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Letter dated 22 December 2003 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 18 July 2003 (S/2003/739). The Counter-Terrorism Committee has received the attached third report from Angola 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

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Annex

Note verbale dated 22 December 2003 from the Permanent Mission of Angola to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Angola to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and, in reference to the latter's note of 27 June 2003, has the honour to enclose the report of the Republic of Angola pursuant to paragraph 6 of resolution 1373 (2001) (see enclosure).

Enclosure*

REPORT SUBMITTED BY ANGOLA TO THE COUNTER-TERRORISM COMMITTEE PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1373 (2001)

1. Implementation measures

Effective implementation of sub-paragraph 1(b) of the Resolution requires a State to have in place provisions specifically criminalizing the willful provision or collection of funds by its nationals or in its territory, by any means, directly or indirectly, with the intention that the fund should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. For an act to constitute an offence as describe above it is not necessary that funds actually be used to carry out a terrorist offence. The acts sought to be criminalized are thus capable of being committed event if:

- **The only related terrorist act takes place or is intended to take place outside the country;**
- **No related terrorist act actually occurs or is attempted;**
- **No transfer of funds from one country to another takes place; or**
- **The funds are legal in origin.**

The supplementary report states that Articles 263, 282,283, 249 and 350 of Penal Law of Angola deal with the financing of terrorism. These Articles would not appear adequately to meet the requirements mentioned at the beginning of this paragraph.

The amendments to the Constitutional Law introduced in March, 1991 through Law n.º 12/91 were mainly aimed at creating the required constitutional framework for the establishment of a multiparty democracy, broadening the recognition as well as the guarantees of the fundamental rights and freedoms of citizens, and constitutionally enshrining the basic principles of a market economy.

Since it was only a partial revision of the Constitutional Law, as necessary as it was urgent, some constitutionally appropriate and important aspects related to the organization of a democratic State based on the rule of law were quite justly left to be properly dealt with by the Constitutional Law, through a second constitutional revision.

In the terms of the current Constitutional Law and in light of the terms firmly expressed in Law of Constitutional Revision n.º 18/96 of November 14th, we can easily

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

infer that the process of constitutional reform is under course; and that it is fundamentally aimed at the promotion and protection of the fundamental rights and individual freedoms of the citizens, the democratic organization and functioning of the State and of the Angolan society.

Therefore, being the National Assembly of Angola vested with constituent power, it created the Constitutional Commission according to what is determined in paragraph a) of the 88th article and in item n.º1 of the 158th article, both belonging to the Constitutional Law, and in further accordance with paragraph b) of the 88th article and with item n.º 4 of the 158th article, still belonging to the Constitutional Law, as well as through Law no. 1/98 of February 20th.

See enclosed the text from Law nº.1/98 of February 20th, which created the Constitutional Commission.

As it is known, the process of constitutional reform is decisive to the initiation of a set of other reforms wherein obviously lays the revision of the penal legislation, in view of the fact that such revision should observe the constitutional principles and the norms compiled of international instruments to which Angola is linked.

Article 21 of the Constitutional Law of Angola states that “the fundamental rights expressed in the present Law do not exclude other rights inherent from applicable rules and laws of the International Law”, and that “the constitutional and legal norms related to the fundamental rights should be interpreted and integrated in harmony with the Universal Declaration of Human Rights, with the African Chart of the Rights of Man and Peoples, as well as with additional international instruments Angola is part of”.

Angola is thus considered a dualist State where international juridical instruments present in the terms of article 21 of its Constitutional Law are adopted by its legal system by virtue of a new rule.

International Treaties are greatly important in the national legal system.

According to law n.º6/90, International Treaties are not regarded by the law in the same manner for the means in which organs share jurisdictions result in its differentiation.

Item n.º2 of Law n.º6/90 on international treaties “considers any agreement as an international treaty regardless of its particular designation...”, and groups the treaties as solemn, governmental and simplified.

It must be observed that Law 6/90 does not make any reference to United Nations’ resolutions. However, because of article 24 of the United Nations’ Charter, the conclusion can be drawn that the resolutions the Security Council adopted according to

Chapter VII are interpreted in view of item n.º1 of article 21 of the Constitutional Law, being its incorporation the only issue to solve.

We draw particular attention to item n.º1 of article 21 of the constitutional law of Angola, which states that "the fundamental rights expressed in the present Law do not exclude other rights inherent from applicable rules and laws of the International Law", and that "the constitutional and legal norms related to the fundamental rights should be interpreted and integrated in harmony with the Universal Declaration of Human Rights, with the African Chart of the Rights of Man and Peoples, as well as with additional international instruments Angola is part of".

By saying that International Treaties are greatly important in the national legal system, we are mainly referring to the international treaties Angola is part of.

However, is it sufficient to adopt these treaties in the national juridical system?

Is it not necessary to go further, especially in relation to fighting organized crime and international terrorism, rendering the penal legislation compatible with international norms?

The answer to these questions is linked to Angola's deepening of juridical and judiciary cooperation in a bilateral, multilateral, and regional manner, to the creation of a presidential work group (see enclosures) aimed at diagnosing the actions to undertake in the sectors of justice, law, and reform of the Angolan judicial system, and obviously, in the initiatives of legislative and operative extent, such as the adoption by the National Assembly of the Law on traffic and consumption of narcotics, of its the remittance to the Council of Ministers for approval, on the law project on money-laundering (see enclosures) on the deepening of judicial cooperation with INTERPOL, and the reinforcement of the institutional capacity of the organs dedicated to combating terrorism.

The effective implementation of sub-paragraph 1(b) of the Resolution requires a State to have in place provisions specifically criminalizing the willful provision or collection of funds by its nationals or on its territory, by any means, directly or indirectly, with the intention that the funds should be used, or with the knowledge that they are to be used in order to carry out terrorist acts. As described above, it is necessary that the funds actually be used to carry out a terrorist offence in order for such an act to constitute an offence.

The acts sought to be deemed as a crime are thus capable of being committed even if:

- The only related terrorist act takes place or is intended to take place outside the country;
- No related terrorist act actually occurs or is attempted;

- No transfer of funds from one country to another takes place; or,
- The funds were obtained legally.

As mentioned, articles 263, 282, 283, 349 and 350 of the Angolan Penal Law would not appear to adequately meet the requirements mentioned at the beginning of this sub-paragraph.

In effect, the Angolan Criminal Code does not include a patent definition of a terrorist act.

However, such definition is implicit in articles 263 e 282 of the Penal Law pertaining to Associations of Malefactors, article 283, pertaining to Unauthorized Associations and Secret Associations; and article 19, pertaining to rebellions, article 20, pertaining to armed rebellions, riots or outbreaks, article 21, pertaining to sabotage, article 22, pertaining to illegal weapons and explosives, article 27, pertaining to instigation, provocation and fomentation of crimes against State Security, article 28, pertaining to the punishment for preparatory acts, and article 29, pertaining to conjuration, all belonging to the law on crimes against the state's external security.

In general terms, as it appears in the Penal Code, a terrorist organization could be defined as any group acting in coordination, and seeking to:

- Jeopardize national integrity;
- Subvert the functioning of State institutions provided for under the constitution.

It could also be defined as practicing individual acts of terrorism anyone who, acting with the purposes mentioned above, commits crimes:

- against the life or physical integrity of a person; deliberately creates a common danger through fire, dissemination of radioactive substances or toxic gases;
- sabotage;
- carries out actions which imply the usage of nuclear energy, firearms, explosive substances or devices.

Without damage of what has been said before, it seems important to us that equal consideration be given to article 1 of the Angolan penal code, pertaining to the concept of crime; article 8, pertaining to the forms of emergence of the crime; article 19, 20, 21, 22 and 23, pertaining to the agents of the crime, its authors, accomplices and collaborators; article 53, pertaining to the application of penal law, and which, given its importance, we transcribed it:

" In the absence of treaties to the contrary, the penal law is applicable to:

1.º – All infractions committed on Angolan territory, regardless of the nationality of the infractor;

2.º – All crimes committed on board of an Angolan ship in the sea; on board of an Angolan war ship at a foreign port, or on board of an Angolan commercial ship at a foreign port, provided that only the crew has been involved in the crime and the tranquility at the port has not been disturbed;

3.º – All crimes committed by an Angolan citizen against the internal or external security of a foreign State, or of falsification of public seals, of Angolan currency, of public credit documents, of notes from the national bank, or from companies or businesses legally authorized to issue such notes, provided that the infractors have been subjected to a legal trial in the country where they committed the crime;

4.º – All foreigners who commit any of the above-mentioned crimes and who enter Angolan territory, or whose surrender can be obtained;

5.º – Any crimes or infractions committed by Angolans on foreign territory, provided that the following conditions are present:

a) The criminal or infractor is found in Angola;

b) The legislation of the country where the crime was committed also classifies such an action as a crime or infraction;

c) The criminal or delinquent has not been subject to trial in the country where the crime or infraction was committed.

§ 1.º – Infractions committed on board of a foreign war ship in Angolan sea space, or at an Angolan port, or on board of a foreign commercial ship are exceptions to the rule stated in n.º1, provided that they happen solely among the crew and no disturbances are felt at the port.

§ 2.º – When only correctional penalties are applicable to the infractions mentioned in n.º5, the Ministry of Public Affairs will not promote the trial of the process in question without there being a charge pressed by plaintiff parties, or without the official involvement of the authorities in the country where the infractions were committed.

§ 3.º – Should it occurs that a criminal or delinquent convicted for crimes or infractions referred to in n.º 3 and 5 fails to observe any penalties imposed whether partially or totally, a new process shall be initialized and appreciated by the Angolan courts, who, upon trying the crime or offense will decree the corresponding penalty in our legislation, taking into account any penalties the defendant may have undergone related to the crime.

All these crimes can be punished with more extended confinement periods, as mentioned in article 55 of the penal code.

Finally, it is important to note that although the Republic of Angola has not yet ratified the Convention for the Suppression of the Financing of Terrorism, the reformulation process of criminal legislation is in progress, in order to ensure the full compatibility of the Angolan legal framework with the provisions of this Convention and with further international instruments against terrorism.

Sub-paragraph 1(c) requires States to freeze without delay the funds, financial assets or economic resources held in Angola of individuals and entities, whether resident or non resident, who commit or attempt to commit or facilitate or participate, in the commission of terrorist acts either inside or outside the territory of Angola. Could Angola please provide an outline of the legal provisions which enable the competent authorities in Angola to freeze assets linked to terrorism?

The Central Bank of Angola is the entity entrusted with supervising, monitoring and inspecting the money, financial and economic markets, as well as rulings aimed at identifying financial networks linked to suspicious activities.

As mentioned in its organic law, the Central Bank of Angola requires all supervised entities, namely, banks; money exchange enterprises and financial institutions to maintain a code of conduct which lays the groundwork for a rapid and effective identification of unusual or suspicious financial activities.

According to the law, the supervised entities are committed to reporting any suspicious activity to the National Bank.

In summary, Banks and other financial institutions are obliged to apply the conditions set in the relevant internal regulations of the National Bank containing rules about the freezing of funds and other financial assets and resources, including examining whether the customer is one of the listed individuals or entities, and the actual freezing of funds upon confirmation that the customer is listed.

The National Bank of Angola operates in complete harmony with its investigation and research organs, such as the Financial Crimes Investigation Unit of the DNIC, and the organs entrusted with the supervision and monitoring of the banking, financial and credit markets, as well as the preparation and investigation of cases which are rationally believed to show signs of money-laundering or related offences.

As mentioned already, National Bank is committed to reporting to the Prosecutor’s Office, so as to strengthen its role and achieve results in a judicial framework.

Cases where the competent authorities have ordered the freezing of accounts whose holders had been indicted for suspicious activities are not known in Angola. As stated above, the Governor of the Bank has other competencies. For instance, the freezing of

accounts by Angolan financial institutions is only possible through decisions made by General Attorney (Procuradoria Geral) and/ or Judicial Magistrates.

In situations other than those which fall under international obligations recognized by the Republic of Angola, that is to say, in cases other than those concerning persons and entities identified in lists issued by Sanction Committees of the Security Council, the freezing of funds is possible only within legal proceedings.

The terms of Bank Secrecy, which can be lifted through a judicial decision or a decision of the Ministry of Public Affairs, are recognized as one of the juridical duties obeyed by Financial Institutions, even in areas that have not reached legal aspects.

During its supervisory procedures, the National Bank can demand concrete data on the identity of the entities who deposit as well as on the identity of its debtors, whenever such is necessary to obtain legally relevant results, and always in a proportional manner.

In Angola, the Penal Code punishes only the violation of Professional Secrecy by employees and by whomever exercises professions that require a title, as is the case of Doctors and Lawyers, although other legal diplomas of penal nature incriminate and punish in a specific and autonomous way, or through remittance to competent article, any violation of Secrets learned while exercising other professions.

Such is the case of the violation of the terms of Bank Secrecy, deemed a crime and punished by Law, we quote, “Without damage of other applicable sanctions, the violation of the duty of ‘Bank Secrecy’ is punishable in the terms of the Penal Code in effect.”

Members of Social Organs, Directors, Common Workers, and Consultants of all Financial Institutions, as well as of Branches of Foreign Financial Institutions are subject to the terms of Bank Secrecy.

By virtue of being obliged by the terms of Bank Secrecy, the above bank operators must not reveal, make public or take advantage of Secrets learned while exercising their functions.

According to item nº2 of Article 49 of the Law 1/99, all elements of personal and economic nature pertaining to customers who belong to Financial Institutions or to Branches of Foreign Financial Institutions are considered Secret. So are all customers' names, their accounts, deposits, transactions, as well as Banking, Exchange and Financial Operations executed by Banks and their customers.

In the terms of the Angolan Law, exceptions to the terms of Secrecy that govern Financial Institutions may occur when the information is requested:

- By the National Bank of Angola, within its sphere of authority;
- For the teaching of processes, through a ruling by the Ministry of Public Affairs or a Judge;
- When further legal dispositions exist which clearly limit the compliance to the terms of Secrecy.

It is the competence of the Central Bank, in the terms of its Organic Act, (Law nº.6/97 of July 11th) to supervise the Financial Institutions established in the Country (Article 21), to establish a system of information as well as the compilation and treatment of statistics, and for such, the Bank can demand to have access to the necessary information (Article 17).

It is important to emphasize that the divulgence of the elements cited as examples in item nº. 2 of Article 49 (customers' names, accounts, deposits and their transactions, etc.) does not also imply that Bank Secrecy may be broken whenever the interested parties authorize its divulgence.

The National Bank of Angola is governed by the dispositions of its Organic Act, by the regulations that happen to be adopted in its execution, as well as by the applicable norms of the legislation pertaining the activities of Financial Institutions, once the Central Bank is in and of itself a Financial Institution (Article 93 of Law 6/97).

Situations where, for example, an indiscriminate request for lists with names of customers of a particular Bank, or for statements of accounts existing at such Bank as well as for the transactions made therein, does not, at first sight, seem to be in harmony with the statistical purposes or information needed to the working of service of centralization of information and Credit Risks. For this reason, it is necessary that the National Bank of Angola indicates the purpose of the information it requests, and in our point of view, it is legitimate to challenge and even to deny the request when it is destined to ends that differ from those stated in items nº. 1 and 2 of Article 49.

As far as the duty to provide information to Courts and Judiciary or Fiscal entities is concerned, information covered by the terms of Professional Secret can be published when the following Legal requirements are verified:

- The facts or elements pertaining the relationship between the client and the Institution can be revealed upon authorization of the former, and submitted to the Institution in written;
- Besides the case foreseen in the previous number, the facts and elements covered by the terms of Secrecy can only be revealed: to the National Bank of Angola, within its sphere of authority; for the teaching of processes, through a ruling by the Ministry of Public Affairs or a Judge; when further legal dispositions exist which clearly limit the compliance to the terms of Secrecy.

Angolan laws consider it a duty to cooperate with justice, and no person is able to refuse neither the request to testify nor to provide proofs.

Summarizing, Professional Secrecy does not neutralize the duty to cooperate with justice.

In this respect, article 94 of the Organic Act of the Angolan National Bank, Law 6/97 states in item nº.1 that all information pertaining to deposits, loans, collaterals, relationships, and the security of the Bank in general "is confidential and is covered by the terms of Bank Secrecy".

Any information on the above matters can only be provided or issued in three cases:

- When requested by the party interested in the transactions;
- For the teaching of processes, through a ruling by the Ministry of Public Affairs or a Judge;
- By a ruling of the Governor of the Bank, issued officially.

Thus, according to paragraph b) of item n.º1 of Article 94 of the Organic Law, under the following conditions, employees and agents of the Angolan National Bank must provide Judges of the Ministry of Public Affairs with proofs that they request, even when covered by the terms of Bank Secrecy:

- The requested elements are for the teaching of processes;
- There is an organized file documenting the action;
- Through a ruling by the Ministry of Public Affairs or a Judge.

Workers, agents and collaborators of remaining Financial Institutions are equally subject to the duty of collaboration with the authorities referred in paragraph b) of item n.º1 of Article 94 of the Organic Law of the National Bank of Angola.

Fiscal Authorities have the competency to request and examine information and documents of any taxpayer (Tax Law), even if covered by the terms of Bank secrecy.

In order to prevent the funds and other resources collected by religious, charitable, cultural and other associations from being diverted to purposes connected to terrorism, Angola is required to establish adequate legal or other mechanisms to register, audit and monitor such organizations. Could Angola provide the CTC with an outline of the mechanism which it has put in place for this purpose? If Angola is not in a position to provide an outline of the mechanism in question, could it please outline the step it proposes taking in order to remedy the situation?

Religious, charitable, cultural and other associations as we can classify as non profit entities, are required to present a revenue declaration to the competent ministries.

The entities that eventually receive resources from the Government are subject to accounting, financial and budgetary control, especially by the Court of Accounts.

The Ministry of Culture as well as the Ministry of Justice monitors all these entities since for the public interest status; they have to apply to the Ministry of Justice.

Effective implementation of sub-paragraph 2(a) requires States to suppress recruitment to terrorist groups and eliminate the supply of weapons to terrorists. Could Angola please provide the CTC with an outline of the legal provisions which enable the country to comply with the requirements of this sub-paragraph?

As it was already mentioned, the Angolan Criminal Code does not include an explicit definition of a terrorist act.

However, such definition is implicit in articles 263 e 282 of the Penal Law pertaining to Associations of Malefactors, article 283, pertaining to Unauthorized Associations and Secret Associations; and article 19, pertaining to rebellions, article 20, pertaining to armed rebellions, riots or outbreaks, article 21, pertaining to sabotage, article 22, pertaining to illegal weapons and explosives, article 27, pertaining to instigation, provocation and fomentation of crimes against State Security, article 28, pertaining to the punishment for preparatory acts, and article 29, pertaining to conjuration, all belonging to the law on crimes against the state's external security.

In article 22, the Criminal Code concerning crimes against external state security foresees the punishment of whoever promotes or establishes a terrorist group, adheres thereto or supports it; we quote, "whoever engages in unauthorized manufacturing, purchase, transfer, sale, transportation, possession or introduction in the country of chemical material, substances or devices, shall be condemned to 8-12 years of confinement."

Furthermore, the acts of recruitment for a terrorist organization will always be covered by the above-mentioned articles.

The Angolan criminal legislation also punishes other criminal acts generally associated with terrorist activities, such as:

- Crimes of piracy, covered by article 15 of the law on crimes against state security;
- Violent or fraudulent acquisition of ships or aircraft for terrorist objectives;
- The usurpation of the command of national ships or aircrafts, or of ships or aircrafts freighted by a national enterprise;

- Crimes of sabotage;
- Offenses and other crimes against foreign governors and diplomats.

Besides the dispositions of the penal code herein, it is important to mention several government initiatives that contribute to the suppressing of recruitment to terrorist groups and to the elimination of the supply of weapons to terrorists, such as the signature of the Convention of Palermo, whose ratification process is under consideration in the terms of the Law on International Treaties.

There is also the active participation in the negotiation of the SADC Protocol on the control of firearms, ammunition and other related materials, and the adoption of law 19/92 on the safety of private companies, (see enclosures) adopted by the National Assembly.

Could Angola please provide the CTC with an outline of the mechanism which it has put in place to provide Member States with information, which has come to Angola's knowledge, with a view to providing early warning to those Member States of anticipated terrorist acts aimed against them?

The activities of national security are carried out according to the terms of penal procedural law and of decrees establishing the organization and functioning of services of public information and of organs and internal services of the Republic of Angola.

As already mentioned, the financing of terrorism and/or of terrorist acts in general, are referred in articles 263 (Associations of Malefactors), 282 (Illicit Organizations), 283 (Secret Associations) as well as by articles 349 and 350 of the Penal Law, which refer to crimes against the security of the people. Thus, terrorist acts are perceived as crimes that endanger national security.

The enforcement of national security goals, services and organs is integrated in the national security system:

- They produce information intended to support security policies and protection of human life, integrity and dignity;
- They safeguard the public tranquility as well as the constitutional order; and,
- They produce information intended for the general prevention and special protection against terrorism and illicit drug trafficking.

In short, the mechanisms of the National System for Internal Security involve all security forces, intervention and special operations groups, criminal investigation, immigration services, maritime and aeronautical authorities and customs departments.

Regarding the international level, the exchange of information is made within the framework of the multilateral and bilateral engagements undertaken by the Republic of

Angola, as well as in the strengthening of the cooperation with international and regional organizations, and through information networks such as INTERPOL.

The Republic of Angola has adhered to the International Organization of Criminal Police – INTERPOL – during the 51st session of the General Assembly, from October 5th to 12th, 1982, in Spain.

The Republic of Angola also develops in the framework of its relations with other countries, at the multilateral and bilateral levels, a systematic action in terms of reinforcing the international cooperation on terrorism being the Declaration of the CPLP on the fight against international terrorism (October 31, 2001) demonstrative of its clear engagement.

The entry into force in the domestic law of the 12 Conventions for the Suppression of the Financing of Terrorism whose ratification is under consideration will complete the criminal law framework of the Republic of Angola.

In the fulfillment of its international obligations and in the efforts to combat terrorism, the Government of the Republic of Angola has subscribed the relevant international Agreements and Conventions, as follows:

PALOP (African Portuguese Speaking Countries)

- Agreement on Judicial cooperation;
- Agreement on Judicial Cooperation with Cape Verde;

CPLP (Portuguese Speaking Countries)

- Agreement on the prevention of undue use of Drugs, combat against the production, and trafficking of narcotic and psychotropic substances;
- Agreement on Judiciary Cooperation with the Republic of Portugal;

AU (African Union)

- OUA Convention on Terrorism Prevention and Combat;

SADC (Southern African Developing Countries)

- SADC Convention on narcotic trafficking;

- UN (United Nations);

- Convention on offences and certain other acts committed on board of an aircraft, 1963;

- Convention on the suppression of unlawful acts against the safety of civil aviation, 1970;

- Convention on the suppression of unlawful acts against the safety of civil aviation, 1971.

The Process of adoption of the conventions for the Suppression of the Financing of Terrorism as well as the UN convention against transnational organized crime and two additional protocols is under preparation.

It is not sufficiently clear as to which article of the Constitution prohibits Angola from denying extradition on grounds of "political motivation". Could Angola clarify whether its laws provide for the prosecution of a person whose extradition has been refused?

The issues of extradition are accommodated in the Constitutional Law by three dispositions, namely, provisions 1), 2) and 3) of article 27, as quoted:

- The extradition and expulsion of Angolan citizens from national territory is not permitted.
- The extradition of foreign citizens based on political motivations, or on the fact that the indicted person could be sentenced with the death penalty is not permitted.
- According to legal provisions, Angolan tribunals should be informed and/or should evaluate the charges against the indicted person whose extradition is not permitted according to the above-mentioned provisions.

The case of General Augustin Bizimungu, Chief of Staff of the Rwandan Army from April to July 1994, arrested in Angola and transferred to the custody of the International Criminal Tribunal for Rwanda (ICTR) demonstrates how these constitutional provisions are workable.

The arrest was made by the Angolan authorities acting on the basis of an arrest warrant issued by the ICTR on April 12th, 2002 in Luena, in eastern Angola. This was the first arrest on behalf of the ICTR to be carried out in Angola. However, the decision to extradite was taken by the competent court in compliance with the requirements of the Constitutional Law.

Following the plane crash on April 6th, 1994 in which the President of Rwanda, Juvénal Habyarimana, and the then Army Chief of Staff, Colonel Déogratias Nsabimana, were killed, Bizimungu was promoted to the rank of General and appointed Chief of Staff.

He was one of the most senior former Rwandan military commanders apprehended by the Tribunal until then. Bizimungu was also the first to be detained among nine principal genocide suspects named by the Government of the United States in its Rewards for Justice Program, which is supporting the Tribunal's efforts to apprehend high-ranking fugitives from justice.

Bizimungu was indicted together with four other accused, General Augustin Ndindiliyimana, former Chief of Staff of the Gendarmerie Nationale, Major Francois-Xavier Nzuwonemeye, Commander of the Reconnaissance Battalion, Captain Innocent Sagahutu, second in command of the Reconnaissance Battalion (who are already in the Tribunal's custody), and Major Protais Mpiranya, Commander of the Presidential Guard. The indictment contains twelve counts, of which ten concern General Bizimungu. They include conspiracy to commit genocide, five counts of crimes against humanity for murder, extermination, rape, persecution and other inhumane acts and serious violations of the Geneva Conventions.

According to the indictment, between April and July 1994, General Augustin Bizimungu and other Rwandan Army officers ordered, encouraged and supported the massacres of the Tutsi population and the moderate Hutu. From 1992 onwards he had made statements identifying Tutsi and the moderate Hutu as "the enemy" and had contributed to the training and arming of militia groups.

The Registrar of the Tribunal, Mr. Adama Dieng, thanked the authorities of Angola for their assistance in the identification, arrest and extradition of General Augustin Bizimungu, Chief of Staff of the Rwandan Army from April to July 1994.

Sub-paragraph 2(d) requires States to take measures to prevent the planning, financing, facilitation or commission of terrorist acts through the use of their respective territories. Could Angola provide an outline of the provisions of its Penal Code which criminalize such acts?

We believe that this answer will be complete if viewed in the context of the answer to the implementation measures, which refers to the steps which have been implemented, specially the last part of this answer.

It still seems essential to reiterate that article 28 of the law on crimes against state security punishes preparatory acts for crimes against the state with penalties more severe than those imposed by item n.º5 of article 55 of the Penal Code, which are 2 a 8 years, whenever a higher period of time is not appropriate.

We recall, however, that the application of the Angolan penal law is ruled by the principle of territoriality, complemented by the principles of safeguard of national interests, as can be inferred from article 53 of the penal code (transcribe the article).

Sub-paragraph 2(e) requires States to ensure that terrorist's acts are established as serious criminal offences in their domestic laws and regulations. It also requires States to take steps to ensure that the penalties prescribed for these criminal offences reflect the seriousness of such terrorist acts. The CTC would be content to know what penalties are provided in Angola's Penal Code in relation to the commission of crimes related to terrorism.

See reply to the implementations measures, and sub-paragraphs 2(a) and 2(d).

The CTC would be pleased to have an outline of the legal provisions and procedures wich Angola has established in order to provide assistance to requesting States in relation to criminal investigations and judicial proceedings as required under sub-paragraph 2(f) of the Resolution.

See reply to the implementations measures, and to the mechanism which it has put in place to provide Member States with information, aiming to providing early warning to those Member States of anticipated terrorist acts aimed against them?

Could Angola inform the CTC as to how it conforms to the requirement in international law, that refugee status should not be open to abuse by the perpetrators, organizers or facilitators of terrorist acts?

According to article 26 of the Constitutional Law, every national or foreign citizen has the right to asylum in case of persecution for political reasons, in accordance with the laws and international instruments in effect.

Meanwhile, it must be observed that the Republic of Angola has adhered to the Convention on the Statute of Refugees of 1951, to the Protocol on the Statute of Refugees of 1967, and to the United Nations Refugee Convention of 1969, and, given the need to juridicaly regulate the situation of refugees in Angola, the National Assembly has approved law nº. 8/90 of May 26th, named Law on the Statute of Refugees.

According to this law, the statute of refugee is given to any person who:

- is persecuted in her country of origin or of residence due to her race, religion, nationality, filiation, social or political background, and who does not intend to seek protection in this country; or that does not possess the nationality of her country of residence and does not intend to seek protection in her country of origin for fear of returning.
- Because of previous foreign aggression, occupation, or domination, or because of knowledge that greatly disturbs the public order in a part or in the whole country where she was born or in the country of which she is a citizen, or because of not having the nationality of her country of residence, the person is

forced to leave it and seek refuge in a country other than that of origin, or of which she is a citizen of, or where she resides.

The law further defines the conditions where the statute of refugee may not be conceded to foreign persons:

- when the person in question has committed serious crimes against the independence and sovereignty of the republic of Angola;
- when the person in question has committed serious crimes against peace, war crimes or crimes against humanity, such as the ones defined internationally;
- when the person in question has committed a crime out of Angola before requesting the statute of refugee;
- when the person in question has performed acts contrary to the principles and objectives of the United Nations.

The statute of refugee terminates when:

- its causes cease to exist, as defined by article n.º1 of the current law;
- the statute of refugee is renounced;
- voluntary repatriation occurs;
- a judicial decision is made indicating expulsion, and in accordance with the penal code;
- a different country of residence is chosen;
- actions contrary to the principles stated in articles 6 and 20 of the current law are taken;
- the refugee acquires a nationality other than that of the county of asylum.

Furthermore, the law states that any foreign citizen in the condition of refugee is obliged to respect the Angolan Constitution and Laws, to not be involved in the Angolan political life nor to carry out activities that can endanger or harm the Angolan national security or its relationships with other States.

As far as the procedures are concerned, it is key to mention that the competent authority to recognize the right of asylum is the Committee of Recognition of the Right of Asylum (COREDA) of which are part one representative from the State Department, one from the Ministry of Foreign Affairs, one from the Ministry of Justice, one from the Ministry of Internal Affairs, one from the Bureau of Social Affairs, and one from the Immigration and Border Services.

When a request for refuge is rejected definitively and the person in question has to abandon the Country, a humanitarian permission to remain in the country for not longer than six months is granted, with the objective of obtaining admission in another Country.

When this period is elapsed, the person in question is subject to the laws in effect for foreigners, losing the rights stated in articles 2 and 14 of the present law.

According to the law, a refugee or beneficiary of asylum can not be expelled, except for reasons of public order, in which case, restrictions established by the law are also observed.

In conclusion, the law on the refugee's statute establishes the main criteria and conditions that do not allow the refugee's statute to be taken advantage of by accomplices of terrorist acts.

The references to the identification, detention and extradition process of General Augustin Bizimungu, Chief of Staff of the Rwandan Army from April to July 1994 made herein demonstrate the rigidity with which the Angolan authorities treats requests for asylum or refuge.

Please provide an outline of the mechanism which Angola has put in place at its frontiers in order to prevent the movement of terrorists across its borders. The CTC would be grateful to know the steps which Angola has taken to modernize its passports and other identity papers with a view to preventing them from being falsified or counterfeited.

The Migration Office has set up a national Migration Control System which can be used to transmit information to all border checkpoints.

The purpose of the system is to inform border offices and consulates of all judicial matters, including prohibitions on individuals leaving the country and prohibitions on individuals expelled from Angola re-entering the country.

This same method is used for circulating updated United Nations lists in order to prevent listed individuals from entering in Angola or, in case that fails, to detain such individuals so that legal proceedings may be brought against them.

With respect to administrative measures, it should be noted that a new system for passport verification and control in conformity with the international recommendations on the security of identity was introduced in order to improve the services provided by consular offices.

The system already in place enables the embassies and consulates to homogenize the visa-issuing process, as a result of decree 3/00 of January 14th, 2000, which regulates the process of emission of the national passport and of the entries and exits by national citizens.

The presuppositions that the Angolan passport guarantees liability is rooted in the fact that its emission is centralized thus reduce the possibilities of falsification.

It is also vital to mention the modernization of the process of issuing entry permissions for foreigners; the oil stamp is no longer used. The use of visas, whose serial numbers are properly controlled by emigration services, is being observed since March 2002.

The passports and visas have been designed according to international parameters, having the competent organs benefited from the cooperation of a specialized English company named La Rue.

The equipment used for the emission of passports was also supplied by this company, which assures their control.

These documents, passports and visas contain safety elements that can only be identified with infrared rays.

We also believe that the bilateral cooperation has brought the Luanda airport immense benefits, especially through the recent provision of metal-detection equipment (lethal devices) by the USA, in the structure of the SAFETY SKIES program, which will prove to improve the safety levels, and the prevention and combat of terrorism.

In addition to that, optical scanners are a very important and efficient instrument for officials working at border checkpoints.

Consular officials are in charge of, and have total responsibility for, the issuing of visas. The passport and Consular Services Office of the Ministry of External Relations monitors the issuance of entry visas by embassies and consulates on a daily basis.

Applications involving the entry in Angola may be granted only on the basis of express authorization of the administrative authority with specific authority for that purpose.
A law concerning the entry and stay of foreign nationals in the Republic of Angola, as well as with unauthorized emigration and immigration has been adopted by the Parliament.

Accordingly the law, Decreto n.3/00, the registration and residence cards may be refused to any foreign national whose presence in Angola is a threat to public order.

Foreign nationals shall be accompanied to the frontier if his registration or residence card has been withdrawn on grounds of a threat to public order.

How does Angola coordinate the work of various agencies such as the Customs, the Police, the agency charged with the control of the illegal trade of narcotics and drugs, the agency charged with Border control and the anti-money-laundering

agency with a view to preventing terrorist activities, including the financing of terrorism?

See reply to implementation of measures.

Besides the references made herein to the Penal Law and to the deepening of international cooperation, let it be observed that the National Assembly has approved the Law 3/99 on the Traffic and Consumption of stupefacient and narcotic substances, whose general objective was to define the applicable juridical regimen to the traffic and consumption of such substances and substances susceptible of being used in the manufacturing of drugs.

According to article 4 of the Traffic and Consumption of stupefacient and narcotic substances, except in cases foreseen by the law, it is illegal to cultivate, produce, manufacture, extract, prepare, offer, sell, distribute, purchase, transfer, receive, transport, import, export, or provide a third party with, any substances, plants, or mixtures indicated in tables I and III, being such actions punishable with a confinement penalty of 8-12 years.

The penalties can be worsened in the following cases:

- the substances or mixtures are destined to minors or physically impaired persons;
- the substances or mixtures are distributed to a large number pf persons;
- the distributing agent is a medical doctor, pharmacist or a health technician, an employee of a confinement facility or of social reintegration services, an employee of mail, telegraph, telephone, or telecommunications services, or a professor, or employee of any social institution and the offense has been committed while exercising his/her duties;
- the agent has taken part in other criminal activities of national scope;
- the agent has taken part in other illegal activities facilitated by his/her infractions;
- the agent has used the cooperation of minors or physically disabled persons in any way;
- the substances or mixtures have been corrupted, altered or counterfeited by manipulation or mixture, increasing the risk to the lives of other people.

Anyone who promotes, founds or finances groups, organizations or associations of two or more people who, acting in cooperation, seek to practice crimes related to the traffic and consumption of stupefacient and narcotic substances is committing an act punishable with a confinement period of 16 to 20 years.

Anyone who leads or heads a group, organization or association considered criminal incurs confinement penalties of 20 to 24 years.

We will also cite that the Criminal Investigation Police has the exclusive competence of the investigation of illicit traffic of narcotic plants and mixtures defined by the law, in cooperation with all the customs authorities.

Regarding the international cooperation, and particularly the extradition, mutual judiciary aid, execution of foreign penal sentences and transmission of criminal processes, the treaties, conventions and agreements Angola is linked to and the terms determined in the Convention of the United Nations Against the Traffic of Stupefacient and Narcotic Substances of 1998 are applied. Obviously, the references to the international treaties are interpreted in accordance with the principles of application of the Angolan penal law.

It is understood that the references made in item 1 on the implementation of measures against money laundering demonstrates the interest and the seriousness with which the situation is regarded.

Money-laundering, a form of covering the illicit or criminal origin of capital so that it can later be applied in legal activities, is not explicitly treated in the Angolan penal legislation, thus the importance of the references to international treaties in the national juridical system, to reforms of the Angolan penal legislation, to bank secrecy, to the attributions and the competences of the Governor of the National Bank, to the criteria for the freezing of accounts of account-holders eventually indicted for crimes comparable to money-laundering.

As it was already pointed out, the Angolan Government expects to appreciate soon a law project on money laundering, which has already been submitted for appreciation.

This law project includes in the definition of money-laundering all operations destined to hide the true origin capital, and to eliminate any tracks of its criminal origin, thus transforming these funds in clean money through the creation of an apparent legal cover.

Its main addressees would be financial institutions and other categories of companies and professions that regardless of not being financial institutions, exercise activities susceptible of being used for the laundering of funds.

Furthermore, this law project foresees the punishment of all those that knowing of the criminal origin of funds, aid or facilitate conversion or transfer operations with the objective of concealing its illicit origin with confinement penalties of 4 to 12 years.

The punishment of the crimes mentioned above can be applied even if the elements that constitute the infraction have been practiced outside the national territory.

Without damage of the initiatives referred to above, let it be noted that in Angola, the prevention of money laundering in the financial system is fundamentally determined by certain rules of conduct imposed by the National Bank, reflected in its attributions and in the competences of the Governor.

The following rules are highlighted:

- the possibilities of lifting the terms of bank secrecy;
- the duty to inform the competent judicial authorities whenever it is suspected that money-laundering activities are taking place;
- the duty not to have information given to judicial organs revealed to clients or third parties;
- the obligation to identify checks and to refuse to carry out transactions when such identification is not provided;
- the obligation to obtain information on the origin and the destination of funds, and to inquire on transactions that appear to not have any economic justification or legal purpose;
- the obligation to preserve documents that identify clients and their operations;
- the obligation to provide the personnel with proper training that will allow them to recognize suspicious operations.

The CTC would be grateful to know the steps which Angola has taken to exchange operational information with other states with regards to the movement of terrorists, the forgery or falsification of documents, the traffic of arms, explosives or sensitive materials by terrorist groups as required by sub-paragraph 3(a).

The answer to this question is contained in the answers to sub-paragraph 2(a), (2b).

At the level of international legal assistance, we should mention, inter alia, the cooperation with INTERPOL.

Sub-paragraph 3(d) calls upon States to become parties as soon as possible of the relevant international conventions and protocols related to terrorism. According to its supplementary report, Angola is a party to only three of the twelve international instruments related to terrorism. The report also states that Angola is in the process of ratifying the Convention for the Suppression of the Financing of Terrorism.

The CTC would also be pleased to learn of Angola's intentions with regards to the ratification of the other relevant international instruments related to terrorism to which it is not yet a party.

Due to the need to improve and make the measures more adequate and efficient towards the challenges regarding the prevention and combat of transnational organized

crime, the Government of Angola has been carrying out a study in order to identify sectors requiring technical assistance.

A senior interregional advisor of UNODC was in Angola last January to provide advisory services related to the ratification of the TOC Convention.

Preliminary steps were also undertaken to facilitate the promotion of the international instruments related to the prevention and suppression of terrorism.

Following discussions with the pertinent authorities, a new mission had taken place at the end of May to finalize the texts which will then be forwarded to the Parliament for approval.

It should be noted that Angola recognizes that international cooperation provides the foundation upon which countries can strengthen their capacities to implement the already-mentioned Conventions.

The ratification of these instruments will provide the impetus for Angola to proceed with the revision of its domestic legislation in order to create a legal framework which would, inter-alia, facilitate the concerted global effort to combat terrorism and organized crime.

Particular attention has been devoted to all the concerns expressed in paragraph 4 of Resolution 1373; in the meantime, the Government of the Republic of Angola does reiterate its commitment towards the Suppression of the Financing of Terrorism as well as the combat against transnational organized crime.

We deem important to consider the following references to the law of international treaties, which foresees the appreciation, the adoption, and the ratification of international treaties, which as known, are of great importance to the national juridical system.

According to law n.º 6/90, International Treaties are not regarded by the law in the same manner for the means in which organs share jurisdictions result in its differentiation.

Item n.º2 of Law n.º 6/90 on international treaties “considers any agreement as an international treaty regardless of its particular designation...”, and groups the treaties as solemn, governmental and simplified.

Treaties related to the maintenance of international peace and safety, to the relationships of friendship founded in the respect for the principle of equality, for the right of peoples to exercise all freedom in their own destinies, and to accomplish international cooperation while protecting and respecting human rights (see items n.º 1,

2, 3 and 4 of article 1 of United Nations Charter) as well as treaties on territorial matters and borders, have a different legal relevance than, let's say, a treaty of governmental nature, resulting thus in legal organs having a substantially different approach to its negotiation process.

The differences are mainly the following:

- the competence to issue full authority;
- its validation;
- the manner of agreement and acceptance of treaty texts, reservations or other declarations;
- the manner in which Government authority is exercised.

Also, articles 3 and 4 of Law n.º6/90 have dispositions on the differences with which the treaties are accommodated by the Angolan law, and also on the manner in which they come into force.

The Government exercises a valid authority regarding the acceptance of Solemn and/or Governmental Treaties.

On this matter, paragraph c) of article 110 of the Constitutional Law establishes that it is the Government's responsibility "to negotiate and conclude international treaties as well as to approve treaties beyond the National Assembly's competence or that have not been submitted."

Thus it can easily be concluded that the process of negotiation and approval of international treaties is partly conditioned by a normal process of acceptance, and partly conditioned by the opportunity, necessity and priority that its appreciation represents.

In other words, the process of approval of international treaties, mainly the treaties whose incorporation in the national juridical system demands the reform of the penal code, is included in the general structure of political reforms and legislative initiatives currently in course in Angola.

Could Angola please indicate how the provisions of the Conventions to which Angola is already a party have been implemented in its domestic law? In particular, could Angola indicate what penalties have been prescribed for the commission of the offences which have been established as crimes as required under the relevant international instruments.

The answer to the this question should be viewed in the same context as the answers to implementation measures, and to the intentions with regards to the ratification of the

other relevant international instruments related to terrorism to which Angola is not yet a party.

Enclosures

- Lei 1/99 sobre as intuições financeiras;
- Lei Cambial;
- Instrutivos do Banco Nacional sobre Operações Cambiais;
- Operações de Invisíveis Correntes;
- Operações de Mercadorias;
- Despacho nº 24/03 que cria o grupo de trabalho para reforma do sistema judicial angolano;
- Lei nº 3/99 sobre o trafico e consumo de estupefacientes, substancias psicotrópicas e precursores;
- Lei sobre os passaportes Nacionais;
- Lei sobre empresas privadas de segurança.