

**Security Council**

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**Letter dated 12 February 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 21 November 2003 (S/2003/1132). The Counter-Terrorism Committee has received the attached fourth report from Finland 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 12 February 2004 from the Permanent Representative of Finland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee**

With reference to your letter of 12 November 2003, on behalf of the Counter-Terrorism Committee regarding the implementation of Security Council resolution 1373 (2001), I have the pleasure to enclose herewith further information received from the Government of Finland (see enclosure).

(Signed) Marjatta **Rasi**  
Ambassador  
Permanent Representative

**Enclosure\*****Report to the Counter-Terrorism Committee of the Security Council in response to the further questions and comments presented in its letter of 12 November 2003****EFFECTIVENESS IN THE PROTECTION OF FINANCIAL SYSTEM**

**1.1.** The effective implementation of sub-paragraph 1 (a) requires States to have in place effective executive machinery for the prevention and the suppression of the financing of terrorists acts. In this regard, does Finland provide training to its administrative, investigative, prosecutorial and judicial authorities aimed at enforcing its laws in relation to typologies and trends to counter terrorist financing methods and techniques? In the same context, does Finland train the said authorities in techniques for tracing property, which represents the proceeds of crime or is to be used to finance terrorism? Please outline relevant programs or/and courses. What mechanisms/programs has Finland in place to educate its different economic sectors as to how to detect suspicious and unusual transactions related to terrorist activities and as to how to prevent the movement of illicit money?

The Money Laundering Clearing House (hereinafter the Clearing House) operating in connection with the National Bureau of Investigation annually trains both cooperation authorities and others under an obligation to report suspected money laundering and financing of terrorism. In addition to the internal training of the police administration, the Clearing House has provided training, *inter alia*, for prosecuting, execution and tax authorities. Of the parties under an obligation to report, especially banks, accounting firms and auditors, as well as other such parties have been trained regularly.

The training has focused on the legislation concerning money laundering and the financing of terrorism and related international conventions, as well as on the identification and tracing of proceeds of crime and the obligation to report suspected money laundering and financing of terrorism. The training has been based on practical examples.

For several years, Finland as had in place operative co-operation between the police, the execution and tax authorities and the Customs for the tracing and recovery of proceeds of crime. The execution authorities are, within their competence, responsible for gathering information about the property of debtors and other enforcement-related circumstances, as well as for taking any necessary protective and enforcement measures. In addition, the execution authorities have special units for the collection of debts in cases that require specific and comprehensive background investigations. These units work in close contact with the police and other relevant authorities. A majority of the tasks carried out by these special collecting units are related to the tracing and recovery of proceeds of crime detected by the police when investigating economic offences.

**1.2.** As regards the suppression of the financing of terrorist acts under sub-paragraph 1 (a) of the Resolution, the CTC would appreciate learning whether the Clearing House has sufficient resources (human, financial and technical) to enable it to carry out its mandate. Please provide appropriate data in support of your response.

The Clearing House is responsible for preventing both money laundering and the financing of terrorism. It employs 24 persons, of which 19 are police officers. Further, five persons carry out tasks

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

supporting the investigative process. The entire staff of the Clearing House has access to all necessary technical devices.

So far, the Clearing House has not investigated concrete cases of terrorist financing. However, its current resources are sufficient for this purpose.

**1.3.** As regards the effective implementation of sub-paragraph 1 (a), could Finland please indicate how many money remittance/transfer services are registered and/or licensed in Finland? Can money remittance/transfer services engage in business in Finland without being registered or licensed? Has Finland brought all forms of the money remittance/transfer business under the scope of the Act and made this business and the "bureaux de change" subject to the supervision of the Financial Supervision Authority? Would Finland please outline the legal provisions which it has put in place to prevent money/value transfer systems from being used to finance terrorism. In the absence of such provisions, could Finland indicate the steps which it intends taking in order fully to comply with this aspect of the Resolution?

Only banks and credit institutions which provide public money remittance services and participate in the Finnish interbank payment system require a licence granted by the Financial Supervision Authority (FSA). There are currently approximately 330 such institutions in Finland. Their activities are regulated by the Credit Institutions Act and they are subject to prudential supervision by the FSA. All financial institutions, however, are bound by the Money Laundering Act.

On the basis of the amendments to the Money Laundering Act, which took effect on 1 June 2003, persons and businesses other than those referred to above (incl. "bureaux de change"), providing money remittance and value transfer services, were included in the scope of the Act by an explicit provision. On the basis of the amendment, these persons and businesses were placed under an obligation to file a notification of their activities to the Provincial State Office of Southern Finland (section 13a). A business may not start up activities prior to filing such a notification. A failure to do so is punishable in accordance with the Act. As these persons do not need an actual licence, they are not subject to prudential supervision by the FSA. Instead, the Clearing House monitors their activities closely.

The Financial Supervision Authority has increased the awareness of the supervised businesses regarding terrorist financing techniques. Moreover, the FSA has carried out extensive on-site inspections of payment systems and internet-based banking services in all bank groups, paid supervisory visits, arranged training for both the FSA staff and the supervised businesses, as well as organised negotiations with the Finnish Bankers' Association and individual supervised businesses.

**1.4.** Sub-paragraph 1 (a) of the Resolution requires financial institutions and other intermediaries to identify their clients and to report suspicious financial transactions to the relevant authorities. In this regard, would Finland please provide the CTC with the number of suspicious transactions reports (STR) received by the Clearing House or other competent authorities, with particular regard to STRs from the insurance sector, the "bureaux de change" sector, and securities firms.

In 2002 and 2003, the Clearing House received reports on suspicious transactions from different parties as follows (preliminary data):

Reporting parties	2002	2003
Banks	323	416
Investment firms	1	4
Insurance companies	12	19
Real estate agents	3	5
Entities pursuing betting, totalisator betting or gambling casino activities	15	15
Foreign currency exchange companies	1792	1542
Accounting firms		2
Auditing entities		4
Traders in valuables		3
Legal professionals		1
Pawnshops	-	-
National police authorities	17	14
Other national authorities	532	528
Foreign police authorities	10	142
Other foreign authorities	4	2
Other sources	9	20
<b>TOTAL</b>	<b>2718</b>	<b>2717</b>

The reports submitted by the Finnish and foreign authorities are mainly based on the lists published by the United Nations and the European Union on persons associated with the financing of terrorism.

In 2002 and 2003, the Clearing House referred to pre-trial investigation 114 and 289 reports, respectively, on suspicious transactions. None of these reports concerned the financing of terrorism.

**1.5.** As regards the implementation of sub-paragraphs 1 (a) and (c) of the Resolution, as well as Article 8 of the International Convention for the Suppression of the Financing of Terrorism, the CTC would be grateful if Finland please could describe the principal procedures incorporated in its legal system in relation to the confiscation of assets or the operation of some other deprivation mechanism. Please describe how the procedures operate in practice, indicating, inter alia, the authorities responsible for their implementation. Can Finland confiscate the proceeds of a crime without first obtaining the conviction of the perpetrator (i.e. in rem confiscation)? If not, is the introduction of such a system envisaged? The CTC would also welcome an account of any appellate provisions allowing for the review of the decisions taken by any such authority or agency. Please indicate the financial magnitude of the assets frozen, seized or confiscated in regard to the prevention of financing of terrorism. Does Finland's law allow some or all confiscated property to be used to satisfy claims for damages brought by a person who claims to have suffered injuries as a result of the commission of an offence? Please describe how Finland deals, in its laws and procedures, with requests from foreign states for international legal assistance in relation to confiscation measures arising out of terrorist offences.

The Finnish Penal Code contains provisions on forfeiture. The prerequisite for ordering forfeiture is an act established as a criminal offence. A forfeiture order may also be based on a criminal offence, where the person committing the act has not reached the age of fifteen at the material time, or is

without criminal capacity or free from criminal liability. With the exception of these cases, it is not possible to confiscate proceeds of a crime without convicting the offender.

The proceeds of crime shall be forfeited to the state. It shall be ordered on the offender, a accomplice or a person on whose behalf or to whose advantage the offence has been committed, when these individuals have benefited from the offence. Forfeiture of the proceeds of a crime shall not be ordered in so far as they have been returned to the injured party, or they have been or will be ordered to be reimbursed to the injured party by way of compensation or restitution. The Finnish legislation does not permit the use of forfeited property to satisfy the claims for compensation of a person who alleges that the offence has caused him personal injury.

Forfeiture shall be ordered at the request of a prosecutor or other competent official (Summary Penal Proceedings Act), or of an injured party proceeding with prosecution independently without a public prosecutor's involvement (Criminal Procedure Act). Forfeiture decisions may be appealed from to a court of appeal (Code of Judicial Procedure) and thereafter, subject to leave to appeal, to the Supreme Court as provided for in the Code of Judicial Procedure.

According to the Coercive Measures Act, if there is a risk that a probable suspect of an offence (or a person against whom a compensation or confiscation order may be made) will attempt to avoid (by means described in the Act) fines, compensation or confiscation, his property may be placed under a restraint order which may not exceed the amount of the fine, compensation and confiscation likely to be ordered. In cases where the restraint order cannot be considered sufficient to secure the claim referred to in the Act, an order freezing the corresponding amount of movable property may be issued to secure the payment (freezing of property).

A restraint order or an order on the freezing of property shall be issued by a court. Before the charges are brought, such an order may be requested by the head of investigation or the prosecutor. A request for a restraint or freezing order may also be submitted at a later stage by the prosecutor or, in order to secure the payment of compensation, by the complainant. In urgent cases, subject to the conditions laid down in the Coercive Measures Act, the head of investigation or the prosecutor may issue a provisional restraint or freezing order until the court has rendered a decision on the matter. Orders are subject to separate appeal, which shall not preclude the enforcement of the order unless the appellate court orders otherwise.

The Coercive Measures Act further contains provisions on restraint and freezing orders pursuant to a request for judicial assistance made by a foreign state. Where a confiscation order has been issued against a person by a foreign court in a criminal law case (or if such an order is likely to be issued), a restraint or a freezing order relating to the property of the person may be issued upon the request of an authority of that state.

Finland is a State Party to the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, done at Strasbourg on 8 November 1990. According to the Decree on the implementation of the Convention, the Finnish authorities shall provide, at the request of the authorities of another state party to the Convention, judicial assistance referred to in the Convention

as provided for in the Convention and the Act on International Legal Assistance in Criminal Matters and the related Decree.

Forfeitures ordered by a court of another state party to the Convention shall be enforced in Finland at the request of the authorities of that state, as provided for in the Convention and the Act on International Cooperation in the Enforcement of Certain Penal Sanctions. Sanctions leading to deprivation of liberty and forfeitures ordered by a court of a foreign state may be enforced in Finland, and sentences of imprisonment and forfeitures ordered by a Finnish court may be referred to a foreign state for enforcement.

So far, no funds have been frozen, seized or confiscated in order to prevent the financing of terrorism.

**1.6.** The CTC notes, from Finland's third report (page 3), that the amendment to the Penal Code establishing the financing of terrorism as a criminal offence has entered into force. However, Section 5 of the new Chapter 34a of the Penal Code (enclosed with the report) would not seem fully to comply with the requirements of sub-paragraph 1 (b) of the International Convention for the Suppression of the Financing of Terrorism. The CTC would welcome an indication of the measures which Finland intends taking in order to meet the requirements of this aspect of the Resolution in full.

Finland would be grateful if the CTC could specify in which respect Chapter 34a, Section 5, of the Finnish Penal Code does not comply with subparagraph 1(b) of Article 2 of the International Convention for the Suppression of the Financing of Terrorism.

## **EFFECTIVENESS OF COUNTER-TERRORISM MACHINERY**

**1.7.** Effective implementation of 1373-related legislation, 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 antiterrorist strategy. In this context could Finland please outline how its counter terrorism strategy and/or policy targeting (at the national and/or sub-national levels) deal with the following forms or 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; analyses of efficiency of anti-terrorist legislation and relevant amendments; border and immigration control, control preventing the trafficking in drugs, arms, biological and chemical weapons, their precursors and the illicit use of radioactive materials. Would Finland please outline legal provisions and other administrative procedures, as well as best practices in this regard?

The Office of the Prosecutor General, which is the central administration for the prosecuting service, is responsible for the prosecution of terrorist offences. In 2003, the Office designated one of its state prosecutors as responsible for the prosecution of offences related to organised crime and terrorism. The said state prosecutor regularly participates in strategy and investigation meetings organised by the police and functions as a national EUROJUST contact person.

The Security Police is responsible for counter-terrorist intelligence carried out through both human and technical resources, as well as for the strategic analysis and forecasting of emerging threats. Such analyses are prepared for use by political leaders and the leading officers of the state. Analysis of emerging threats is also produced by the defence administration.

As most potential terrorist targets are located in Helsinki, the Helsinki District Police are responsible for their physical protection. The Security Police produce threat assessments concerning such targets. Two special security units operating under the Helsinki District Police are responsible for counter-terrorist operations. One of them is a group specialised in the defusion of explosives, whereas the other one is a unit intended for the securing of demanding police tasks and handling, e.g. terrorist attacks. While the first-mentioned unit is administratively part of the Helsinki District Police, it can be seconded outside Helsinki by a decision by the Supreme Police Command. Where appropriate, the Finnish Defence Forces provide executive assistance in maintaining public order and security, as has been provided for by Finnish legislation. Such assistance always takes place under the command of the police authority.

The Frontier Guard is responsible for guarding Finland's land borders, for supervising incoming and departing traffic (both road and waterborne), as well as for checks related to the entry and departure controls of persons. Further, the Frontier Guard supervises the observance of the provisions of law on the possession of firearms, ammunitions and other dangerous items, drugs, radioactive materials, explosives and other materials.

While the Frontier Guard is the leading authority responsible for the guarding of borders and border checks in Finland, the Police and the Customs also carry out border checks at certain border crossing points. Furthermore, the Frontier Guard Act outlines customs and police tasks to be performed by the Frontier Guard. A Government Decree provides for cooperation between the Police, the Customs and the Frontier Guard. This close cooperation and exchange of information between the authorities, for instance concerning persons wanted for offences, is aimed at optimising the efficiency of counter-terrorism activities by the available resources. The border crossing points are provided with electronic passport readers which are automatically connected through a common browser with registries overseen by other relevant authorities. The information provided by this system facilitates the immediate intervention in suspected illicit activities.

**1.8.** The CTC would be grateful if Finland could provide it with information regarding its counter terrorist efforts including, inter alia, an outline of any targeted programs, the agencies involved, and any mechanism aimed at ensuring inter agency coordination in the various areas specified in paragraph 2 and 3 of the Resolution. The CTC is particularly interested in the following areas: recruitment to terrorist groups; tracing links between criminal activity (in particular, drug trafficking) and terrorism; denying the establishment of terrorist safe havens and any other forms of passive or active support for terrorists or terrorist groups. This last category includes but is not restricted to: logistical support for terrorists (including the use of computer technology) "apologia" for terrorism and incitement to terrorism, maintenance of contacts with and between terrorist organizations, terrorist groups and individual terrorists; the provision of or the granting of access to CBN materials to terrorists or terrorist groups.

So far, recruitment into terrorist groups has not been detected in Finland. The Security Police monitor and prevent possible attempts at recruitment as part of their normal counter-terrorism activities. Nor have the Finnish authorities detected any links between conventional criminal activity and terrorism in Finland (see also information provided for UNODC under sub-paragraph 1.20). If such links are detected, their nature is investigated in cooperation between the Security Police and the police unit investigating the offence concerned (the local police or the National Bureau of Investigation).



As to the "apologia" for terrorism and incitement to terrorism, see attached information provided to the Council of Europe.

The Directorate of Immigration maintains a register of aliens and processes and resolves matters concerning aliens and Finnish citizenship. Further, the Directorate issues residence permits to aliens residing abroad and in Finland and decides on the removal of persons residing in Finland from the country. The Directorate also makes decisions regarding the granting or abrogation of refugee status.

Preconditions for the entry of an alien into Finland include, among other things, that the person is not deemed to jeopardise public order and safety. Further, the Aliens Act lays down specific grounds for refusal of entry and deportation. The removal of an alien is possible in cases where the person has committed an offence, jeopardises other people's safety, is justifiably suspected of preparing sabotage or endangers Finland's foreign relations. Terrorist activities, the support of terrorist activities, or membership in a terrorist organisation, including suspicions thereof, are grounds for deeming that an alien, most probably, jeopardises public order and safety. In such cases, no residence permit for Finland is granted or continued.

If necessary, the Directorate consults the Security Police. For certain types of cases, the Security Police is always consulted. If it does not support the admission of the person concerned into Finland (or his continued residence in the country), the person is, as a rule, refused a residence permit. Likewise, Finnish citizenship is refused if there is reason to suspect that the citizenship might endanger public order or the security of the state.

The Security Police also issues opinions on the admission of persons into Finland for selection of quota refugees. Since autumn 2001, their representative has participated in visits abroad for interviews with and the selection of refugees to be admitted into Finland. When processing applications for asylum, the Directorate has paid particular attention to the application of the so-called exclusion clause in Article 1.F of the 1951 Convention on the Status of Refugees due to engagement in terrorist activity or membership in a terrorist organisation. The Directorate has gathered information about organisations classifiable as terrorist organisations in order to better identify persons to whom asylum may not be granted. The application of the exclusion clause has also been discussed in international fora.

The Directorate is represented in national working groups set up between different authorities to deal with the prevention of illegal entry into the country and immigration issues in general. In these working groups, the competent authorities exchange information about issues of significance to counter-terrorism activities and measures.

**1.9.** Sub-paragraph 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 those involved in terrorist activities and those supporting terrorist activities with a view to ensuring that those persons are brought to justice. In that regard has Finland created appropriate mechanisms to ensure adequate co-operation and information sharing among the different government agencies which may be involved in the investigation of terrorist activities, with particular regard to the financing of terrorism? The CTC would appreciate receiving information concerning the coordination of the work of Finnish agencies charged with the

enforcement of the Resolution. Do the legal provisions in force in Finland authorise its administrative authorities to share public and non-public information with their domestic and foreign counterparts? If yes, please provide an outline of the relevant legal provisions?

The Act amending the Money Laundering Act, which entered into force in June 2003, partially implements the FATF Special Recommendations on Financing of Terrorism. The obligation of institutions and businesses to report suspected money laundering was extended to cover the suspected financing of terrorism. If the authority supervising the obligation to report suspects that funds involved in a transaction may be used for committing a terrorist offence or a punishable attempt at such an offence, it is obligated to report the case to the Clearing House. The party under obligation to report has to provide the Clearing House, on its request, with all information and documents which may have significance in clearing the suspicion.

After receiving a report, the Clearing House conducts a police investigation. If there is reason to suspect the financing of terrorism or any other offence, the case is referred to a pre-trial investigation carried out by either the Clearing House or other competent authority. Both investigations are conducted jointly with the Finnish Security Police, if appropriate.

The Clearing House has the right to obtain, free of charge, any information and documents needed for pursuing its activities from authorities and institutions performing public duties, notwithstanding the existing provisions on the confidentiality of business information or trade secrets, or the financial circumstances or status of an individual, institution or foundation. The Clearing House also has such right with respect to a private body or person, notwithstanding the secrecy obligation binding on the members, auditors, auditors of the savings fund operations, board members or employees.

The Clearing House also promotes cooperation between different authorities in the prevention of money laundering and financing of terrorism, as well as cooperation and exchange of information with authorities in foreign States and appropriate international organisations.

The Clearing House is entitled to disclose information to both national and foreign authorities for preventing and investigating money laundering and the financing of terrorism. Provisions on the disclosure abroad of information from police files are set out in the Act on Police Personal Data Files. The police are entitled to disclose information to the International Criminal Police Organisation (I.C.P.O. – Interpol) or to the police authorities of an Interpol member state, or to other authorities of that state responsible for securing the legal and social order, maintaining public order and security, or preventing and investigating offences, and prosecution.

Information may be disclosed to authorities of a state other than an Interpol member state if it is necessary to ensure the security of that state, to prevent an immediate danger to life or health or a substantial loss of property, or to prevent or investigate an offence which, if committed in Finland, could be punished by imprisonment.

**1.10.** In the context of the effective implementation of sub-paragraph 2 (e), please indicate which special investigative techniques can be used in Finland in cases of terrorism (e.g. interception of communications; electronic surveillance; observation; undercover operations; controlled delivery; "pseudo-purchases" or other

"pseudo-offences"; anonymous informants; cross-border pursuits; bugging of private or public premises, etc.). Please explain the legal conditions which govern their use. Please specify whether they may only be applied to suspects and whether their use must first be sanctioned by a court. Please also specify the period of time for which they may be used. Could Finland also indicate whether these special investigative techniques can be used in cooperation with another State?

The powers available to the Finnish law enforcement authorities for the investigation of terrorist offences are mainly provided for in the Coercive Measures Act which contains provisions on telecommunications interception, telecommunications monitoring, acquisition of information about the location of mobile stations and technical surveillance (technical listening, viewing and homing). A general condition for the use of these methods is that the information obtained can be assumed to be significant in the investigation of the offence. Moreover, the Act contains provisions on undercover operations and pseudo-purchases.

Further, according to certain international obligations binding on Finland (e.g. the Schengen Convention), cross-border pursuits and observation may be used for investigating offences committed with a terrorist intent.

#### Means of acquiring information

*Telecommunications interception* is permissible when there is reason to suspect that a person has committed or is preparing to commit an offence referred to in Chapter 34a of the Penal Code.

*Telecommunications monitoring* is permissible when there is reason to suspect a person of an offence not punishable by less than imprisonment for four months. Thus, acquiring information is applicable to nearly all terrorist offences referred to in the Penal Code. The preparation of an offence with a terrorist intent is mentioned separately as an offence in the case of which telecommunications monitoring may be used for pre-trial investigation, as this offence is also punishable by fine.

*Technical listening* is permissible in the investigation of offences for which the maximum punishment is at least four years of imprisonment, and of the preparation of an offence with a terrorist intent. In the investigation of terrorist offences, technical listening may also be used in premises intended for permanent habitation, if it is probable that the suspected person is staying there and if it would be considerably more difficult, or impossible, to investigate the offence by using coercive measures that affect less the rights of the suspected person. Terrorist offences can also be investigated by *technical viewing* and by *technical homing*.

In the case of almost all terrorist offences, the pre-trial investigation authorities are also entitled to obtain information about those mobile devices from which information has been recorded into the telecommunications system through a base station located near a place which is significant to the investigation of the offence, if the available information can be presumed to be significant for the investigation.

The Police Act permits the use of *undercover operations* to investigate offences for which telecommunications interception is permissible. *Pseudo-purchases* are also possible, if they are

necessary to investigate a concealment offence or an offence for which the maximum punishment is at least two years of imprisonment, or to detect objects, substances or property possessed or traded illegally due to such an offence, or to recover proceeds from such an offence.

The police has traditionally used *informants* and *controlled deliveries* as investigation methods. There is no legislation concerning their use, but an amendment of legislation to this effect is being prepared by the Ministry of the Interior.

Using means of acquiring information for persons other than those suspected

The aforementioned means of acquiring information may, as a rule, be only used for suspected persons. However, Finnish legislation also allows, with the complainant's consent, electronic surveillance of a subscriber connection used by the complainant.

Court authorisation

The authorisation for telecommunications interception, telecommunications monitoring, acquisition of information about the location of mobile stations, technical listening and technical viewing (if measures are directed at persons kept in custody) is granted by a court, upon the written request of an official with the power of arrest. Further, a court authorisation is necessary for technical listening and technical viewing in premises intended for permanent habitation when the listening or viewing devices are meant to be placed in the premises to be observed. If the commencement of telecommunications monitoring cannot be delayed, the official with the power of arrest may provisionally take the measure before the court has rendered a decision on the matter.

Undercover operations, pseudo-purchases, and the use of informants and controlled deliveries are not subject to court authorisation.

Time limits

Authorisation for telecommunications interception and telecommunications monitoring, as well as for technical listening, may be granted for a maximum period of one month at a time. Authorisation for telecommunications monitoring may also be granted to cover a period preceding the decision, which may exceed a month.

Using methods jointly with another member state

The aforementioned means of acquiring information can be used in international cooperation. The Act on Legal Assistance in Criminal Matters provides for telecommunications interception, telecommunications monitoring and technical surveillance, as well as controlled delivery, as coercive measures which, on certain conditions, may be used on the basis of a foreign state's request for legal assistance. Undercover operations and pseudo-purchases will also be available after the above-mentioned amendment to the Coercive Measures Act has entered into force.

**1.11.** With a view to bringing terrorists and their supporters to justice, please indicate whether Finland has taken measures to protect vulnerable targets in the prosecution of terrorist cases (e.g. the protection of victims; the protection of people collaborating in the administration of justice; the protection of witnesses, judges and prosecutors)? Please describe the legal and administrative provisions in place to ensure this protection. Could Finland outline whether those measures can be utilised in cooperation with or at the request of another State.

The Penal Code contains provisions criminalising the threatening of persons to be heard in a judicial proceeding. A person who unlawfully by violence or by threats prevents or attempts to prevent another person from making a statement in judicial proceedings (trial, criminal investigations, police inquiry or other comparable official proceedings), or influences or attempts to influence the contents of the statement, shall be sentenced, unless a more severe penalty for the act has been provided by law, to a fine or to imprisonment for at most three years.

According to the Code of Judicial Procedure, a witness or an injured party may be heard in the main hearing without the presence of a party or the public, if the court deems this appropriate and necessary to, *inter alia*, protect the person against threat to life or health. For this reason, a witness or an injured party may also be heard in the main hearing without his personal presence by using video negotiations or other applicable technical means of communication.

The Criminal Procedure Act and the Code of Judicial Procedure lay down certain restrictions on the disclosure of the contact information of parties and witnesses. Further, the Population Information Act provides that the Finnish Population Register Centre may order, for a prescribed period, that information on a person's municipality of residence or his domicile located there or his temporary domicile may only be disclosed to authorities. It is required that the person requesting information has a justifiable reason to suspect that his own or his family members' health or safety or the health is in danger. The Act on the Openness of Government Activities permits the secrecy of contact information of witnesses and persons who have reported offences or given similar reports, to protect them, among others, against injured parties. Finally, the Names Act makes it possible to change both one's first name and surname.

The Police Act provides for the right of the police officers to remain silent. When being heard as a witness or otherwise, police officers are not under an obligation to reveal the identity of any person who has provided them with confidential information during their employment or to reveal any confidential tactical or technical methods. Nor are police officers under an obligation to reveal the identity of a person who made a pseudo-purchase or who was involved in other undercover activities if the disclosure of the information would endanger the undercover activities concerned, or if it would significantly endanger the handling of similar future duties.

The Enforcement of Sentences Act makes it possible to notify an injured party or another person of the release of a prisoner if there are reasonable grounds to suspect that the prisoner will make himself guilty of an offence against the life, health or freedom of that person.

**1.12.** In the context of the effective implementation of sub-paragraph 2 (e), could Finland provide the CTC with information concerning the number of persons prosecuted for: terrorist activities; the financing of terrorist activities; recruiting to terrorist organisations; providing support to terrorists or terrorist organisations. Could

Finland also indicate how many people have been prosecuted for inviting support (including recruitment) for: proscribed organisations; and other terrorist groups or organisations?

So far, no prosecutions have been initiated for terrorist offences referred to in Chapter 34a of the Penal Code.

**1.13.** Section 34a of Finland's Penal Code criminalizes "offences committed with a terrorist intention". Please provide the CTC with the legal definition of the words "terrorist intention".

According to Chapter 34a, section 6, of the Penal Code, an offender has a *terrorist intent* if it is his or her intent to: 1) cause serious fear among the population; 2) unjustifiably force the government of a state or another authority or an international organisation to perform, allow or abstain from performing any act; 3) unjustifiably overturn or amend the constitution of a state or seriously destabilise the legal order of a state or cause particularly harm to the state economy or the fundamental social structures of the state, or 4) cause particularly extensive harm to the finances or other fundamental structures of an international organisation. The definition in the Penal Code is based on that given in the European Council Framework Decision of 13 June 2002 on Combating Terrorism.

**1.14.** The CTC would be grateful to receive a progress report on the enactment of: the Government Bill for an overall reform of Aliens Act; the Government Bill (173/2002) for the amendment of the Act on the Detection and Prevention of Money Laundering; the Government Bill for the withdrawal of reservations under the European Convention on the Suppression of Terrorism, concerning extradition in respect of terrorist offences. The CTC would also appreciate a progress report on the outcome of the work of the Working Group established by the Ministry of the Interior, to review the existing legislation and to make recommendations on how to enhance the control of fundraising by organisations which have charitable, social or cultural goals (page 7, third report).

## Aliens Act

As reported earlier to the CTC, the Government Bill for an overall reform of the Aliens Act was submitted to Parliament on 20 December 2002. The Bill was nevertheless dropped as Parliament was not able to discuss and pass it before parliamentary elections held in March 2003. A new Bill was submitted to Parliament in June 2003, and is now being discussed by Parliament.

## Act to amend the Money Laundering Act

The Act to amend the Money Laundering Act (Government Bill 173/2002) entered into force on 1 June 2003. See also information under sub-paragraph 1.3. and the attached consolidated text of the Act.

## Reservation to the European Convention on the Suppression of Terrorism

Upon acceptance on 22 December 1989 of the European Convention on the Suppression of Terrorism, Finland submitted a reservation to Article 1 of the Convention, reserving the right to refuse extradition in respect of any offence mentioned in Article 1 where the offence is considered to be of a political nature. The reservation was made by virtue of the then provisions of the Extradition Act

providing authorities with a margin of discretion in deciding whether the offence was to be considered political.

The applicable provision of the Extradition Act was, however, amended in 1999 upon the ratification of the Convention Relating to Extradition between Member States of the European Union. Article 5 of the Convention provides that for the purposes of applying the Convention, no offence under that article may be regarded as a political offence. Instead of partly withdrawal, the Government proposed to Parliament that the reservation to Article 1 be withdrawn in its entirety, and not only in relation to the other Member States of the EU. After Parliament's approval, the reservation was withdrawn with effect as of 24 April 2002. Consequently, the offences under Article 1 are no longer regarded as political in relation to other State Parties to the Convention.

#### Non-profit organisations

The Ministry of the Interior is preparing an overall reform of the legislation on the collection of money by non-profit organisations. The reform aims, *inter alia*, at a more efficient supervision of the collection of money. The revised legislation will provide for intensified overall supervision of the collection of money, intended also to prevent the use of such collection for terrorist financing. A Government Bill is scheduled to be submitted to Parliament in 2004.

### EFFECTIVENESS OF CUSTOMS, IMMIGRATION AND BORDER CONTROLS

**1.15.** Effective implementation of sub-paragraph 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 Finland has established any procedure for supplying advance information concerning international cargo and passengers to its own relevant authorities as well as to those of other States to enable them to screen for prohibited cargo and suspected terrorists before disembarkation.

The increase of global movement of goods, people and capital, particularly in Europe, has resulted in a decrease of official information exchange between foreign trade operators and the Customs. For this reason, the Finnish Customs have focused their co-operation on efforts to improve the exchange of information with a view to meeting the needs of the fight against Customs fraud.

The Customs have the possibility to obtain, by means of technical links, any necessary information from the registers of private enterprises and associations. The Finnish Customs also have a long-standing and close co-operation with the private sector. The first Memoranda of Understanding on co-operation (MOUs) were signed in 1994. At present the Finnish Customs are operationalising their co-operation by revising all existing MOUs. The industry-wide MOUs with maritime carriers, forwarding agents, ship's brokers and port operators have already been revised. At present, similar negotiations are underway with individual maritime companies and air carriers in order to ensure the receipt of comprehensive advance information. The following priority sectors are postal traffic (including express couriers) and rail traffic.

The Finnish Customs do not provide foreign authorities with the information on goods traffic leaving Finland as a mass release. The provision of such information is, nevertheless, possible on a case-by-

case basis. The amendment the EU Customs Code is about to bring change in this respect. If amended as proposed, the revised Code will regulate in more detail the exchange of advance information and the provision of information to foreign authorities. These amendments do not, however, change the current situation where it is not possible, by virtue of MOUs, to forward the information obtained from the private sector.

There are three codes placing Finnish shipping companies under an obligation to draw up passenger lists. Firstly, long international journeys are subject to the IMO Convention on Facilitation of International Maritime Traffic (FAL Convention), which requires listing of passenger data in a FAL passenger list. In practice, these journeys extend beyond the Baltic Sea. Secondly, an obligation to draw up a passenger list may arise from a decision of the National Board of Customs on the implementation of the provisions of the so-called FAL Directive (2002/6/EC). A passenger list referred to in the FAL Directive may be required of a ship certified to carry no more than twelve passengers (a cargo vessel). In this case, the name and the citizenship of the passengers, together with the date and the place of birth, have to be listed. Thirdly, an obligation to draw up a passenger list may arise from the national Decree on Passenger Lists of Passenger Ships. This Decree implements a Council Directive (98/41/EC) which applies to all passenger ships transporting passengers further than 20 sea miles.

Passenger transports into Finnish ports are mainly subject to the provisions of the afore-mentioned decree and directive. In transports outside the EU, passengers are listed in connection with passport controls. However, these lists are based on provisions other than those mentioned above, and they are compiled by the Frontier Guard. Passenger information is also available from airline and shipping companies. This information permits detailed checks of individual persons in advance. In addition to the UN and EU based information about persons associated with terrorists, information is also available from foreign authorities or from the Finnish Security Police.

During the drafting of the Government Bill concerning counter-terrorist measures for maritime navigation (see also information given under sub-paragraph 1.17.), the question of listing passenger data and their checking before sea journeys was discussed on many occasions. At the time, the Frontier Guard proposed that shipping companies should record and check personal data more accurately than they do at present. Such proposals were objected to by the shipping industry.

**1.16.** In regard to preventing the movement of terrorists please outline the legal and administrative procedures developed by Finland to protect the port facility and ships, persons, cargo, cargo transport units, off-shore installations and ship's stores from the risks of a terrorist attacks. Please outline any procedures adopted in Finland for controlling access to the ship; monitoring restricted areas to ensure that only authorized persons have access; supervising the handling of cargo and ship's stores. Do Finland's competent authorities put procedures in place for the periodic review of transport security plans with a view to keeping them up-to-date? If yes, please outline.

Chapter 34 of the Penal Code concerning endangerment offences includes a provision criminalising the hijacking of vessels. The provision implements, *inter alia*, the corresponding provisions of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (the 1988 SUA Convention) adopted by the International Maritime Organisation (IMO). The relevant



provisions of the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (appended to the SUA Convention), were included in the Penal Code upon the ratification of the Protocol. As reported to the Committee earlier, Chapter 34a of the Finnish Penal Code contains provisions on criminal offences committed with a terrorist intent and the preparation of such offences, directing of a terrorist group and facilitating and financing of the activities of such a group.

The Police, the Navy, the Frontier Guard and the Finnish Maritime Administration have jointly prepared a plan for measures to be taken in response to the hijacking of vessels and other serious offences at sea.

At a diplomatic conference held in December 2002, the IMO adopted amendments to Chapters V and XI of the Annex to the 1974 International Convention for the Safety of Life at Sea (SOLAS) and the International Ship and Port Facility Security Code (ISPS Code) referred to in Chapter XI of the Annex. The amendments relate to security measures in respect of ships and port facilities (counter-terrorist measures). On 27 July 2003, the Ministry of Transport and Communications set up a working group to monitor and coordinate counter-terrorist measures for maritime navigation taken by the different administrative sectors. The working group prepared a draft Government Bill which is being circulated for comments and will be submitted to Parliament during the spring session 2004.

**1.17.** In the context of the implementation of sub-paragraph 2 (b) and (j) does Finland have any difficulties in implementing the standards and recommendations of the International Civil Aviation Commission, and/or in developing and implementing an Action Plan of ICAO. If yes, please explain what kind of difficulties and which standards. Please inform the CTC as to whether ICAO has conducted safety audits of Finland's international airports.

As an EU Member State, Finland applies Regulation ((EC) No. 2320/2002) of the European Parliament and the Council establishing common rules in the field of civil aviation security, including common basic standards on aviation security set out in the Annex to the Regulation. Furthermore, the European Commission has adopted certain measures for the implementation and technical adaptation of these common basic standards, which are also applied by Finland. The said standards are based on the existing recommendations of the European Civil Aviation Conference (ECAC).

Finland has not experienced any particular difficulties in the implementation of the standards and recommendations of the International Civil Aviation Organisation (ICAO), as laid down in Annex 17 (Security). ICAO conducted a safety audit in September 1999 at Helsinki-Vantaa airport, the main international airport in Finland.

## **EFFECTIVENESS OF CONTROLS PREVENTING ACCESS TO WEAPONS BY TERRORISTS**

**1.18.** Sub-paragraph 2 (a) of the Resolution requires each Member State, inter alia, to have in place appropriate mechanisms to prevent terrorists from gaining access to weapons. In this context, the CTC would appreciate it if Finland could provide an outline of the steps which it has taken or which it propose taking in regard to the:

- a) ratification and implementation of the United Nations Convention against Transnational Organised Crime and the supplementary Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition;
- b) implementation of the Recommendation of WCO concerning the above mentioned Protocol;
- c) utilisation of electronic reporting and the promotion of the safety of the supply chain as provided for in the General Annex to the revised WCO Kyoto Convention, as well as the standards of the World Customs Organization;
- d) implementation of the Programme of Action (adopted by the UN Conference to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons) as well as the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms and European Union Joint Action on Small Arms.

**sub-paragraph a)** The instrument of ratification regarding the UN Convention against Transnational Organised Crime was submitted to the Secretary General of the UN on 10 February, 2004. The implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition is under preparation. A related Government Bill is to be submitted to Parliament during the autumn session 2004. The ratification requires amendments to the Firearms Act and the related Decree.

**sub-paragraphs b) and c)** As the WCO Recommendation supporting the Firearms Protocol falls partly within the competence of the EU, its acceptance and implementation by the EU Member States will be considered jointly.

The Finnish Customs has been actively involved in the work of the WCO Task Force to ensure the safety of the supply chain. In addition, the Finnish Customs have participated closely in the preparation of new national legislation to ensure the safety of ports and maritime traffic. Such legislation gives the Customs special powers to control, for safety reasons, the departure of persons and goods from Finland.

The Customs receive prior notice through the PortNet system (national inter-agency electronic information system) on vessels and cargoes arriving in Finland by sea. The vessels are under an obligation to send a prior notice to PortNet (or a corresponding notice in paper) at least 24 hours before their arrival. Electronic PortNet can also be used for declaring an overseas cargo. Prior notices on cargo are made on a voluntary basis, as the Customs does not require any such prior notices. The electronically given cargo information is normally received a few days before the arrival of the vessel.

As to consignments leaving Finland by sea, advance cargo information may be given either electronically to PortNet, or on paper. Electronic notifications often arrive in PortNet after the vessel has already left Finland. In order to facilitate the export control of unit load transports, a system called Termis is being developed. Through this system, the Customs will receive cargo notifications in PortNet on containers leaving Finland before shipping. The testing of this system will begin in early spring 2004. With regard to road transport, a computerised transit system has been introduced, where the Customs is given prior notice of third country road consignments arriving from countries which are Contracting Parties to the Common Transit Convention (presently EU Member States and 10 acceding countries).

In air freight and other traffic, the Customs have no arrangement for receiving prior notice of consignments. In these cases the Customs have to resort to the carriers' systems and to ensure access to them.

**sub-paragraph d)** The Finnish legislation and procedures to control manufacturing, transfer and trace and to register small arms, as well as to criminalise related illicit activities, are in line with the Programme of Action adopted by the UN Conference on Small Arms and the EU Joint Action on Small Arms. The storage of small arms is also regulated by legislation and by the related internal rules of the Defence Forces. The majority of these provisions were revised during the period of 1991-2002, and they conform with the afore-mentioned EU Joint Action. The appropriate legislation is supervised by the Ministry of the Interior, the Police, the Frontier Guard and the Customs.

The Finnish arms register is comprehensive and accurate. The records on the manufacture, possession and transfers of small arms and ammunitions are kept in at least ten years. All legal small arms are given a serial number upon their manufacturing, identifying the manufacturer and Finland as the country of origin. In the case of an international transfer of firearms, their number, licence information, exporting and importing country, possible transit countries, and final recipient are registered.

Firearms brokers are under an obligation to keep registers on their activities and to inform the police of them on request, and to transfer the registers to the competent authority when their brokering licences expire. The registers have to be kept in at least ten years after the last register entry. At least once a year, the police inspects the registers and stores of all firearms brokers.

By the act, the year 2004 was declared "a year of grace" intended to reduce the number of illicit and unregistered arms. The act makes it possible to hand over illicit arms, ammunitions and explosives to the police without a fear of punishment, provided that they have not been used for criminal activities.

**1.19.** With regard to effective implementation of sub-paragraph 2 (a) and (g) could Finland please provide a description of the functions of the agencies which are responsible for the implementation of its legal provisions concerning controls imposed on the exportation of goods, the transfer of technologies, the provision of technical assistance overseas and activities connected with trade in controlled goods, with particular regard to preventing terrorists from gaining access to weapons or hazardous materials. The CTC would appreciate it if Finland could provide it with statistics on the implementation of the relevant legal provisions.

## Civilian arms

The Police Department of the Ministry of the Interior issues commercial import, export and transfer licences for civilian arms and ammunitions, licences for trade in arms and to purchase particularly dangerous firearms (among others military weapons and automatic firearms). It also supervises and approves arms collectors. As appropriate, the Ministry of the Interior requests the Ministry for Foreign Affairs to verify that there is no foreign or security policy reason for refusing the issue of a licence. Further, the Police Department functions as a national liaison authority in international arms cooperation and exchange of arms information.

## Defence materiel and related technology

The export, transit or brokering of defence materiel is subject to a specific authorisation (export or brokerage licence). The requirement of a brokerage permit was added to the Act with effect as of 1 December 2002. Finnish citizens, corporations or foreign citizens considered permanent residents of Finland are required to have a brokerage licence to engage, outside Finnish territory, in the brokerage of defence materiel between third countries. There are specific rules for the export licensing of components and subsystems of any defence equipment.

The basic principles, policies and national practices on the export of such materiel and related technology are provided for in the Act on the Export and Transit of Defence Materiel and related Decree. The unauthorised export and brokerage is also criminalised in accordance with the Act. The Ministry for Defence is responsible for the issue of all export licences, with the exception of licences for major exports where the licence is issued by the Government. The applications are discussed at the inter-agency Board on Export Control where all the relevant authorities are represented (the Ministries for Foreign Affairs and for the Interior, the Customs, the National Bureau for Investigation, as well as the General Headquarters of the Armed Forces. The Act is supplemented by the Export and Transit of Defence Materiel affirmed by the Government. The EU Code of Conduct on Arms Exports is incorporated into the Finnish legislation as an annex to these Guidelines.

The applications are examined, in each individual case, on the basis of an overall assessment. A licence to export or brokering shall not be granted if it jeopardises Finland's security or is inconsistent with Finland's foreign policy. The following factors are also taken into account: an analysis of the situation prevailing in the recipient country, the characteristics, intended use and military significance of the item to be exported, and its significance in relation to the materiel preparedness of Finnish national defence and to the development of domestic defence industry.

A verified end-user certificate is a mandatory condition for the issue of an export or a brokering licence in all cases and to all destinations. Particular attention is paid to the risk of inappropriate diversion of the exported materiel and to various means of securing a reliable end-use of the exported products. The EU Code of Conduct specifically requires the EU Member States to take into account, *inter alia*, the record of the buyer country with regard to its support for or encouragement of terrorism and international organised crime. The risk of the arms being re-exported or delivered to terrorist organisations is taken into account when assessing the impact of the proposed export. In uncertain cases, a restrictive approach is applied.

## Dual-use goods

The Act on the Control of the Exports of Dual-Use Goods establishes the domestic legal framework on dual-use controls. The Act only contains basic provisions, referring in all other respects to the EU control regime which is based on the Council Regulation ((EC) No 1334/2000) and the Joint Action (2000/401/CFSP) concerning the control of technical assistance related to certain military end-uses.

The Department of External Economic Relations of the Ministry for Foreign Affairs issues authorisations for the export of dual-use goods (except Cat. 0) and monitors export control from the trade policy point of view. The Energy Department of the Ministry of Trade and Industry and the Radiation and Nuclear Safety Authority are the authorities responsible for the issue of authorisations for the export of nuclear materials, facilities and equipment (Category 0 of Annex I to the EC Export Control Regulation).

The Advisory Board on Export Controls under the Department for External Economic Relations at the Ministry for Foreign Affairs is a coordinating inter-agency body for the dual-use export control, with a mandate to advise on issues relating to domestic legislation, Finland's participation in international cooperation, guidelines for licensing, and individual licence applications or prior enquiries relating to possible foreign policy implications. The following ministries, as well as the National Board of Customs and the Security Police are represented on the Advisory Board: Ministries of Trade and Industry, Defence, the Interior, and Transport and Communications. In addition, the Technology Industries of Finland has a representative on the Board.

The Ministry for Foreign Affairs and the Ministry of Trade and Industry, in cooperation with the Technology Industries of Finland, have raised exporters' awareness by arranging seminars on export control.

Numbers of licences issued for dual-use goods over a ten year period:

Year	Global	Individual
1994	-	785
1995	37	757
1996	62	373
1997	13	415
1998	13	193
1999	11	145
2000	20	138
2001	2	120
2002	15	146
2003	19	139
<b>TOTAL</b>	<b>192</b>	<b>3211</b>

Approximately 60 percent of authorisations issued for dual-use goods fall into Category 5 (Telecommunications and Information Security) of the Wassenaar Arrangement. The decrease in the number of individual licences is due to simplified procedures applied as of July 1995.

**1.20.** The CTC is aware that Finland may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organisations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Finland's 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.

The following replies are attached to this report: a reply to the UNODC questionnaire on the nature of links between terrorism and other forms of crime, and a reply to the Council of Europe questionnaire on the concepts of "apologie du terrorism" and "incitement to terrorism" .

Reply to the UNODC questionnaire on the nature of links between terrorism and other forms of crime

Reply to the Council of Europe questionnaire on the concepts of "apologie du terrorism" and "incitement to terrorism"

Act on Preventing and Clearing Money Laundering

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