and regional conferences as well as international conferences and meetings on these matters are expeditiously processed and systematized, and the necessary documents for participation by the representatives of Belarus in the work of these forums are prepared.

1.20 The CTC notes, from the first report of the Republic of Belarus (page 5), that "thanks to the Republic's stringent export control system, which meets international standards, the export of weapons can take place only through the official channels of the importing country and subject to compliance with all international norms governing the transfer of weapons and military technology". Could the Republic of Belarus please outline how coordination is achieved between the Belarusian agencies responsible for the implementation of its legal provisions on the sale, distribution and transit of arms through the territory of Belarus? The CTC would appreciate it if Belarus could provide it with statistics on the use of legal provisions to prevent terrorists from gaining access to weapons.

The Republic of Belarus, which is developing its foreign economic activities, is aware of the danger of the uncontrolled export of weapons, and goods and technologies that may be used to produce them, and is also strictly complying with its international obligations, has set up an effective national export-control system.

The Act of 6 January 1998 "On export control" is currently the basic legislative document in the field of export control. The Act lays down the legal basis for the activities of State agencies and legal and physical persons in the Republic of Belarus in the field of export control and general principles and basic concepts,

establishes State agencies participating in export control and determines their responsibilities and powers, and also sets forth a list of items subject to export control.

Export control in the Republic of Belarus is based on the fundamental principles:

State monitoring of the transport of items subject to export control across the customs border of the Republic of Belarus;

Verification of the use of items subject to export control:

Openness and availability of information on the procedures, regulations, objectives, tasks and principles of the functioning of the export-control system and measures establishing liability for violating the laws of the Republic of Belarus on export control;

Listing of items subject to export control and also of countries to which the export of such items is prohibited or restricted;

Harmonization of export-control procedures and regulations with generally recognized international norms and practice.

The following legislative documents regulating the export of conventional weapons, dual-use goods and technologies, and also relations arising in the sale of arms in the territory of the Republic of Belarus are currently in effect in the Republic:

1. The Act of 6 January 1998 "On export control";
2. Act of 13 November 2001 "On weapons";
3. Presidential Decree No. 265 of 11 May 1999 "On approval of the regulations governing the procedure for granting legal persons of the Republic of Belarus the right to carry out foreign commercial activities in respect of specific goods (work and services) and the regulations on the Interdepartmental Commission on Military and Technical Cooperation and Export Control under the Security Council of the Republic of Belarus";
4. Presidential Decree No. 94 of 11 March 2003 "On certain measures to regulate military and technical cooperation by the Republic of Belarus with foreign States";
5. Decision No. 422 of 29 March 2000 of the Council of Ministers of the Republic of Belarus "On enhancing the monitoring of the import (export) of chemicals falling under the control regime of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction";
6. Decision No. 522 of 24 April 2002 of the Council of Ministers of the Republic of Belarus "On approval of the regulations for the transit of military goods through the territory of the Republic of Belarus";
7. Decision No. 133 of 4 April 2003 of the Council of Ministers of the Republic of Belarus "On the implementation of measures for the State regulation of the import (export) of specific goods (work and services)", which approved the regulations on the procedure for licensing the import (export) of

specific goods (work and services) in the Republic of Belarus. The regulations on the procedure for determining obligations relating to the use of specific imported goods (work and services). The regulations on the procedure for organizing verification of compliance with obligations relating to the use of specific imported (exported) goods (work and services) for declared purposes;

8. Decision No. 2 of 21 March 2003 by the Ministry of Foreign Affairs of the Republic of Belarus “On approval of the instructions on the procedure for granting an import certificate”;

9. Decision No. 4/27 of 4 April 2003 by the Ministry of Foreign Affairs and the State Customs Committee “On approval of the lists of specific goods (work and services)”;

10. Decision No. 3/31 of 11 April 2003 by the Ministry of Foreign Affairs and the State Customs Committee “On approval of the instructions on the procedure for issuing licenses for the import (export) of specific goods (work and services), and also the registration of contracts under general licensing”.

The process for taking decisions on the possibility of issuing an export license in the Republic of Belarus is based on one of the most important international principles of export control — verification of the end use of specific goods being exported and evaluation of the potential risk that the property to be delivered may be used for purposes that are incompatible with the principles of peaceful development and international security (the development and production of weapons of mass destruction, the escalation of armed conflict and regional instability, and terrorism).

Decisions on issuing a license are taken in complete accordance with the international obligations of the Republic of Belarus. Each application is verified with regard to the implementation of United Nations Security Council sanctions, obligations undertaken in accordance with the Treaty on the Non-Proliferation of Nuclear Weapons, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, and other international agreements, the obligation not to export anti-personnel mines, and also in accordance with the principles of the Group of Nuclear Suppliers.

The process of considering license applications has multiple stages and includes:

Consideration of the contract by the Interdepartmental Commission on Military and Technical Cooperation and Export Control under the Security Council of the Republic of Belarus;

Consideration of applications for licences contracts, final-use guarantees and other documents in the Ministry of Foreign Affairs;

Reaching agreement on applications with State government bodies (as a rule, the Ministry of Defence and the State Security Committee);

Adoption of the final decision by the State Secretary of the Security Council of the Republic of Belarus.

The multi-stage system of State monitoring of foreign-trade transactions with specific goods keeps to a minimum the number of official refusals to grant licences. A limited number of legal persons that are well informed about the legislation in

force within the country have the right to conduct such transactions and are periodically notified about international sanctions and bans. If contracts for the delivery of goods to States or territories subject to United Nations Security Council bans or restrictions were concluded for any reasons, this is indicative of poor work carried out by the export-control system within companies. Such contracts for the delivery of special goods to States or territories subject to Security Council bans or restrictions do not pass the first stage of consideration by the Interdepartmental Commission on Military and Technical Cooperation and Export Control under the Security Council of the Republic of Belarus.

The following are grounds for an official refusal to issue a licence (after submission of the corresponding application to the Ministry of Foreign Affairs):

Conducting foreign-trade transactions with specific goods (work and services) under conditions which may cause detriment or the threat of detriment to the interests of the Republic of Belarus;

Incorrect preparation and (or) incomplete submission of the necessary documents;

Inaccurate, distorted or incomplete information in documents submitted by the applicant organization;

Non-conformity of documents to the requirements set forth;

Violation by the applicant organization of Belarusian legislation on export control;

The adoption of a corresponding decision by the Interdepartmental Commission on Military and Technical Cooperation and Export Control under the Security Council of the Republic of Belarus.

The Ministry of Foreign Affairs may suspend the validity of a licence for the following reasons:

Non-compliance by the applicant organization, when the contract (agreement) is being carried out, with the licensing conditions and the procedure for conducting foreign economic activities linked to the import (export) of specific goods (work and services);

Imposition of sanctions by the United Nations Security Council against the recipient country (end user);

Conducting a foreign economic transaction with specific goods (work and services) under conditions that impair or threaten to impair the interests of the Republic of Belarus;

The taking of a corresponding decision by the Interdepartmental Commission on Military and Technical Cooperation and Export Control under the Security Council of the Republic of Belarus.

The Council of Ministers of the Republic of Belarus has established a licensing procedure for the import and export of chemicals falling within the regime of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction in order to comply with international obligations to monitor the movement of such chemicals across the customs border of the Republic of Belarus.

In accordance with paragraph 2 of the regulations on the procedure for the import (export) of chemicals falling within the monitoring regime of the Convention on Chemical Weapons, which were approved under decision No. 422 of 29 March 2000 of the Council of Ministers of the Republic of Belarus "On improving the monitoring of the import (export) of chemicals falling within the monitoring regime under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction", a legal person may import (export) chemicals on lists 1 and 2 of the register of chemicals only from another State party (to another State party) and only for purposes that are not prohibited under the Convention. The re-export of chemicals that were imported earlier into the territory of the Republic of Belarus and that appear on schedules 1 and 2 of the list of chemicals is prohibited.

Chemicals are imported and exported on the basis of a licence issued by the Ministry of Foreign Affairs.

One of the documents required in order to obtain a licence is an end-user certificate issued by the authorized agency of a foreign State and containing:

The obligations to use the imported chemicals only for purposes that are not prohibited under the Convention and not to transmit them to third parties;

The name and quantity of the chemicals;

The purpose of the end-use of the chemicals;

The name and address of the end-user.

Military goods transit through the territory of the Republic of Belarus with the permission of the State Customs Committee, agreed with the Ministry of Foreign Affairs, the Ministry of Defence and the State Security Committee.

The State Aviation Committee has the right, independently or at the request of a competent State government agency, to require the landing of an aircraft which is flying over the territory of the Republic of Belarus and transporting military goods.

The conditions for the transit of military goods are the possession of financial guarantees by the person participating in the transit and also ensuring their physical protection in accordance with the legislation of the Republic of Belarus and the international agreements to which it is a party.

In accordance with article 15 of the Act of the Republic of Belarus "On export control", criminal, administrative and other liability is established for violating the laws of the Republic of Belarus on export control.

Articles 228 and 229 of the Criminal Code of the Republic of Belarus read as follows:

"Article 228. Smuggling

1. The transport in large quantities across the customs border of the Republic of Belarus of goods and valuables that are prohibited or restricted to such movement, with the exception of those that are indicated in the second paragraph of this article, which is carried out in avoidance of or in concealment from customs control or with the fraudulent use of documents or means of identification, or is accompanied by non-declaration or a deliberately

false declaration, shall be punished by a fine or restriction of freedom for a period of up to five years, or imprisonment for the same period.

2. The transport across the customs border of the Republic of Belarus of narcotic drugs; psychotropic, virulent, poisonous, toxic, radioactive or explosive substances; weapons; explosive devices; firearms or ammunition; nuclear, chemical, biological or other types of weapons of mass destruction; or materials and equipment which may be used to create weapons of mass destruction, which is carried out in avoidance of or in concealment from customs control or with the fraudulent use of documents or means of identification, or is accompanied by non-declaration or a deliberately false declaration shall be punished by imprisonment for a period of three to seven years, with or without confiscation of property.

3. The actions provided for under paragraphs 1 and 2 of this article which are carried out on the basis of prior agreement by a group of persons, a person previously convicted of smuggling, or an official using his official authority, or are carried out with the use of force against a person conducting customs control shall be punished by imprisonment for a period of 5 to 10 years, with or without confiscation of property.

4. The actions provided for in paragraphs 1, 2 or 3 of this article which are carried out by an organized group shall be punished with imprisonment for a period of 7 to 12 years, with or without confiscation of property.”

“Article 229. Illegal export of items subject to export control

The illegal export of goods, technology, services or other items subject to export control which may be used to create weapons of mass destruction, their delivery systems, weapons or military equipment shall be punished by imprisonment for a period of seven years, with or without confiscation of property.”

1.21 *The CTC is aware that the Republic of Belarus may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of the Belarusian response to these matters as well as details of any efforts to implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.*

A copy of the national report of the Republic of Belarus on export control and the export of weapons and military equipment in 2002/2003 is attached hereto.

2. *Assistance and guidance*

Receiving technical help as part of CTC assistance in order to ensure more effective implementation of resolution 1373 (2001) with regard to strengthening customs and border control (within the limits of earlier requests for technical help) is a pressing matter for Belarus in view of its situation as a transit country.

The Republic of Belarus is taking all possible steps to expand cooperation with international, regional and subregional organizations in order to strengthen border and customs control in combating terrorism and other criminal activity.

In 2002, the State Border Committee and the State Customs Committee of the Republic of Belarus completed the TACIS programme project “Border crossings” and also the UNDP and European Commission project “Strengthening border control on the Belarusian-Ukrainian border”. The IAEA project “Preventing the illegal transport of nuclear and radioactive materials” is being carried out.

There are also plans to implement other projects financed through TACIS on the Belarusian-Lithuanian, Belarusian-Latvian and Belarusian-Polish borders and others.
