



Security Council

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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Note verbale dated 10 February 2004 from the Permanent Mission of the Marshall Islands to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of the Marshall Islands to the United Nations presents its compliments to the Chairman of the Committee and has the honour to refer to the latter's note dated 21 November 2003. The Permanent Mission has the honour to submit herewith the report of the Republic of the Marshall Islands pursuant to paragraph 6 of resolution 1455 (2003) (see annex).

**Annex to the note verbale dated 10 February 2004 from the
Permanent Mission of the Marshall Islands to the United Nations
addressed to the Chairman of the Committee**

**Republic of the Marshall Islands response to
UN Security Council resolution 1455(2003)**

I. Introduction

Please provide a description of activities, if any, by Usama Bin Laden, Al-Qaida, the Taliban and their associates in your country, and the threat they pose to the country and the region, as well as likely trends.

- There continues to be no evidence of any form of activities by Osama Bin Ladin, Al-Qaida, and the Taliban in the Republic. In spite of this, RMI continues to be vigilant in establishing the requisite safeguards to deny access by the groups identified in Resolution 1267 to its territories and banking system.

II. Consolidated List

2. How has the 1267 Committee's list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

- Section 22 of the Counter-terrorism Act, 2002 forms the legal basis for seizure and detention of funds believed to have been derived from or intended for terrorism. Section 22 (2) focuses on funds belonging to entities designated as terrorist organizations by the United Nations Security Council.

Periodic updates to the 1267 Committee's List are distributed to relevant authorities for incorporation into their CFT processes. Authorities that receive these updates include the Banking Commission, Immigration Division, Labor Division, Customs and Revenue Division, Social Security Administration, Airport Authority, Port Authority, and Public Safety.

3. Have you encountered any problems with implementation with regards to the names and identifying information as currently included in the list? If so, please describe these problems.

- RMI has not encountered any problems with implementation of the names and identification information pertaining to the list.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

- No, RMI authorities have not identified any individuals or entities currently included in the 1267 Committee's List inside the territories of the Republic of the Marshall Islands.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List ... to do so would compromise investigations or enforcement actions.

- The laws against terrorism in the RMI include every individuals or entities associated with Osama Bin Laden or members of the Taliban or Al-Qaida and everyone else not included in the List.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.

- No one in the list has brought has any lawsuit against the RMI Government.

7. Have you identified any of the listed individuals as national residents of your country? Do you authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

- No one in the list is either a national or resident of the Republic of the Marshall Islands.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

- There are no Al-Qaida training camps in the Marshall Islands. Every port of entry has been instructed by Authorities not to permit anybody whose name is on the 1267 Committee's List. Any unauthorized non-resident will be subject to deportation immediately.

III. Financial and Economic Assets Freeze

9. Please describe briefly

- The domestic legal basis to implement the asset freeze required by the resolution above;
- Pursuant to Section 13 of the Counter-Terrorism Act 2002, the Attorney General shall take appropriate action...to identify, detect, freeze, seize and obtain forfeiture of any funds used or allocated for the purpose of committing any terrorism offense as well as the proceeds derived from such offenses.

- Any impediments under your domestic law in this context and steps taken to address them.
- The Counter-Terrorism Act 2002 is very detailed in terms of the duties and responsibilities of the Attorney General therefore we do not anticipate any impediments in the near future that would be able to dwarfed our efforts in implementing and enforcing our laws.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

- The purpose of the Counter-Terrorism Act 2002 is to implement the United Nations Security Council Resolution 1373 and other international obligations of the Republic of the Marshall Islands for the prevention, repression and elimination of terrorism, and for related matters

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or take the benefit of, Osama bin Laden or members of Al-Qaida or the Taliban, or associated entities or individuals. Please describe any ... “due diligent” ... or “know your customs” requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

- Under the Banking Amendment Act, 2000, financial institutions and cash dealers are subjected to a customer identification requirement which applies for both regular and occasional customers. Under the same Act, unanimous accounts are also prohibited and record keeping required. Thus the necessary structure for Know Your Customer (KYC) and Customer Due Diligence (CDD) is in place at the industry level.

Periodic Advisories issued by the Banking Commissioner upon receipt of any updates on the Committee’s List instructs entities within the financial industry to search their customer databases for any matches and to continually be on the lookout for possible hits from the Committee’s List. The Banking Commission, which is the sole supervisory authority within the financial industry undertakes on-site inspections to confirm compliance with these instructions and other aspects of the AML system. From the result of 11 on-sites undertaken thus far, compliance culture of the industry is commendable, especially with KYC and CDD. This is further complimented with high level of “local knowledge” (on customers).

Failure to comply with the customer identification requirement may result in the imposition of civil money penalties for the non-complying institution.

12. Resolution 1455 (2003) calls on Member States to provide a comprehensive summary of frozen assets of listed individuals and entities. Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions

1267 (1999), 1333 (2000) and 1390 (2002). Please include to the extent possible, in each listing the following information.

- Identification(s) of the person or entities whose assets have been froze;
- A description of the nature of the assets frozen (i.e. bank deposits, securities, business assets, precious commodities, works of real estate property, and other assets);
- The value of assets frozen.

- To date, there have been no reported incidents wherein the Attorney General would have to exercise his mandated authority to freeze assets in any account with the financial institutions in the Republic

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama in Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amount unfrozen or released and dates.

- Same as above.

14. Pursuant to resolution 1455 (2003), 1390 (2002), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities of for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including their territory. Please indicate the domestic legal basis, including brief description of laws, regulations and/or procedures in place in your country to control the movements of cash funds or assets to designated individuals and entities. This section should include a description of:

- The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.
- Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are review and evaluated.
- Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports reviewed and evaluated.
- Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.
- Restrictions or regulations, if any, applicable to alternate remittance systems such as – or similar to – “hawala”, as well as charities, cultural and other non-profit organizations engaged in the ... and disbursement of funds for social or charitable purpose.

- Section 18(2) of the Counter-Terrorism Act 2002 provides that the Marshall Islands shall cooperate in the prevention of terrorism by exchanging information to provide early warning of possible terrorism, in particular by:

(c) conducting inquiries, with respect to terrorists and members of terrorist organizations, concerning:

- (i) the identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they engage in terrorism or are members of a terrorist organization;
- (ii) the movement of funds linked to persons who engage in terrorism or are members of a terrorist organization.

Furthermore, Section 22(1) of the Act authorizes any law enforcement or customs officials of the Marshall Islands may seize and, in accordance with this section detain, any funds, that the officer or official has probable cause to believe were derived from or intended for terrorism, including, without limitation, funds being imported into or exported from the Marshall Islands.

(2) Funds of, or intended for, terrorist organizations shall be frozen, seized, and in accordance with this section detained, where the organization has been designated as a terrorist organization by the United Nations Security Council.

Requirements for the Financial Institutions

Section 70 (1) of the Banking Amendment Act 2000 states that, financial institutions and cash dealers shall, within 3 days of the transaction, report to the Commissioner all suspicious transactions, including but not limited to those which are ten thousand dollars or more or multiple transactions which, altogether, exceed ten thousand dollars if they are undertaken by or on behalf of any one person during any twenty-four hour period or, complex or unusual transactions, whether completed or not, and all unusual patterns of transactions, and otherwise significant but periodic transactions, which have no apparent economic or lawful purpose.

Furthermore, the above restrictions also govern movements of precious commodities such as gold, diamonds and other related items including alternate remittance systems that may cast reasonable suspicions so that the Attorney General and the Banking Commissioner would consider to fall under the provisions of the Banking Amendment Act 2000.

IV. Travel Ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

- Based on the RMI Counter-Terrorism Act 2002, no individuals, associations, businesses of all kind promoting terrorism are allowed in the Republic of the Marshall Islands. This includes those names of individuals, associations affiliating with Osama Bin Laden and the Al-Qaida groups that are on the Committee's List.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

- The Committee's List has been distributed to the appropriate authorities in the Government of the Republic of the Marshall Islands.

17. How often do you transmit the updated List to your border control authorities? Do you possess the capability of searching Listed..using electronic means at all your entry points?

- As soon as an updated list is received, the receiving desk transmits the list immediately to the appropriate authorities within the governmental system. The use of electronic means to search for listed names is still limited at the present time. However, the governmental system has already taken the initiatives to implement changes that would lead to the modernization of the government information system in the very near future.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

- The authorities have not come across any of the listed individuals trying to enter the Republic of the Marshall Islands, thus far.

19. Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?

- The list has been transmitted to the appropriate authorities. Our visa-issuing authorities have not identified any applicant whose name is on the List.

V. Arms Embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction...Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

- Pursuant to Section 13 of the Counter-Terrorism Act of the Republic of the Marshall Islands, the Attorney General shall take appropriate measures to disclose intelligence information relating to terrorism, terrorist organizations, transnational organized crime ... illegal arms-trafficking and illegal movement of nuclear, chemical, biological and other potentially deadly materials to competent law enforcement authorities of any foreign country that is a party to an international terrorism convention or a member of the Pacific Islands Forum. Furthermore, the Act also prohibits granting of refugee status or providing asylum or safe haven to any terrorist, or to any alleged offender.

21. What measures, if any, have you adopted to criminalize the violation of arms embargo directed at Osama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

- Section 18 of the RMI Counter-Terrorism Act prohibits preparations in the Marshall Islands for the perpetration of terrorism within or outside the territory of the Republic including illegal activities of persons and organizations that knowingly encourage, instigate, organize, finance or engage in terrorism. This includes above all, the illegal activities in violation of the arms embargo directed against Osama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, under Al-Qaida and entities associated with them.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

- According to Title 7 Marshall Islands Revised Code, Chapter 12, Section 13(1) states that every licensed dealer shall maintain records containing an inventory of firearms, dangerous devices, and ammunition or any of them received together with the name and address of the person from whom received, and the manufacturer, type and serial number of each firearm and dangerous device, the name and address of the person to whom transferred, the identification card number of such person, the manufacturer, type and serial number of the gun or dangerous device transferred and the date of transfer. Such records shall be available for inspection at all reasonable times by the Office of the Attorney General and his duly designated representatives.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of Al Qaida organization and Taliban and other individuals, groups, undertakings and entities associated?

- There is no manufacturing of weapons of all types in the Republic of the Marshall Islands. All weapons and dangerous devices are imported but under strict statutory requirements.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

- As provided under the provisions of the Counter-Terrorism Act, yes, the Republic of the Marshall Islands is obligated to share intelligence with other members nations of the United Nations, the Pacific Islands Forum and also the United States and to freeze accounts and assets or detain individuals, groups and associations that are linked to Osama Bin Laden and the members of the Al-Qaida organization, and any other criminal offenders.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity building would improve your ability to implement in the above sanctions regime.

- There is a great need to train the relevant authorities (the Banking Commissioner, Chief of Immigration, Chief of Labor, Chief of Custom and Revenue, Administrator of the Social Security System, Airport Authority, Director of Port of Entry, and the Police Commissioner) on the various UNSC resolutions such as 1373 and 1455 in order to upgrade their skills so that they can provide better enforcement of the RMI Counter-Terrorism Act including the UNSC resolutions (1373, 1455). There is little understanding of these mentioned UNSC resolutions and it would be beneficial if the UN could conduct regional workshops on such matters.

26. Please include any additional information you believe pertinent.

- One of the main reasons why the RMI has been late in submitting its reports (e.g. 1373 and 1455) is due to the lack of human personnel in the area of counter-terrorism. Counter-terrorism activities is a new field that has now required RMI, among other small island developing states, to comply with various international requirements in the fight against terrorism. It would be prudent for the UN to conduct information seminars on UNSC resolution 1373, 1455, etc. so that key representatives from relevant offices are able to gain a better and full understanding of the requirements of member states for them to implement such resolutions. In this case, the RMI certainly hopes that the UN will provide such information seminars in the near future.
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