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Letter dated 18 October 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 25 August 2004 (S/2004/689). The Counter-Terrorism Committee has received the attached fourth report from Turkey 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*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 18 October 2004 from the Permanent Mission of Turkey to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Representative of Turkey to the United Nations presents his compliments to the Chairman of the Committee and, with reference to the letter of 16 July 2004 from the Chairman, has the honour to submit herewith the fourth report of Turkey, which provides information on issues raised by the Committee (see enclosure).

Enclosure*

FOURTH REPORT OF THE REPUBLIC OF TURKEY TO THE UN CTC IN RESPONSE TO ITS LETTER DATED 16 JULY 2004

NOTE: The numbers of the following paragraphs and sub-paragraphs correspond to those of the relevant paragraphs and sub-paragraphs of the letter of Mr. Alexander V. Konuzin, the Chairman of the UNSC Counter-Terrorism Committee, dated 16 July 2004.

1. Implementation measures: Criminalization of terrorist acts and their financing

1.1 Turkey has various legislation that contains provisions which can be activated for preventing and suppressing financing of terrorist acts. As it has been outlined in our previous reports to the UNSC CTC, the principal instruments towards this end are the robust Law Nr: 3713 on Fight Against Terrorism (LFAT) and the Turkish Penal Code (TPC) (Law Nr:765) which date back before the adoption of the International Convention for the Suppression of the Financing of Terrorism as well as the UNSC Resolution 1373.

Supporting terrorist acts, including their financing has been established as a serious criminal offense for which LFAT and TPC provide heavy punishments. According to Article 7 (paras 2 and 5) of LFAT, assistance to members of terrorist organizations is a terrorist crime which is punishable under the law. According to Article 7 (para 4) of LFAT, the activities of associations, foundations, unions (…) which are found to have lent support to terror movements must be prohibited. Such institutions are to be dissolved by court decision and their assets are to be confiscated. According to Article 169 of the TPC, those who wittingly lend assistance to terrorists or facilitate their actions will be punished by unsuspendable imprisonment terms ranging from three to five years. Article 314 of TPC provides for prison sentences up to one year for the crime of assisting organizations established with the purpose of committing crimes.

Since the submission of our last report to the CTC, there have been major alterations in and additions to the principal laws in Turkey as part of a reform package aimed towards the harmonization of the Turkish legislation with the EU Aquis.

The Turkish Penal Code (TPC) has been revised and updated within this context by the Turkish Grand National Assembly on 26 September 2004. The new TPC will enter into force on 1 April 2005. The new TPC contains as before ample and significant provisions which establish any form of assistance to criminal and terrorist organizations as serious offenses that are subject to heavy punishment.

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

However, this being said, we are fully cognizant of the fact that there are shortcomings in the Turkish legislation that must be addressed in order to bring it in harmony with the UN Convention for the Suppression of the Financing of Terrorism to which Turkey is a party.

As it has been mentioned in our previous report to the CTC on 9 May 2003, there is an ongoing effort by the Ministry of Justice in collaboration with relevant ministries and other government authorities to amend Law Nr: 3713 (LFAT). It has been understood that the amendment of the LFAT by the Ministry of Justice will be a complex process due to the specific nature of this law. Thus, a new group has been established with the mandate of tackling solely with the crime of "terrorist financing" so as to harmonize the Turkish legislation with the UN Convention on Suppression of Terrorism under the instructions of the Prime Ministry.

The above mentioned Working Group on Terrorist Financing (WGOTF) composed of experts from the Ministries of Justice, Interior, Finance, Foreign Affairs and the Undersecretariat for Treasury has started its work under the chairmanship of the Finance Ministry's Financial Crimes Investigation Board (MASAK). The WGOTF held its first meeting on 1 April 2004 and had five meetings as of the submission of this report. Until now, the WGOTF has identified areas in the Turkish legislation which do not correspond to the International Convention for the Suppression of Terrorism (the Convention) and has considered necessary amendments that need to be done in order to meet these requirements. The WGOTF is expected to submit its proposals to the Prime Minister's Office soon which will include specific provisions for criminalizing terrorist financing to be inserted in to the LFAT (Law No:3713) in order to harmonize this Law with the Convention. Furthermore, in order to fully meet the requirements of the Convention, the WGOTF has considered to submit an additional proposal to the Prime Minister's Office for amending the definition of terrorism in the LFAT with a view to extend its scope taking into account the elements of the offence in Article 2 of the Convention.

1.2 As it has been explained in our previous reports, according to Article 90 of the Turkish Constitution, international agreements which are signed and endorsed by the Republic of Turkey in accordance with the corresponding legal procedures acquire the force of domestic law. Therefore, the provisions of all of the 12 international conventions/protocols on fighting terrorism are an integral part of the Turkish legislation.

The offences which are elaborated in the above mentioned conventions are covered extensively by various laws which have already been listed in our previous report. Nevertheless, upon the receipt of the letter from the CTC, a screening process of the Turkish legislation has been initiated on 23 September 2004 by the relevant government authorities in order to determine general as well as specific provisions in the Turkish legislation which correspond to the offences mentioned in the 12 UN Conventions on fighting terrorism. The results of this screening process will be duly submitted to the CTC when completed.

1.3 As it has been mentioned above in para. 1.1, the WGOTF which has become functional on 1 April 2004, has identified the areas in the Turkish legislation which do not correspond to the requirements of the International Convention for the Suppression of Financing of Terrorism and has considered necessary amendments that need to be done in order to meet these requirements. Within

this context, the planned amendments in the legislation which will include specific provisions for criminalizing terrorist financing will also address the shortcomings in the Turkish legislation with regard to freezing and seizure of assets and funds for offences relating to terrorism and its financing with a view of extending the scope of the provisions taking into consideration the offences referred to in Article 2(1) of the said Convention.

Effectiveness in the protection of the financial system

1.4 Regarding the effective implementation of sub-paragraphs 1 (a), (b) and (c) of the Resolution, according to the arrangement in Article 16/A of the **Regulation Regarding the Implementation of the Law No. 4208 on Prevention of Money Laundering**, the Financial Crimes Investigation Board (MASAK) may request from liable parties, including banks and other financial institutions, to ensure training facilities for their employees that enable them better acquaintance with the obligations introduced by the Regulation. The Ministry of Finance determines the procedures, scope, subject, target groups and date of training/education programs which must be implemented by liable parties.

According to Chapter V of the General Communiqué 4 of MASAK, the liable parties are responsible for determining the contents of their training programs, taking into account the following points:

- Transactions that are required to be identified, customer identification procedures and record keeping,
- Identifying suspicious transactions and reporting procedures,
- Procedures of presenting required information and documents,
- Penalties that shall be activated in the event of non-compliance with obligations.

These training programs include the new type of suspicious transaction relating to terrorist financing (No:20) issued by MASAK's General Communiqué No:3. They are continuously reviewed as necessary and are repeated in regular periods.

Statistical results of the training programs, indicating the number of participating personnel as well as their duration are required to be submitted to MASAK periodically by the liable parties.

Statistical data related to the training activities realized during 2003 are given below:

Table 1/a –Training Activities in 2003

Training Activities in 2003		
Place of Training	**Number**	**Number of Participants**
Domestic	51	454
Abroad	1	1
Total	**52**	**455**

Table 1/b – Domestic Trainings

Domestic Trainings	**Number**	**Number of Participants**	
		Trainer	**Trainee**
Taken by MASAK	13	-	81
Given by MASAK - To Liable Groups and to Law Enforcement Agencies	25	38	-
MASAK On-The-Job Training	13	34	301
Total	**51**	**72**	**382**

Furthermore, MASAK and the Banking Union of Turkey have jointly prepared a training program to be presented via Internet. This training program also includes issues relating to prevention of financing of terrorism.

The Directorate General of Security of the Ministry of Interior has submitted a project proposal entitled “Strengthening the struggle against money laundering, financial sources of crime and the financing of terrorism” to the EU Commission as a Twinning Project under the EU PHARE program which is an instrument assisting EU candidate countries in their accession process. The aim of this project which still needs the endorsement of the EU Commission is to support and strengthen institutions in Turkey which are responsible for combating financing of terrorism and money laundering. This project, which will be conducted jointly by the Counter-Terrorism Department and Department for Combating Organized Crime and Smuggling of the Directorate General of Security of the Ministry of Interior, together with relevant German Federal institutions as “partners” has a total budget of 2.334.000 EUR. 1.225.000 EUR out of this total budget is planned to be allocated to education and training programs to which approximately 900 personnel are expected to participate in.

The Turkish Banking Regulation and Supervision Agency (BRSA) also provides training courses to its personnel as well as sworn bank auditors in areas such as money laundering, typologies and trends in the financial sector and abuse of banks in money laundering. These courses are provided together by the Banks Association of Turkey (TBB), the Financial Crimes Investigation Board (MASAK) and Turkish International Academy against Drugs and Organized Crime (TADOC).

1.5 As it has been explained in our previous reports, any person, regardless of his nationality, committing a terrorist crime within or outside Turkey, shall be prosecuted in accordance with the provisions of relevant laws.

Article 4 of the Turkish Penal Code reads, "*If a Turkish national or a foreigner commits a felony against the security of the Turkish State or any of the offences in Articles 316, 317, 318, 319, 320, 323 and 324 of Chapter One, Part Six and Articles 332 and 333 of Chapter Two, Part Six, he or she shall be prosecuted and punished by penalties prescribed in these articles.*

Such offenders, even if previously convicted in foreign countries, shall be re-tried in Turkey upon the request of the Minister of Justice, except in case of counterfeiting currency. (...)"

Article 5 of the Turkish Penal Code reads, "*If a Turkish national commits a felony in a foreign country apart from those mentioned in Article 4 requiring a freedom-restricting penalty for a period not less than 3 years under Turkish Law, he or she shall be punished according to Turkish Law, provided that he is currently in Turkey.*

If this felony requires a freedom-restricting penalty for a period less than 3 years, then the prosecution process may only be initiated upon the complaint of the damaged party or the foreign government.

If the damaged party is a foreigner, the act must require a punishment according to the corresponding legislation of the country where it was committed."

In cases where an act is committed outside Turkey by a foreign national who is currently in Turkey, provisions of Article 6 of the Turkish Penal Code apply:

"*If a foreigner commits a felony in a foreign country apart from those mentioned in Article 4 requiring a freedom-restricting penalty for a period not less than one year under Turkish Law against Turkey or a Turkish national, he or she shall be punished according to Turkish Law, provided that he is currently in Turkey.*

However, a public prosecution may only be initiated upon the request of the Minister of Justice or the complaint of the injured party.

If the felony is committed against a foreigner, the offender shall be punished upon the request of the Minister of Justice provided that the following conditions exist:

1. *The act must constitute an offence punishable by a freedom-restricting penalty for a period not less than three years under Turkish Law.*
2. *Absence of an extradition treaty or rejection of extradition by the state in whose territory the offence was committed or the state of which the offender is a national.*

If a Turkish or a foreign national commits the offences prescribed in Chapter Three, Part Eight of the Turkish Penal Code in a foreign country, a public prosecution shall be automatically initiated and the offender shall be punished by the penalties foreseen in the Articles of that chapter.

The information regarding individuals or entities which are notified to the Turkish Ministry of Foreign Affairs by foreign embassies with a request of asset freezing on grounds of terrorist crimes are duly disseminated to the relevant ministries and government institutions. A thorough investigation is conducted so as to find out whether they have any records in Turkey. If corroborating evidence is found against the concerned individual or entity, the case is brought before the Turkish courts.

The customary procedure regarding the lists of individuals and entities issued by the UNSC Sanctions Committee established by the UNSC Resolution Nr. 1267 has already been explained in detail in our previous reports.

On the other hand, as it has been mentioned in para. 1.3 of this current report, the WGOTF which has been working on the necessary amendments in the legislation also works on the shortcomings in the Turkish legislation with regard to freezing and seizure of assets and funds for offences relating to terrorism and its financing. It has also been mentioned in para. 1.1 that, the WGOTF is currently considering to submit a proposal to the Prime Minister's Office for amending the definition of terrorism in the LFAT so as to extend its scope to fully cover the international dimension of terrorist acts. Thus, if approved by the Government and endorsed by the Turkish Grand National Assembly, the application of above mentioned provisions in the LFAT and the TPC will be further strengthened with regard to the freezing of funds and assets of a person in Turkey, although they commit a terrorist crime abroad.

1.6 According to the Turkish Banks Act, Nr:4389, only banks and special financial establishments are authorized to carry out banking activities, including money remittance or transfers. Informal banking networks are not allowed to operate in Turkey. A duly issued license is required for all kinds of banking activities.

Currently, 49 banks and 5 special financial establishments operate in Turkey. Only these institutions and the Turkish PTT can transfer money in Turkey according to law. It is not possible for any entity to engage in banking business without a license. According to the Article 3 and 4 of the Decision Nr.32 on the Protection of the Value of the Turkish Currency, banks and special financial establishments are obliged to report to the Turkish Central Bank about money transfers to third countries that exceed 50.000 US Dollars or equivalent Turkish Lira (TL) within 30 days.

On the other hand, since large amounts of cash can be carried from one country to another by individuals that are colloquially called "couriers" as an illegal method of money transferring, necessary measures have been taken at the border gates. According to Article 3 of the Regulation Nr.32 on the Protection of the Value of Turkish Currency, the upper limit for passengers who take money abroad in their possession is 5000.- US Dollars or its equivalent in TL. The statistics related to the undeclared money caught in possession of such "couriers" are given below.

Date:	**Place:**	**Amount of money confiscated:**
11.07.2001	Gürbulak Border Gate	220.500 US Dollars 475.100 German Marks
29.03.2002	İzmir/Çeşme Sea Port	132.790 UK Pounds
23.09.2003	Antalya Airport	125.000 EUR
04.04.2004	Edirne/Kapıkule Border Gate	527.380 US Dollars 63.375 EUR
20.07.2004	İzmir/Çeşme Sea Port	499.500 EUR

1.7 Article 12 of the Regulation Regarding the Implementation of the Law No. 4208 on Prevention of Money Laundering reads as follows:

"If there is a suspicion or a suspicious situation that money or convertible assets used in transactions carried out or attempted to be carried out on behalf of the liable parties or through their intermediaries stem from illegal activities, this situation shall immediately be reported to MASAK, followed by customer identification.

Persons, institutions and establishments reporting suspicious transactions to MASAK, or employees executing and managing such transaction, as well as legal representatives, are not allowed to warn their customers.

Reporting of a suspicious transaction that has already taken place, in accordance with submission of information on a permanent basis, shall not render the obligation reporting of suspicious transactions unnecessary.

MASAK is authorized to determine the types of suspicious transactions as a guidance to the liable parties."

In Article 3 of the Regulation Regarding the Implementation of Law Nr: 4208, the liable groups are determined as follows:

a) Banks,

b) Private Financial Establishments,

c) Institutions, which issue credit cards as their primary function, other than banks,

d) Money lenders, consumer finance companies and factoring companies operating within the framework of the legislation regarding money lending transactions,

e) Insurance and reinsurance companies operating within the framework of the Insurance Supervision Law Nr:7397,

f) Istanbul Stock Exchange Settlement and Custody Bank Inc.,

g) Capital market intermediaries and portfolio management companies,

h) Investment funds,

i) Investment companies,

j) Precious metals exchange intermediaries,

k) Precious metal, stone and jewelry dealers,

l) Authorized institutions operating within the framework of exchange legislation (including foreign currency exchange bureaus),

m) Every kind of postal service and cargo companies including the General Directorate of Postal Services,

n) Financial leasing companies,

o) Real estate agencies or persons intermediating buying and selling of real estate,

p) Lottery hall managers,

r) Ship, aircraft and vehicle-including construction machines-dealers,

s) Collectors of historical arts, antiques and art works as well as dealers or auctioneers,

t) Sports clubs.

In MASAK's General Communiqué No: 2 on Suspicious Transaction Reports;

-Public Notaries,

-General Directorate of National Lottery,

-Directorate of Land Register,

-Turkish Jockey Club

have been added to the list of liable groups.

In MASAK's General Communiqué No: 3, which was issued after the terrorist attacks of September 11 2001, a new suspicious transaction type has been added to the already existing 19 suspicious transaction types which are defined in the General Communiqué No: 2. According to this new type of suspicious transaction, if liable parties, such as foreign currency exchange bureaus and notaries have reasonable grounds to suspect that certain funds could be linked or related to terrorism or terrorist acts or used for the purpose of realizing such activities, they are obliged to report the concerned transaction to MASAK. In such an eventuality, the liable party will fill a uniform "Suspicious Transaction Reporting Form" (STRF) and will send it to MASAK within ten days. The reporting procedure has been explained in detail in our previous report to the CTC dated 9 May 2003.

There has been only one STRF submitted by liable parties to MASAK under "20th type of suspicious transactions" since 07.02.2002. Investigation regarding this specific STRF is continuing.

1.8 In MASAK's General Communiqué No: 2, suspicious transactions are defined as follows:

1- Exerting unwillingness in giving information that is customarily required for everyone while a transaction is carried out; having difficulties in submitting information on identity; submitting insufficient or false information; submitting documents which are suspected to be counterfeit; declaring misleading information concerning financial situation; declaring false purposes for the transaction.

2- Transferring large amounts of money from countries or to countries in which illegal activities regarding narcotic substances, smuggling or terrorist organizations exist and transferring large amounts of money from or to offshore centers."

3- Detection of abnormal increases in the accounts of a person in banks and other liable parties and keeping of inactive large amounts of money in such accounts.

4- Transfers of large amounts of money by the customer to addresses and accounts other than those which are regularly used by the customer.

5- Cash movements in large amounts or such cash movements coming from abroad for a person or to an account of a person who has bad reputation and has no certain business, no commercial background in the country.

6- Transfers of large sums to or from another country without using an account, conducting electronic fund transfers without sufficient explanation and demanding that the EFT be paid in cash to the receiver.

7- Presence of more than one account of conspicuous nature with the same liable party, which reach to large sums when added together; or holding amounts in separate accounts or keeping upper limits of transactions low in order to avoid reporting requirements.

8- Payment or transfer to the same account by a high number of third parties without reasonable explanation.

9- Opening a deposit account in order to transfer funds to foreign banks by persons whose trade volumes are so small that does not require a bank account in their home country; or transferring the cash deposited only for the purpose of transferring funds to provisional accounts by keeping the funds in the account for a very short period of time without being subject to any transaction.

10- Existence of accounts disproportional to commercial activities and carrying out transfers between those accounts; carrying out transactions without clear commercial purposes, making payments to persons who have no open relation with the concerned person or company.

11- Receiving credits or loans in large amounts and repaying them in short periods of time in unexpected ways and without any reasonable explanation.

12- Obtaining credit in home country by showing an account abroad as a guarantee and then creating the conditions for the creditor institution to attach the money deposited abroad; or by repaying credit obtained in home country through transferring funds from off shore banks abroad.

13- While applying for credit, failing to give convincing information about the intended use of money and failing to submit clear information about repayment plans.

14- Transferring money to or from abroad, in similar amounts in a short period of time.

15- Giving, purchasing and selling orders concerning accounts opened in stock and futures markets, for the purpose of making fake transactions in matching amounts for no reasonable purpose.

16- Carrying out similar transactions in two or more accounts which are opened at the same time in order to transact on the stock exchange while continuous profit and loss is recorded in these accounts which belong or suspected to belong to the same persons.

17- Continuous covering of big losses in accounts opened by a broker, by means of cash supplied form a certain investor; or transfer of profits from different accounts to the same investor.

18- Opening accounts in very large amounts in cash by brokers while making payments in cash either at the opening of the accounts or on the date of barter.

19- Opening numerous accounts in which same types of transactions are carried out, so as to distract attention from the amount of transactions carried out by brokers.

20- Existence of reasonable grounds for liable parties to suspect that certain funds are linked or related to terrorism or terrorist acts or used for the purpose of realizing such activities.

Types of suspicious transactions enumerated above are identified for guidance purposes only. It is possible that a suspicious transaction may occur in a different method or nature. Notwithstanding the fact that the method or the nature of the transaction may not correspond to the types listed above, should a transaction give rise to suspicion, then it should be deemed as a suspicious transaction and should be reported accordingly to MASAK without any delay.

1.9 As stated above, only one STRF has been submitted by the liable parties to MASAK related to the "20th type of suspicious transactions" since 07.02.2002 when the General Communiqué No:3 was issued. The investigation regarding this specific STRF is still continuing.

Protection of Counter-Terrorism Measures

1.10 Turkey deals with mutual assistance procedures in criminal matters in accordance with the provisions of bilateral or multilateral treaties to which she is party. In the absence of a treaty, these matters are dealt with in accordance to international customary law and on the basis of reciprocity.

Therefore, there is no special provision in the Turkish legislation concerning the extradition of persons, letters rogatory and transfer of criminal proceedings.

On the other hand, in accordance with Article 9 of the Turkish Penal Code, a Turkish national cannot be extradited to a foreign state. Besides, Turkey does not extradite persons whose offences are of a political nature in accordance with article 3 of the "European Convention on the Extradition of Convicts". However, this principle does not apply in cases of terrorist offences.

The crimes that require a freedom-restricting penalty for at least one year according to the legislation of the parties are prescribed as extraditable offences in the bilateral treaties to which Turkey is party. In other words, the bilateral treaties Turkey concluded with third states neither enumerate nor specify the extraditable offences, but prescribe all the crimes that require the above mentioned penalty as extraditable offences regardless of their nature. Therefore, the crimes mentioned in the relevant international conventions may be subject to extradition in accordance with the bilateral treaties to which Turkey is party.

Transfers of sentenced persons are carried out in accordance with the provisions of the Law Nr: 3002 on the "Execution of Sentences of Foreign State Courts on Turkish Nationals and of Turkish Courts on Foreign Nationals" along with the provisions of bilateral and multilateral agreements.

The recognition and validity of the judgments of foreign courts are regulated by the Law Nr: 2675 on "International Private Law and Procedural Law".

1.11 The provisions of Article 9 of the Turkish Penal Code (TPC) form the basis of decisions regarding extradition requests. As stated in our answer to the previous question 1.10, according to Article 9 of the TPC, Turkey does not extradite its nationals to third countries. Besides, extradition is not accorded if the action in concern is of political nature ("political offence"). Turkish courts are authorized to decide on the nationality of the requested person and the nature of the offence.

Similar provisions are included in the new TPC, which will enter in to force on 1 April 2005. According to Article 18 of the new TPC, an extradition request shall be refused, if, the action in concern:

a) is not criminalized in Turkish law,

b) is of a political or military nature or is related to expressing an opinion.

c) is committed against the security of the Turkish State, or harms the interests of the Turkish State, or a Turkish citizen or a corporate body established according to Turkish law,

d) is also a criminal offence falling under the jurisdiction of Turkish courts,

e) is pardoned or subjected to prescription.

According to the same Article, as it is the rule in the current TPC, Turkish nationals cannot be extradited to third countries. The only exception to this rule is Turkey's commitments stemming from its obligations to the International Criminal Court. Moreover, extradition is not accorded if there is substantial grounds for believing that the requested person will be prosecuted or punished on account of his race, religion, nationality or social background, or that, there is a danger that he will be subjected to torture or ill treatment.

If a Turkish court finds an extradition request acceptable, the Council of Ministers has the final authority to decide whether to concur with the extradition request or not.

The notion of "political offence" referred to in the TPC has been adopted from international documents, basically from the European Convention on Extradition. However, as explained in our answer to the previous question, terrorist offences are not deemed to be political offences. Turkey is party to all 12 UN Conventions on fighting terrorism, and all of the offences which are contained in these international legal instruments are considered as "terrorist offences" by Turkey. Besides, according to Article 90 of the Turkish Constitution, international agreements which are signed and endorsed by Turkey in accordance with the corresponding legal procedures, acquire the force of domestic law. Therefore, the provisions of all of the 12 international conventions/protocols on fighting terrorism are an integral part of the Turkish legislation.

Effectiveness of customs, immigration and border control

1.12 A proposal for Amendment of the Passport Law Nr: 5682, which has been prepared in accordance with international norms and the EU legislation has been transmitted to the Prime Ministry for consideration. It is up to the Cabinet of Ministers (the Government) to submit it to the Turkish Grand National Assembly for enactment.

The draft amendment in the Passport Law Nr: 5682 foresees heavier sentences for illegal border crossings to discourage persons involved in these crimes. Besides, the Turkish Government plans to issue optically readable passports (ICAO Standard 9303) soon.

The preparations coordinated by the Ministry of Interior in collaboration with the Ministries of Foreign Affairs and Finance, the Undersecretariat for Customs and the Turkish State Mint and Stamp Printing House for issuing new passports which meet ICAO standards and are optically readable has reached its final phase. Official bidding for the purchase of necessary technical equipment and machinery for the Passport Preparation Systems has been opened on 29.01.2004.

1.13 Turkey has a total of 107 entry/exit points (air, sea, land) 82 of which are currently active and open to passenger traffic.

The entry and exit procedures of passengers at border gates are electronically processed by the "Travel- Ban and Watch-list Project", an integral part of the computerized "Border Gates Project" which comprises all border gates.

The traveler data, i.e. passenger's name, surname, father's name, date of birth, passport serial number and nationality are registered in the computerized system at the time of entry/exit at all border gates.

1.14 According to the provisions of the Turkish Passport Law Nr: 5682, suspicious and dubious persons are not allowed to enter Turkey. The Directorate General for Security of the Ministry of Interior keeps and updates a list (travel ban list) of persons who are denied entry into Turkey.

Foreigners as well as Turkish nationals traveling to Turkey are required to present valid passports or travel documents to the border police at the border gates. Any foreigner, whose name appears in the "travel ban list" is automatically denied entry into Turkey by the border police.

The travel ban list is reviewed and updated on a continuous basis and transmitted to the border gates electronically. The updated database for travel ban is also transmitted on a regular basis to the Turkish diplomatic and consular representations. Persons applying for entry or transit visas are controlled through the travel ban database by consular officers.

The Directorate General for Security of the Ministry of Interior incorporates the names of the individuals included in the consolidated list of the UN Security Council Committee (UNSCR 1267) in its database for travel ban which is electronically transmitted to the relevant border gates.

1.15 The return of travelers who are denied entry into Turkey to their point of embarkation is regulated by the "Civil Aviation Directive on Procedures to be implemented to the Inadmissible Passengers at the Turkish Air Border Gates (SHD-Y)" which was issued on 20 May 2003. This directive, which is implemented in coordination by the Ministries of Transport and Interior, is issued within the framework of the provisions of the ICAO Annex 9 that was issued in accordance with the Chicago Convention on International Civil Aviation, Document 30 of the European Civil Aviation Conference (ECAC) of which Turkey is a member as well as Resolution 701 of International Air Transport Association (IATA).

According to the Article 8 of the above mentioned Directive, the responsibility to make the necessary arrangements for taking the passenger back to the point of embarkation within 48 hours lies with the airline operator with which the inadmissible passenger arrived at Turkish borders without appropriate travel documents. If the responsible airline operator fails to comply, it will be fined for 1000 US dollars. This fine will be increased to 3000 US dollars if the passenger is not deported within 72 hours.

1.16 In Turkey, every Turkish citizen is issued with a national identity document at his/her birth. It is compulsory to carry a national identity document (birth identification certificate - BIC) which must bear the photograph of the concerned person at his/her 18 years of age. In accordance with Article 4 of the Law Nr: 1587 on Registration of Births, all Turkish nationals are obliged to register to the public registration office at their domicile and to get a BIC. The registration procedures are handled by the Turkish Consulates abroad. The responsibility of registration and acquiring the BIC for minors lies with their parents.

Birth Identification Certificates are issued by the Town (ilçe) Public Registration Offices of the General Directorate of Birth Registration and Citizenship of the Ministry of Interior.

The procedures at the public registration offices are processed electronically. All of the 923 Town Public Registration Offices are connected online with each other under the Central Population Management System (Turkish acronym of which is MERNİS), an integrated computerized data base management system which has been functioning since November 2002.

According to the Article 14 of the Law Nr:1587, the information kept in the records of the Public Registration Offices is confidential. These records can be seen or examined only by the Head Officer and the Authorized Officers of the Public Registration Office. However, copies of birth registration records can be obtained by judicial authorities and government institutions, as well as the spouse, either parent or official attorney and the first degree relatives of the concerned person. The officials of the Public Registration Offices are under the obligation of keeping the information regarding the persons and their families confidential.

The following data is stored in the system: Name, Surname, Sex, Father's name, Mother's name, Place of Birth, Date of Birth (Day, Month, Year), Marital Status, Religion, Maiden Name, Place of Birth Register Office (Province, Township, District/Village), Number of Registration Book, Number of Family Order, Number of Person's Order.

1.17 As stated in para. 1.15 above, foreigners as well as Turkish nationals traveling to or from Turkey are required to provide valid passports or travel documents to the border police at the border gates.

Turks, who arrive at Turkey without a valid passport or travel document, are allowed to enter into the country if they can prove they are indeed Turkish nationals.

On the other hand, in accordance with the Passport Law Nr: 5682, the Government has the authority to conclude agreements with foreign governments concerning exceptional immunities from presenting passports at border gates. Turkey has concluded such agreements with a number of Council of Europe member countries. The list of countries, whose nationals can enter into Turkey by presenting their national identity cards, is attached hereto as Annex I.

Controls on preventing access to weapons by terrorists

1.18 The production, sale, possession, storage, transport, import and export of arms and explosives and related material of all types including the provisions of spare parts and technical advice, assistance or training related military activities is regulated by the Law Nr: 3763 on the "Control of Private Industrial Enterprises Producing War Weapons, Vehicles, Equipment and Ammunition".

A list of material, production, sale, transfer etc. of which is subject to control under Law Nr. 3763 is determined by the Ministry of National Defense (MND) and issued in the Official Gazette in January every year. This list includes, inter alia, all kinds of firearms, their parts and components, ammunition, explosives and devices that can be utilized to fire them.

Production, sale, export and import of arms, explosives and related material included in the above mentioned list are subject to the permission of the MND. The MND has the authority to issue licenses to private companies for the production, sale, export and import of the listed material.

Permission of the MND is required for the export/import of the material enumerated in the above mentioned list, including the material related to the Missile Technology Control Regime, the Wassenaar Arrangement and the Chemical Weapons Convention. The MND takes into consideration the bilateral and multilateral export control agreements and arrangements to which Turkey adheres while giving permission for the export/import of this material. As mentioned in our previous report, Turkey is party to the Non-Proliferation Treaty, The Comprehensive Nuclear Test Ban Treaty, the Chemical Weapons Convention and the Biological Weapons Convention. Turkey is also member of the Wassenaar Arrangement, the Missile Technology Control Regime, the Zangger Committee, the Nuclear Suppliers Group and the Australia Group.

In accordance with the Law Nr: 3763, producers of arms, ammunition and explosives are obliged to report the number and types of the arms they produced to the Ministries of National Defense, Interior and Finance at the end of every financial year. The producers are also obliged to report to the MND the orders they have taken from foreign customers within 10 days of their signing

a contract. Such reports should include the number and type of the ordered arms as well as detailed information regarding the identity of the foreign customers. An "end user's certificate" is required for sales of weapons and ammunition to foreign countries. The "end user's certificates" submitted by exporter companies in order to obtain license for each individual case are meticulously examined by the MND.

As a member of the Organization for Security and Cooperation in Europe (OSCE) Turkey attaches importance to the implementation of the OSCE Document on Small Arms and Light Weapons, adopted by the OSCE Forum for Security Cooperation in November 2000, which foresees the development of common standards to prevent the excessive and destabilizing accumulation and uncontrolled spread of small arms and light weapons. According to the provisions of this document, member states have committed themselves to exchange information with each other and to closely cooperate for developing common norms and principles in the production, marking, keeping records, export and import documentation of small arms and light weapons. All small arms and light weapons produced in Turkey after 30 June 2001 are marked in line with the provisions of this OSCE document. Confiscated unmarked arms, are required to be marked by the MND in accordance with the provisions of the OSCE document.

Procedures regarding the production, manufacturing, import, export, transport, destruction and firing of explosives used for civilian purposes are controlled by the Ministry of Interior in accordance with the Regulation Nr:87/12028 on the "Principles and Methods of Production, Import, Transportation, Storage, Stockpiling, Selling, Usage, Destruction and Detection of the De-Monopolized Explosives, Hunting Equipment and Related Material" which was prepared in accordance with the Law Nr: 6551 on "De-Monopolization of Gunpowder, Explosives, Arms and related material and Hunting Equipment".

1.19 Arms licensing is regulated under Law Nr: 6136 on the Firearms, Knives and Other Similar Tools. Applications for licenses are submitted to the provincial governorships and evaluated by the Ministry of Interior. The licenses are issued by the concerned provincial governorship. Any person who applies for a license is required to:

a) Be at least 21 years old,
b) Meet the necessary physical and mental conditions,
c) Have no criminal record that hinders him to posses a firearm.

The applicant's psychological, neurological and physical condition is evaluated by a board of specialist doctors and a Board Report is issued if the physical and mental condition of the applicant is suitable to hold a license.

With regard to criminal records, the applicant:
- should not have been involved in offences committed with firearms,
- should not have been sentenced more than twice for any felony,
-should not have been involved in crimes related with terrorism, organized crime, drugs trafficking, and "shameful crimes".

The Law prohibits transfer of licenses from one person to another. Only the license holder is allowed to have the possession of the licensed weapon. However, transfer of licensed firearms is possible. The new owner of the weapon is also subject to the same requirements in order to be entitled for a license. A person can be entitled to posses more than one licensed weapon, depending on the type of the weapons and the special conditions of the concerned person.

Firearm licenses are valid for only 5 years. The concerned Governorship which issued the license is responsible for the monitoring of the validity and the expiry date of individual licenses. A notice is sent to the license holder one month prior to the expiry date. Any license not renewed before expiry date is cancelled automatically.

Since all persons who are believed to have connections with terrorist groups, including those listed by the UN Security Council Sanctions Committee (UNSCR 1267) are incorporated in the databases of the Directorate General for Security of the Ministry of Interior and the Undersecretariat for Treasury, among others, it is not possible for them to obtain any kind of firearm license.

1.20 See Annex 2. (Report of the Republic of Turkey to the Security Council Committee Established Pursuant to Resolution 1267 (1999) on steps taken to implement the measures imposed by UNSCR 123 67)