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

Letter dated 12 September 2003 from the Permanent Representative of Belgium to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit to you herewith the report of Belgium submitted pursuant to paragraph 6 of resolution 1455 (2003) (see annex).

(*Signed*) Jean **de Ruyt**
Ambassador
Permanent Representative

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Annex to the letter dated 12 September 2003 from the Permanent Representative of Belgium to the United Nations addressed to the Chairman of the Committee

Report of Belgium

Submitted pursuant to Security Council resolution 1455 (2003)

September 2003

I. Introduction

1. *Please provide a description of activities, if any, by Osama bin Laden, al-Qa`idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.*

To date, neither al-Qa`idah nor any other associates of Osama bin Laden have carried out terrorist attacks in Belgium.

However, the following two incidents, both of which have led to investigations, should be mentioned:

– The assassination in Afghanistan of Commander Massoud;

– The preparation of an attack against the Kleine Brogel NATO military base.

These two cases, of differing origins, were combined on 28 April 2003 because two individuals, namely, Tarek Maaroufi and Amor Sliti, are implicated in both of them. Both cases are connected to the attacks of 11 September.

Ahmed Shah Massoud, leader of the Northern Alliance, was assassinated in Afghanistan on 9 September 2001 by two men, posing as journalists, who had spent some time in Belgium and were in possession of stolen and forged Belgian passports. These documents were obtained through Tarek Marroufi, who was arrested on 18 December 2001.

Nizar Trabelsi, who underwent explosives training in Afghanistan and admits to having wanted to carry out a (suicide) attack against the Kleine Brogel military base, was arrested on 13 September 2001. An Uzi sub-machine gun and a formula for the manufacture of the same type of bomb that destroyed the United States Embassy in Nairobi in 1998 were discovered at the home of Trabelsi, a former professional footballer. Sulphur and acetone, presumably to be used in the manufacture of the bomb, were seized from a Brussels snack bar run by another of the defendants, Abdelcrim El Haddouti.

Trabelsi may have been in contact with Tarek Marroufi, who is at the centre of the Massoud case, which deals with the existence, in the Pakistan-Afghanistan region, of an international trafficking ring for the transport of volunteers wishing to settle there or receive paramilitary training.

Amor Sliti was living in Jalalabad at the time of the attack on Commander Massoud. In Afghanistan, he had, inter alia, taken care of the two assassins.

Proceedings against the 23 defendants began on 22 May 2003.

The court will deliver its ruling on 30 September 2003.

At present, there is no available information that makes it possible to confirm that attacks are being planned in Belgium by members of al-Qa`idah or associates of Osama bin Laden. These terrorist groups still pose a potential threat, however, although attacks seem unlikely.

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?*

2.1. *Asset freeze*

Resolution 1267 (1999), as amended by resolutions 1333 (2000), 1390 (2002) and 1455 (2003), which imposes a freeze on funds and other financial assets belonging to individuals and entities associated with Osama bin Laden, the al-Qa`idah network and the Taliban, was transposed into Belgian legislation by means of the Royal Decree dated 17 February 2000 on restrictive measures against the Taliban of Afghanistan. That Decree was supplemented by a number of ministerial decrees which contain the list of entities and/or individuals identified by the Security Council Committee established pursuant to resolution 1267 (1999).

Moreover, it should be pointed out that every amendment made to the list by the United Nations is systematically taken up in a Commission regulation amending the relevant initial Council regulation, namely, Council Regulation (EC) No. 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Osama bin Laden, the al-Qa`idah network and the Taliban, and repealing Council Regulation (EC) No. 467/2001 prohibiting the export of certain goods and services to Afghanistan, strengthening the flight ban and extending the freeze of funds and other financial resources in respect of the Taliban of Afghanistan.

The aforementioned royal and ministerial decrees have been published in the *Moniteur belge*. In addition, the measures relating to the embargo have also been transmitted by the Ministry of Finance to associations representing establishments affected by the freezing of financial assets and, for follow-up purposes, to their supervisory authorities.

In the interests of clarity, a description of the various measures taken in implementation of resolution 1267 (1999) and subsequent resolutions in Belgium and at the wider European level is attached (see annex 1).

2.2. *Police surveillance*

The list is also used to guide police investigations in the area of counter-terrorism within Belgian territory.

2.3. *Movement of persons*

See the answers to section IV: travel ban.

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

Our problems have been linked, in essence, to the lack of precision, which makes identification difficult. These problems were mentioned many times during both Interlaken seminars and at the workshop on the financing of terrorism held on 27 November 2002, and include the lack of a database allowing searches using the various spellings of an Arabic name or checks on the basis of criteria other than the

name, the various dates of birth or passports belonging to the same individual, and so on. Identifying individuals or entities may therefore be problematic.

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

Three designated individuals are currently in Belgian territory, all of whom are currently being investigated, in the context of proceedings which were initiated even before their names were placed on the list. Moreover, administrative measures have been taken, in particular the freezing of financial assets belonging to certain individuals and entities. The names of Patricia Vinck and Nabil Sayadi (No. 89) were added to the list by Belgium, and Tarek Maaroufi (No. 74) was included following a joint request from Belgium and France. Likewise, the Belgian branch of the Global Relief Foundation (No. 57 of the entities associated with al-Qa`idah) was also placed on the list at the request of Belgium.

In the interests of providing comprehensive information about the above-mentioned individuals, their respective addresses are as follows:

No. 74:

- Belgian national since 8 November 1993;
- Address: Gaucheret 193, 1030 Schaerbeek, Brussels;
- Alias: Abou Ismail.

Nos. 89 and 98:

- Address: Vaatjesstraat 29, 2580 Putte (the same address as entity No. 57).

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-Qa`idah that have not been included in the list, unless to do so would compromise investigations or enforcement actions.*

Belgium does not have the names of any such individuals. However, mention should be made of the case currently being heard referred to in the answer to question 1, which is connected to Islamic extremist groups. It has been impossible to confirm any links with al-Qa`idah.

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.*

To date, no individual or entity has brought legal or administrative proceedings in Belgium concerning inclusion in the list.

7. *Have you identified any of the listed individuals as nationals or residents of your country? Do your 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.*

Aside from the case mentioned in the answer to question 4, no individuals have been identified as Belgian nationals or residents.

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-*

Qa`idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa`idah training camps established in your territory or in another country.

Since 1979, Belgium has had domestic legislation prohibiting the recruitment or enlistment of mercenaries within Belgian territory or by Belgian nationals abroad (Act of 1 August 1979 on serving in a foreign army or troop situated within the territory of a foreign State, *Moniteur belge*, 24 August 1979).

This Act has recently been amended (Act of 22 April 2003, published in the *Moniteur belge* on 23 June 2003, which entered into force on 3 July 2003) in order to extend its scope of application in the light of Belgium's accession, on 31 May 2002, to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which was adopted in New York on 4 December 1989.

The 1979 Act, as amended in 2003, criminalizes two main activities:

- Article 1 criminalizes recruitment and any act likely to lead to or facilitate the recruitment of mercenaries;
- Article 2 criminalizes the enlistment, departure and transport of mercenaries.

III. Financial and economic assets freeze

9. *Please describe briefly:*

- *The domestic legal basis to implement the asset freeze required by the resolutions above;*
- *Any impediments under your domestic law in this context and steps taken to address them.*

The asset freezes required under the relevant resolutions have been ordered by the royal and ministerial decrees referred to in the answer to question 2 on the basis of the Act of 11 May 1995, which empowers the King to take, by means of an order discussed in the Council of Ministers, the measures necessary for the implementation of the binding decisions of the Security Council taken pursuant to the Charter of the United Nations. These measures may include the freezing of financial assets.

The freeze may lead to legal proceedings if an inquiry is opened or examination proceedings are initiated. In this case, the assets (financial and others) may be seized in implementation of a judicial order.

As with the answer to question 2, reference should be had to the attached table (annex 1).

Impediments: Owing to the transposition into Belgian law of the European Union Framework Convention on the Definition of Terrorist Acts, which will shortly be submitted to the Chamber as a draft law amending the Penal Code, the Code of Criminal Investigation and the preliminary section of the Code of Penal Procedure, the financing of terrorism may be treated as a principal offence, thereby facilitating the freezing of financial assets.

10. *Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden-, al-Qa`idah- 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.

In addition to their obligations under United Nations resolutions and various European regulations concerning the fight against the Taliban, financial institutions in the broad sense, together with other institutions and professions subject to the anti-money-laundering Act (Act of 11 January 1993), are obliged to inform the Financial Intelligence Processing Unit (CTIF) of every transaction and event which raises suspicions of money-laundering connected to terrorism or its financing. On 28 September 2001, the Banking and Finance Commission (CBF) issued a circular which clearly reminds financial institutions of their obligations in this regard. Following such a report, CTIF processes the information received and, in serious cases, transmits it to the prosecution services. When a file involving designated individuals or entities is transmitted to the prosecution services, CTIF notifies the Treasury, since it is the authority responsible for administrative procedures relating to the freezing of assets.

11. *Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa`idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.*

Articles 4 to 6 of the Act of 11 January 1993 on preventing the use of the financial system for money-laundering oblige banks and other financial institutions to identify their customers. In the case of regular customers, identification will take place when they establish a business relationship with the bank or financial institution. Other individuals (occasional customers) conducting a transaction of 10,000 euros or more (either as a single transaction or as a series of apparently connected transactions) must also be identified. Identification is also required, even for transactions of less than 10,000 euros, if there is any suspicion of money-laundering.

Identification means obtaining the customer's given name and surname, or company name for legal persons, and the customer's address or company head office address.

If a financial institution thinks or is able to establish that it has frequent contact with a customer, it must consider that customer a regular customer. For example, this would apply to a customer who had not opened an account, but regularly conducted transactions at the same branch or office of the financial institution.

Because of the obligation to identify customers, anonymous accounts cannot be opened in Belgium. As a result of recommendation 10 of the Financial Action Task Force (FATF), opening accounts in a false name (pseudonym account) is strictly prohibited.

Financial institutions' compliance with the Act of 11 January 1993 is enforced by CBF, through circulars and inspections. CBF circulars D4/EB/99/2, D1/WB/99/1 and D1/99/3 of 3 May 1999 establish the obligation to identify customers. Financial

institutions must take a copy of a document reliably confirming the customer's identity. In the case of natural persons, this would be their identity card (foreign nationals or foreign residents can use their passports or driving licences). In the case of legal persons, a recent copy of the company charter or an equivalent document will be required, translated if necessary, as will a copy of a recent edition of the *Moniteur belge* or other official document recording the given name, surname and address of the individuals authorized to make commitments on the company's behalf with the financial institution. In the case of associations with no independent legal personality and joint and several liability (*associations de fait*), the documents required will be the identity cards of the individuals authorized to make commitments on the association's behalf with the financial institution, or equivalent documents if the individuals are foreign nationals.

The CBF circulars also stipulate that identification must be verified if a financial institution deals with a customer at a distance. The circulars give the financial institution responsibility for drawing up appropriate procedures and informing CBF of them in advance.

Beyond the obligation to verify customers' identities, articles 8 and 9 of the Act of 11 January 1993 oblige financial institutions to remain vigilant: they must submit a written report on any transaction suspected of being connected with money-laundering or the financing of terrorism because of its nature or because it is untypical of the customer's activities. Financial institutions must also take appropriate steps to make their employees and representatives aware of the provisions of the Act of 11 January 1993, for example, through special training programmes showing them how to recognize and deal with events and transactions which could be connected with money-laundering.

The Ministerial Decree of 23 November 2001 amending the Ministerial Decree of 15 June 2000 which implemented the Royal Decree of 17 February 2000 on restrictive measures against the Taliban of Afghanistan made it compulsory to inform the competent authorities (in this case, the Treasury Office of the Ministry of Finance) of any funds or assets in the name of the individuals or bodies on the list referred to above. Ministerial circulars explaining the obligation to provide information have been sent not only to all financial institutions (credit institutions, asset managers, investment advisers, currency exchange bureaux), but also to insurance companies, through their supervisory authority.

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 frozen;
- A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);
- The value of assets frozen.

  Overall value of assets frozen: 4,568.10 euros.

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 bin Laden or members of al-Qa`idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.*

Originally, 178 accounts were frozen, but the freeze on most was lifted after investigation. Only a few are still frozen, pending identification or judicial inquiry.

14. *Pursuant to resolutions 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 or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such 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-Qa`idah 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 reviewed and evaluated;*
- *Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are 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 on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.*

14.1. *General background*

Money remittance services[1] are governed by articles 139 and 139 bis of the Act of 6 April 1995 on the status and supervision of investment firms, intermediaries and investment advisers, which stipulates that "only the following are authorized to provide or offer to provide in a professional capacity, against payment, to the public in Belgium, money remittance services:

1. The National Bank of Belgium, the 'Institut de Réescompte et de Garantie'/'Herdiscontering- en Waarborginstituut' and 'La Poste'/'De Post' (Post Office);

[1] Article 139 bis of the Act of 6 April 1995 defines remittance services as "the performance of services whereby an intermediary transfers, upon his client's instructions, an amount of money to a beneficiary designated by this client, with the exclusion of services which consist in issuing, managing or distributing cards, irrespective of their form, which are used as means of payment".

2. The credit institutions operating in Belgium by virtue of the Law of 22 March 1993 on the legal status and supervision of credit institutions;

3. Belgian investment firms;

4. Foreign investment firms operating in Belgium by virtue of Book II, Titles III and IV;

5. The persons registered by virtue of Article 139 (i.e. currency exchange bureaux).”

Accordingly, money remittance services can be handled only by the duly accredited firms referred to in article 139 bis of the Act of 6 April 1995. In the case of credit institutions, investment firms and currency exchange bureaux, CBF provides both accreditation and supervision.

These bodies are also subject to the obligations stemming from the Act of 11 January 1993 on preventing the use of the financial system for money-laundering, such as the obligation to identify customers and to report suspicious transactions to CTIF.

An amendment to the Act of 6 April 1995 introduced by the Act of 3 May 2002 added to article 139 extra conditions for currency exchange bureaux which also provide money remittance services:

– Firstly, exchange bureaux must be commercial companies, so it is now impossible for natural persons to register themselves with the CBF to provide such services;

– Exchange bureaux must have at least 200,000 euros of fully paid-up capital and equity. The aim of that financial threshold is to ensure that exchange bureaux have the necessary resources to invest in an organizational structure which can prevent money-laundering. In that connection, supervision of exchange bureaux is intended to focus on money-laundering rather than on prudential matters;

– Exchange bureaux will be required to deposit, and prove that they have deposited, a surety bond on which customers would have the first claim, with the *Caisse des dépôts et consignations* (deposit protection agency) via the National Bank of Belgium. The level of that bond, and the procedure governing it, will be established by the King.

Article 4 ter of the Royal Decree of 27 December 1994 on exchange bureaux and foreign exchange trading, supplemented by the Royal Decree of 10 June 2002, stipulates that exchange bureaux providing money remittance services within the meaning of article 139 bis of the Act of 6 April 1995 may transfer up to 10,000 [euros] when acting on behalf of a customer, whether that transfer is a single transaction or several transactions presumed to be connected with one another.

Article 148 of the Act of 6 April 1995, article 13 of the Royal Decree of 27 December 1994 and article 22 of the Act of 11 January 1993 provide for criminal and administrative penalties for failure to comply with the various obligations which exist.

14.2. *Informing financial institutions*

As the reply to question 2 indicates, financial institutions described in the section above (General background) must familiarize themselves with the editions of the *Moniteur belge* which reproduce the list in Security Council resolution 1455 (2003). The Ministry of Finance has sent information on embargo arrangements to the associations representing the establishments involved in freezing assets, and to their supervisory authorities, for appropriate action.

14.3. *Reports from banks, and suspicious transactions*

Articles 12 et seq. of the Act of 11 January 1993 oblige reporting entities and individuals (all of the financial sector and a number of non-financial professions, see articles 2 and 2 bis of the Act) to report to CTIF any suspicion that funds and/or assets involved in a transaction are of illicit origin, in other words, that they are the result of an offence connected with one of the serious crimes listed, including terrorism. The obligation to report covers not just transactions, but acts potentially connected with money-laundering which might come to light in the course of the declarants' professional activities.

A report should usually be made before a transaction takes place, and indicate, where applicable, when the transaction is due to be completed. If CTIF cannot be informed in advance, either because the transaction is of a kind whose completion cannot be postponed, or because postponing completion of the transaction would prevent legal action against the beneficiaries of the suspected money-laundering, the entity or individual may report that transaction immediately after completing it. The principle of advance notification enables CTIF to halt the transaction for a period of up to 24 hours, though that period may be extended by the Crown procurator (art. 12, para. 2, of the Act of 11 January 1993).

Reporting institutions in the financial sector (in the wide sense of article 2 of the Act) and casinos must appoint one or more compliance officers to enforce anti-money-laundering provisions within their companies. The compliance officers are responsible for reporting suspicions to CTIF. Under no circumstances must customers be told that a report on them has been made to CTIF (art. 19 of the Act).

When it analyses the reports it receives, CTIF has the right to request from all entities and individuals covered by the Act, from the police and from State administrative offices, any additional information which it feels it needs to fulfil its mission. The parties receiving such requests are obliged to supply that information, except in the case of non-financial professions with a duty of confidentiality (notaries, court bailiffs, company inspectors, chartered accountants, tax advisers, certified accountants and tax accountants), who have the *right* to supply that information.

CTIF examines the information it has received, and if the examination reveals credible indications of money-laundering, it will pass that information to the Crown procurator (art. 16 of the Act).

14.4. *Restrictions and regulations on the movement of diamonds*

The Royal Decree of 23 October 1987, which supplements the Act of 4 July 1962, stipulates that all natural and legal persons engaged in the diamond trade must be registered with the licensing department of the Ministry of Economic Affairs in order to be recognized as established and accredited diamond dealers. Once

registered, those natural and legal persons must make a yearly declaration of their stocks of diamonds to the licensing department of the Ministry of Economic Affairs in Antwerp. That department may carry out checks to test the accuracy of the declarations where necessary.

The Act of 11 September 1962 makes it compulsory to possess a licence to import, export and handle in transit a number of items, including diamonds. Import or export licences must be issued for every shipment of diamonds coming from or destined for a non-European Community country. Such licences are issued by the Ministry of Economic Affairs. In addition to that Act, the European Community issued, on 20 December 2002, Council Regulation (EC) No. 2368/2002 implementing the Kimberley Process certification scheme for the international trade in rough diamonds. Since Belgium is a State member of the European Community, the Regulation is directly applicable.

The two bodies of rules oblige any individual or company importing or exporting diamonds to declare the description, weight and value of all shipments of diamonds, whether rough or polished. That information is established after verification by experts accredited to and sworn in by the Ministry of Economic Affairs. The checks performed help to prevent fraudulent trade and money-laundering. In addition, each shipment of rough diamonds for importation must carry a Kimberley Process Certificate as proof from an appropriate authority of their legitimate origin within the meaning of the agreement reached at Interlaken. The authenticity of the certificates is also verified by officials of the Ministry of Economic Affairs. The Diamond Office, within which officials from the customs service and the Ministry of Economic Affairs work in conjunction, centralizes such checks. Moreover, the Diamond Office is a “Community authority” authorized to carry out the checks provided for in the Council Regulation.

The Act of 11 September 1962 provides for penalties for failure to comply with the specific obligations it or the Council Regulation imposes. Customs may seize any shipment of diamonds which does not meet the conditions laid down or which evades verification. Where appropriate, a judge may impose a prison term of four months to one year, a fine of up to double the value of the goods or confiscation of assets.

IV. Travel ban

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

Two checks take place: one when visas are issued at Belgian diplomatic and consular offices abroad, and one at border checkpoints.

Visa-issuing offices abroad are kept informed of the travel-ban list and amendments to it initially by electronic mail and later by CD-ROM. The individuals on the list cannot be issued a visa without the prior agreement of the central authorities. Those authorities would not give their agreement, but such a situation has not yet arisen.

The list and amendments can be consulted on the server by border control posts.

A “restrictive measures” database has been compiled by the department responsible for admission into Belgium and for the residence, establishment and deportation of foreign nationals, using as a basis the lists of the United Nations, the European Union, the State Security Service and other European partners. All the appropriate authorities will shortly be given access to the database, which contains supporting evidence, instructions and hypertext links to sites relating to terrorism, such as that of the International Criminal Tribunal for Rwanda in Arusha.

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.*

Belgium does not maintain a national “stop list”, but it is involved in the preparation and implementation of the Benelux and European Union lists. To date, there have been no problems to report.

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

The border control list is constantly updated and may be consulted online at permanent border posts.

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.*

To date, no one on the list has been stopped.

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?*

On offices outside the country, see the reply to question 15. To date, there have been no visa applications from anyone 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 by Osama bin Laden, members of al-Qa`idah 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?*

Belgium has not taken any specific measures to prevent the acquisition of conventional arms or weapons of mass destruction by Osama bin Laden and his associates, but it has a set of legislative and other measures for each of those cases.

I. *Conventional weapons*

Belgium answered a similar question in its report to the Counter-Terrorism Committee (in the section on paragraph 2 (a) of Security Council resolution 1373 (2001)); that reply is reproduced below.

A. *Within Belgian territory*

"Firearms are divided into three categories: freely sold, subject to controlled authorization (see below) and prohibited (updated version of Law of 3 January 1933, available at www.just.fgov.be/index1.htm).

The provisions governing authorizations are included in the **coordinated Circular of 30 October 1995 relating to the application of the legal provisions and regulations relating to weapons**.

Natural or legal persons wishing to acquire a weapon subject to authorization must submit a request describing the weapon and its purpose and provide a certificate of good conduct. Once the admissibility of the request has been examined (the applicant must be an adult without a criminal record), the Province Governor in charge of issuing authorizations conducts an investigation based on the opinions of the bourgmestre and the Crown procurator for the applicant's jurisdiction. The bourgmestre has to give an opinion based on the nature of the activity to be practised (particularly whether the latter constitutes a threat to public order or security) and whether the premises to be used for the activity meet legal standards (especially in terms of administrative authorizations concerning planning permission, etc.).

The Procurator has to give an opinion on the person submitting the request: whether he/she is known and respected in the commune or has ever been the subject of a criminal investigation. Legal persons are checked to see if they have come to the attention of the legal authorities.

On the basis of these various opinions, the Governor accepts, rejects or restricts the request for authorization. That decision may be appealed before the Minister of Justice.

Successful requests for authorization are recorded in a register (RCA). In most cases, any transfer of weapons must also be recorded in the same register.

It should also be pointed out that police departments linked to the national criminal information system (SICN) through the federal police have direct access to the register."

In order to fill any gaps and to compensate for the lack of legislation on the profession of broker or intermediary in the legal trade in light weapons, Belgium has taken legislative measures (an Act was adopted by Parliament on 27 June 2002) for the regulation and monitoring of this profession. Article 10 of this Act, which amended the Act of 5 August 1991 on the import, export and transit of weapons, states that:

"*No Belgian or foreigner residing or trading in Belgium shall sell, export or deliver abroad or possess* for the purpose of doing so, either weapons, ammunition or equipment specifically intended for military use, or related technology, whether for a fee or free of charge, whatever the origin or destination of these goods and regardless of whether they enter Belgian territory, nor shall they serve as an intermediary in such transactions, *without a licence issued by the Ministry of Justice*. Such licences may be requested for an indefinite period or for a specific transaction.

An 'intermediary' shall be defined as anyone who, for a fee or free of charge, *creates the conditions for the conclusion of a contract* for the sale, export or delivery abroad or possession for that purpose of weapons, ammunition or

equipment specifically intended for military use or of related technology, whatever the origin or destination of these goods and regardless of whether they enter Belgian territory, or *anyone who enters into such a contract where the transport is handled by a third party*.

The Minister of Justice may grant such licences, following the procedures and upon payment of the fees established by the King, only to legally approved arms dealers ...”

These provisions supplement other measures designed to regulate and monitor the production of and trade in light weapons, including the activities of intermediaries.

Furthermore, a link of nationality or residency must be established between the dealer, whether a natural or a legal person, and Belgium. This Act meets a real need and is clearly consistent with the goals which Belgium has always pursued in this area: to ensure optimum monitoring of a sensitive activity and to limit the potential for circumventing the common rules of the authorization regime.

Violation or attempted violation of this Act is punishable by a prison sentence of one month to five years and/or a fine of 10,000 to 1 million euros.

B. *Exports*

(1) *Export of weapons and related technology*

The export, import and transit of weapons, ammunition and equipment specifically intended for military use and of related technology is regulated by the Act of 5 August 1991 as amended by the Act of 25 March 2003, the Act of 25 March 2003 on brokerage transactions and the Act of 26 March 2003 on the incorporation of provisions of the European Code of Conduct; these amendments were published in the *Moniteur belge* of 7 July 2003.

Article 10 of the Act of 5 August 1991 states that violations and attempted violations of the regulations established in the Act or in the measures for its implementation shall be punishable under articles 231, 249 to 253, and 263 to 284 of the Customs and Excise Act.

With respect to arms exports, a recent (July 2003) change has made the regional bodies responsible for implementation of the Act.

II. *Weapons of mass destruction*

The above-mentioned provisions also apply to the transfer of dual-use technology, covered by Council of Europe Regulation (EC) No. 1334/2000, which covers weapons of mass destruction and is automatically a part of Belgian law.

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

The implementation of resolution 1390 (2002), which imposed this embargo, is handled through the Act of 11 May 1995, which gives effect to Security Council resolutions under Belgian law, and by the royal and ministerial decrees listed in annex 1.

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

The legislative framework for the monitoring of brokerage transactions (see the reply to question 20) may also help prevent Osama bin Laden and the members of al-Qa`idah from obtaining prohibited items.

Belgium participates actively in the international debates on this global issue held within the United Nations and the European Union.

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-Qa`idah and the Taliban and other individuals, groups, undertakings and entities associated with them?*

In order to prevent the diversion of exported weapons, Belgium is committed to the principle that materiel acquired in Belgium may not be re-exported without the prior authorization of the exporting Government.

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.*

Belgium has already provided counter-terrorism experts within the framework of European Union missions and could do so for the United Nations as well; the modalities would have to be negotiated.

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

Implementation of the sanctions regime, including the assets freeze and the travel ban, would be more effective if the consolidated list were more complete in order to permit positive, rapid identification. In addition, inclusion of the reasons for individuals' inclusion in the list would, generally speaking, make it easier to search for them.

26. *Please include any additional information you believe pertinent.*