



Security Council

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Letter dated 19 December 2001 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

The Counter-Terrorism Committee has received the attached report from Switzerland, submitted pursuant to paragraph 6 of resolution 1373 (2001).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(Signed) **Jeremy Greenstock**
Chairman
Counter-Terrorism Committee



Annex

Letter dated 19 December 2001 from the Permanent Observer of Switzerland to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit to you, enclosed herewith, the report from Switzerland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see appendix).

I should be grateful if you would have this letter and the annexed report circulated as a document of the Security Council.

(Signed) Jenö C. A. **Stahelin**
Ambassador

Appendix

Report on counter-terrorism submitted by Switzerland to the Security Council Committee established pursuant to resolution 1373 (2001)

Berne, 19 December 2001

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Introduction

All of Switzerland was profoundly shocked by the attacks against the United States of America that took place on 11 September 2001. These attacks reached an untenable level of violence and reflect an insane criminal intent.

All States around the world must collaborate actively in bringing to justice the perpetrators of these attacks and putting an end to the activities of the groups which organized them. Switzerland has always considered the fight against terrorism to be a priority. It is determined to stand up to this scourge by cooperating closely with the international community.

The Swiss Government is also mindful of the fact that the fight against terrorism could come into conflict with the principles of a free and tolerant society. It is essential that the measures taken to put an end to the activities of terrorist groups be respectful of the fundamental principles that form the core of our societies, such as justice, human dignity and religious tolerance.

Switzerland considers, furthermore, that international peace and security can be guaranteed in the long run only if States strengthen their cooperation with a view to eradicating poverty, preventing and resolving conflicts, and effectively promoting human rights and the rule of law.

Without an improvement in the living conditions of populations and universal respect for fundamental freedoms, the long-term effectiveness of counter-terrorism measures cannot be guaranteed.

In its resolution 1373 (2001), of 28 September 2001, the Security Council called on all States to take specific measures to combat international terrorism and to submit a report on the implementation of such measures to the Committee established pursuant to that resolution. The Swiss Government attaches the utmost importance to the implementation of that resolution.

Part One of the report outlines Switzerland's commitment to fighting terrorism. Part Two provides a detailed analysis of the means available to Switzerland in order to meet the Council's requirements with regard to the fight against terrorism and the measures taken or envisaged in that context. It follows the outline of the aforesaid resolution and the guidelines of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism (the Counter-Terrorism Committee).

Annex I contains articles of the Swiss Penal Code and references to the laws mentioned in the report. Annex II lists the treaties on terrorism to which Switzerland is a party. Annex III provides contact information for the Committee's contact points.

Part One: Switzerland's commitment to fighting terrorism

At the international level

The fight against international terrorism has long been a major concern of Switzerland. It employs all the means at its disposal to prevent financial or logistical support, as well as propaganda, for terrorist groups or acts. Furthermore,

Switzerland has collaborated and is continuing to collaborate closely with all States around the world in fighting terrorism, whether on the basis of international treaties or through the Act on Judicial Cooperation in Criminal Matters. The following examples illustrate Switzerland's desire for cooperation. Following the attack against a United States aircraft over Lockerbie, Scotland, United Kingdom, Switzerland provided the requesting State with ample documentation containing information and evidence. Moreover, the perpetrators of the 1991 murder in France of the head of the Iranian opposition, Shapur Bakhtiar, were arrested in Switzerland and extradited to France. Lastly, since 1990, Switzerland has systematically applied the non-military sanctions decided on by the Security Council. For instance, it implemented Security Council resolutions 1267 (1999) and 1333 (2000) instituting measures against the Taliban (by means of an order dated 2 October 2000).

Switzerland wishes in particular to prevent its financial market from being used for criminal purposes. It should be noted that, in Switzerland, banking secrecy cannot be an impediment to justice since it can be lifted once a request for cooperation is made or a criminal proceeding is instituted. The competent authorities can, where necessary, freeze the financial assets used to carry out such activities. The anti-money-laundering law, moreover, requires financial intermediaries to notify the competent authority and to freeze assets which they reasonably suspect of being linked to criminal activities. In order to further enhance the effectiveness of the existing rules, Switzerland plans to implement the special recommendations adopted by the Financial Action Task Force on Money Laundering (FATF) following the attacks of 11 September with a view to strengthening measures to prevent the financing of terrorism. Switzerland has made suggestions within FATF for strengthening "know your customer" rules and for increased surveillance of the non-banking sector.

The attacks of 11 September 2001 demonstrate once again the need for greater police cooperation among all States. Switzerland is already working in close cooperation with foreign police authorities. The International Criminal Police Organization (Interpol) channel is used to disseminate police information and requests for support, research and judicial cooperation. In order to facilitate criminal prosecutions, liaison officers of the Federal Police Office are stationed in various European countries and in the United States. Switzerland has concluded bilateral agreements on police cooperation with all the neighbouring countries and has established particularly close security cooperation with them in the following areas: illegal immigration, smuggling networks, trafficking in human beings, money-laundering and extremism. Furthermore, the Swiss domestic intelligence service and its European partners are working in close cooperation. Alongside the existing forms of cooperation in the fight against international crime, negotiations are currently being conducted with a view to Switzerland's direct participation in certain European Union instruments (European Police Office (Europol), Schengen).

The Swiss Government has set itself the goal of becoming a party to the International Convention for the Suppression of the Financing of Terrorism and the International Convention for the Suppression of Terrorist Bombings in the coming year. With the ratification of these two conventions, Switzerland will be a party to all of the United Nations conventions on fighting terrorism (see annex II).

Switzerland participated in the drafting of the Organization for Security and Cooperation in Europe (OSCE) anti-terrorism action plan adopted at the OSCE

ministerial conference on 4 December 2001. Its primary goal is to utilize the OSCE instruments to combat the underlying causes of terrorism. The Bishkek conference of 13 and 14 December 2001, in which Switzerland participated, was the first opportunity to transpose this action plan to the regional level.

Switzerland is also taking part in the drafting of the Euro-Atlantic Partnership Council action plan (2002-2004), which has a specific chapter on fighting terrorism. This chapter provides, inter alia, for the implementation of cooperation programmes between member States in order to strengthen their capacity to prevent and palliate chemical, biological and nuclear attacks against the civilian population.

Switzerland supports and participates actively in the anti-terrorism efforts of the Council of Europe. It presides over the Human Rights Steering Committee subgroup responsible for drawing up guidelines to assist member States in dealing with movements which threaten the fundamental values and principles of the Council of Europe. It is also a member of the Multidisciplinary Group on Terrorism, whose mandate includes coordinating the efforts undertaken by the various Council of Europe bodies in the fight against terrorism, and assessing the extent of revision required by the Council of Europe instruments on the subject.

Switzerland attaches great importance to combating the uncontrolled and illegal use of light weapons. The Swiss authorities are taking the steps required for the implementation of the United Nations plan of action and the OSCE document on the subject. They support the implementation of these measures at the regional and international levels. In addition, Switzerland and France have launched an initiative to trace, mark and register light weapons.

Switzerland provides the Organization for the Prohibition of Chemical Weapons with personnel, protective equipment and chemical detection equipment. Switzerland proposed to strengthen judicial cooperation within the framework of the Fifth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction.

Lastly, Switzerland supported the publication by the World Health Organization (WHO) of a paper entitled "Public health response to biological and chemical weapons". It provides financial support to WHO with a view to re-establishing task forces capable of rapidly detecting biological agents used in military or terrorist incidents.

At the domestic level

A criminal investigation was opened in order to shed light on any possible links between events that have occurred in Switzerland and the terrorist attacks perpetrated in the United States. Switzerland promptly provided the information required in response to a cooperation request from the United States; it also supported that State by transmitting information to it spontaneously. Switzerland also addressed judicial cooperation requests to the United States authorities. Moreover, the Swiss Government has banned all activities of the Al Qaeda organization in its territory.

Switzerland has systematically implemented the decisions of the Security Council Committee established pursuant to resolution 1267 (1999) concerning

Afghanistan (the Afghanistan sanctions committee) in the wake of the events of 11 September 2001, namely, freezing the assets of individuals and entities linked to terrorism. The Swiss competent authorities have also transmitted to all financial intermediaries the lists of names of individuals and entities supplied by the United States authorities, reminding them of their due diligence obligations, particularly with regard to money-laundering.

Lastly, a special unit (Task Force Terror USA) has been set up within the Department of Justice and Police to coordinate the criminal investigation that has been opened in Switzerland, and to ensure cooperation with foreign authorities. Meanwhile, an interdepartmental group on terrorism, comprising the relevant offices of the various federal departments, has been charged with coordinating the efforts. In particular, this group reviewed the compatibility of the Swiss legal system with Security Council resolution 1373 (2001).

Part Two: Implementation of resolution 1373 (2001) in Switzerland¹

In Swiss law there are many penal norms applicable to terrorist acts and their financing. There are, for example, provisions relating to the following offences: murder (article 112 of the Penal Code (PC)), hostage-taking (art. 185 PC), use of explosives with criminal intent (art. 224 PC), spreading of an illness to humans (art. 231 PC). All of these offences carry prison terms. Heavy penalties are provided, in particular, where a criminal act endangers the lives and physical integrity of several persons or causes major damage. Instigation, complicity and attempt are punishable. While Swiss penal law does not contain specific anti-terrorism provisions, these norms nonetheless constitute, for the time being, a framework sufficient to meet the needs of controlling this type of crime.

Acts preparatory to the commission of certain offences are also punishable (art. 260 bis PC), even before a planned terrorist act has begun to be implemented. This provision makes it possible to put a stop to preparations for a terrorist act and, in particular, to its financing. It provides for a penalty of up to five years in prison.

The reprehensible nature of certain acts is also extended to membership and support of a criminal organization, especially a terrorist one (art. 260 ter PC). The maximum penalty provided for this offence is five years in prison.

Lastly, Switzerland is capable of responding rapidly to any request by a State for judicial cooperation in criminal matters, even where no bilateral or multilateral cooperation treaty exists.

¹ Part Two of the report enumerates the means available to Switzerland in order to meet the Security Council's requirements with regard to the fight against terrorism and the measures taken or envisaged in that context. Part Two follows the outline of Security Council resolution 1373 (2001) and the guidelines of the Counter-Terrorism Committee. The articles of the Swiss Penal Code which are mentioned hereunder appear in annex I. The numerous laws mentioned were not reproduced in order to avoid lengthening the report; they can, however, be consulted on the Internet. The links are indicated in annex I.

1. Measures to combat the financing of terrorism (para. 1 of the resolution)

Subparagraph (a) — What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d).

Means available

Switzerland does not tolerate the notion of terrorists being able to use the Swiss financial system, nor will it tolerate that notion in the future. The banking sector in its entirety is required to cooperate in this effort. Banking secrecy, therefore, is not in any way an impediment to the fight against terrorism and other crimes. Any account in Switzerland must be frozen and all information provided as soon as criminal abuse is suspected. Switzerland can order interim measures, such as the freezing of bank accounts (art. 18 of the Federal Act on Judicial Cooperation in Criminal Matters), whether in the context of a domestic proceeding or in response to a judicial cooperation request.

A criminal proceeding is instituted in Switzerland if:

1. An act is committed in Swiss territory (art. 3 PC);
2. A Swiss national participates in, or is a victim of, a terrorist act committed abroad (arts. 5 and 6 PC);
3. The principle of universality provided for in article 6 bis PC is applicable.

The Swiss legal system contains a range of provisions making it possible to effectively prevent and punish the financing of terrorism, including preparatory acts (art. 260 bis PC). Where necessary, financial assets can be frozen rapidly. Depending on the circumstances, sequestration measures can be ordered with a view to subsequent confiscation, provided that a criminal proceeding has been instituted. All assets that are proceeds of an offence or that were intended as an incentive or a reward for the perpetrator of an offence can be confiscated (art. 59 (1) PC). There is a further possibility of ordering a sequestration measure with a view to confiscation from a third party (art. 59 (1) (2) PC) and from entities. There are particularly broad possibilities for sequestration and confiscation with regard to the assets of organized crime. A judge can order confiscation of all assets over which a criminal organization has power of alienation (art. 59 (3) and art. 260 ter PC); this is so regardless of whether there is proof of criminal origin. With regard to the assets of a person who participates in or lends support to a criminal organization, the organization is presumed to have power of alienation until proven otherwise.

The Swiss Penal Code (art. 305 bis PC) penalizes money-laundering stemming from a crime or aiding in its perpetration, whether the primary offence is committed in Switzerland or abroad. The maximum penalty is three years in prison. In the event that money-laundering is carried out by a member of a criminal organization, the penalty can be up to five years in prison (art. 305 bis PC).

Article 305 ter PC provides a maximum penalty of one year in prison for the failure to monitor financial transactions, particularly the failure to verify the economic beneficiary.

The anti-money-laundering law supplements the aforesaid provisions of the Penal Code. Under this law, any financial intermediary who suspects that assets are linked to money-laundering, are of criminal origin, or that a criminal organization has power of alienation over these assets, must:

(a) So inform the Money Laundering Reporting Office (the authority responsible for verifying the validity of account blockages);

(b) Block the assets immediately for up to five business days.

During this period, the competent prosecuting authority considers whether the blockage of these accounts should be upheld through a court order.

Measures taken or envisaged

The Office of the Public Prosecutor of the Confederation, the prosecuting authority, has opened a judicial police investigative procedure against persons unknown for, inter alia, kidnapping, hostage-taking and murder, crimes committed abroad against Swiss nationals and offences committed on board aircraft, in order to shed light on any possible links between events that have occurred in Switzerland and the terrorist attacks perpetrated in the United States. In this context, the Public Prosecutor's Office has blocked bank accounts. One of the terrorists transited through Zurich Airport on 8 July 2001. Nevertheless, at present and to our knowledge, there is no evidence suggesting that individuals or companies based in Switzerland played a role in planning the logistical aspects of the terrorist attacks committed in the United States on 11 September.

The Afghanistan sanctions committee decided on several occasions to expand the list of individuals and entities subject to the financial sanctions imposed by Security Council resolutions 1267 (1999) and 1333 (2000). The Swiss order of 2 October 2000 instituting measures against the Taliban was rapidly and successively adapted to reflect these changes on 12 April, 12 September, 25 October and 30 November 2001. The financial assets of the individuals referred to in this order were frozen and the provision of funds to these same individuals was prohibited. At the end of November 2001, some 30 bank accounts belonging to individuals and entities and totalling approximately \$15 million had been frozen, and a criminal investigation had been opened into a company based in Lugano. Some of these accounts were also frozen by the Public Prosecutor's Office.

The Federal Banking Commission (the bank monitoring authority) and the Anti-Money Laundering Authority (the authority monitoring the non-banking sector) forwarded the lists of names of individuals and entities transmitted by the United States authorities to all financial intermediaries and reminded them of their due diligence obligations. Due diligence obligations require financial intermediaries to freeze assets which they have serious reasons to believe are linked to criminal activities (cf. para. 1 (a)).

In this connection, Switzerland would find it very helpful if the Counter-Terrorism Committee was competent to centralize and manage the lists of names of individuals and entities whose assets or financial transactions are to be blocked.

As one of the world's pre-eminent financial centres, Switzerland wishes to see more ambitious international standards developed to combat financial flows of criminal origin. Switzerland is a member of FATF and collaborated actively in the

drafting of that group's Forty Recommendations. These recommendations constitute the internationally recognized standard of measures which countries should adopt to combat money-laundering effectively. They deal with countries' legal and financial systems and with international cooperation. Switzerland has incorporated them fully into its legislation (PC, money-laundering law). In the wake of the events of 11 September, Switzerland supported the adoption of specific FATF recommendations on the fight against terrorism, and it has undertaken to implement them by June 2002 (Swiss legislation in this area is already largely compatible). Switzerland made suggestions for strengthening "know your customer" rules and for increased surveillance of the non-banking sector. FATF welcomed the Swiss proposals.

Switzerland initiated an international effort to prevent deposits of funds of criminal origin belonging to persons exposed to political risk.

In 1998, Switzerland launched an international initiative called the "Interlaken process", aimed at the development of targeted financial sanctions affecting the leaders of countries which violate international peace (including through support of terrorism) without harming the civilian population.

Subparagraph (b) — What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

Means available

The legislation in force penalizes the wilful collection or provision of funds for the commission of terrorist acts falling under certain offences enumerated in annex I. So long as the primary act has not been carried out, the perpetrator or individual who takes part in the financing can be prosecuted for attempt, instigation or complicity. The act of organizing the financing of a terrorist act can constitute an act preparatory to a criminal act under article 260 bis PC. The maximum penalty provided in this case is five years in prison.

Article 260 ter PC is also applicable where an association of individuals constitutes a criminal organization. This being the case, the pursuit of a terrorist aim need not already have been concretized in the perpetration of terrorist acts. Article 260 ter PC comes into play, in particular, where no causal relationship can be established between the act of support (financing) and the envisaged offence. A maximum penalty of five years in prison is provided.

Measures taken or envisaged

On 7 November 2001 the Federal Council banned the activities of the Al Qaeda terrorist organization in Switzerland. The penal norm penalizes, in particular, the act of participating in a banned grouping, providing it with physical or material support, organizing propaganda actions on its behalf or on behalf of its goals, recruiting adherents or promoting its activities in any other way. The organization's assets will be confiscated, as appropriate. An individual who violates this ban is liable to three years in prison or a fine. No terrorist organizational structure has been detected in Switzerland to date. The purpose of the ban decreed by the Federal Council is therefore largely preventive.

Subparagraph (c) — What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

Means available

The Federal Council is empowered to order such measures as it deems appropriate to safeguard the country's interests (art. 184 (3) of the Federal Constitution). On this basis, Switzerland applied all the financial sanctions (freezing of funds and prohibition against providing funds) imposed by the Security Council since the start of the 1990s, such as the financial sanctions provided for in Council resolutions 1267 (1999) and 1333 (2000).

On the same basis, the Federal Council can issue temporary orders blocking accounts belonging to specific individuals (as was done, for instance, in respect of the accounts of former presidents Marcos and Mobutu Sese Seko).

There is a further possibility of sequestering and confiscating assets in the context of a criminal proceeding (see para. 1 (a)).

Measures taken or envisaged

For the judicial measures, see paragraph 1 (a).

Subparagraph (d) — What measures exist to prohibit the activities listed in this subparagraph?

Means available

The means enumerated under subparagraphs (a), (b) and (c) make it possible to suppress terrorist activities in Switzerland. They are particularly effective with regard to the property of criminal organizations.

Next, there is the possibility, depending on the specific circumstances, of issuing orders based directly on the Constitution. Thus, the Federal Council, by a decree of 30 November 2001, prohibited the collection of funds and propaganda activities on behalf of the Liberation Tigers of Tamil Eelam on the occasion of a demonstration held on 2 December 2001, and ordered the sequestration and confiscation of the objects and assets concerned.

Measures taken or envisaged

The chief measures taken are described under subparagraphs (a), (b) and (c).

It should be noted that a forthcoming revision of the Penal Code holds entities primarily responsible for certain offences (organized: 260 ter PC; money-laundering: 305 bis PC; bribing of Swiss public servants: 322 ter PC; granting of unfair advantage: 322 quinquies PC; bribing of foreign public servants: 322 septies PC). The Federal Council intends to implement this reform as soon as possible.

2. Measures to combat terrorist acts (para. 2 of the resolution)

Subparagraph (a) — What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Means available

Recruitment is punishable in Switzerland:

- (a) Where the recruiters use coercive means to incite individuals to join a group (art. 271 PC); or
- (b) Where it is linked to sufficiently concrete preparatory acts (art. 260 bis PC);
- (c) Under support for a criminal organization (art. 260 ter PC);
- (d) In particular, where firearms and munitions are sold, leased, given, made available to a third party or procured with the knowledge that they are to be used in the commission of an offence or a crime (art. 260 quater PC).

Measures taken or envisaged

See paragraph 1 (b) and (c).

Subparagraph (b) — What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

Means available

Switzerland acts both to prevent and to suppress. Article 2 of the law instituting measures for the maintenance of internal security requires the competent authorities to adopt preventive measures to combat terrorism. Accordingly, the Federal Police Office has established a Division of Analysis and Prevention responsible for ongoing assessment of the threat that terrorism represents.

The Public Prosecutor's Office and the Federal Police Office have set up a unit called "Task Force Terror USA" in order to enhance the effectiveness of cooperation with foreign authorities and to carry out the judicial police investigative procedure instituted following the events of 11 September. It serves as a centre for coordinating Swiss investigations, defining missions of inquiry, evaluating reports, setting priorities and establishing contact and cooperation with the cantonal and foreign police and prosecuting authorities. Task Force Terror USA has several dozen staff members specializing in various security fields. Its work in relation to the investigative procedure under way is subject to tight restrictions on information so as not to prejudice the investigation.

Within the Federal Justice Office, the International Judicial Cooperation Division is responsible for dealing with requests for judicial cooperation and extradition. The Division receives requests for criminal prosecution from foreign authorities seeking the transmittal of exhibits, the hearing of witnesses, the seizure of assets, the extradition of wanted persons, and so on.

Measures taken or planned

See Part One, third paragraph.

Subparagraph (c) — What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

Means available

The case files of asylum-seekers from specific countries (a specific list emanating from the Federal Police Office) are subject to systematic review and decision by the Federal Police Office. This list is updated periodically.

Article 53 of the asylum law further provides that asylum shall not be granted to a refugee who is deemed unworthy owing to reprehensible acts, who has undermined the internal or external security of Switzerland, or who places the country at risk. Refugee status can also be revoked or recognition as a refugee withdrawn (art. 63 of the asylum law) if, for instance, the refugee has undermined the internal or external security of Switzerland, places the country at risk or has committed particularly reprehensible criminal acts. All terrorist acts fall under this definition.

The Federal Office for Refugees transmits to the prosecuting authorities the names of persons who may not receive refugee status pursuant to article 1 (f) of the United Nations Convention relating to the Status of Refugees (perpetration of a crime against peace, a war crime or a crime against humanity).

Since 1994 the Federal Office for Refugees has refused to grant refugee status to a dozen Afghan nationals and to several Iraqi nationals on the basis of article 1 (f) of the 1951 Convention relating to the Status of Refugees.

Measures taken or envisaged

The above-mentioned list of countries has been updated since 11 September 2001 by the Federal Police Office.

Subparagraph (d) — What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

Means available

Under article 13 of the act on the entry and residence of aliens, the federal authorities may deny the entry into Switzerland of undesirable aliens. A person need not pose a specific danger to Switzerland. Obviously, persons suspected of having ties with terrorists may not be admitted into Swiss territory.

In any case, under the Constitution, the Federal Council may enact specific legislation where the circumstances require the removal of certain persons.

Measures taken or envisaged

Enhanced border controls: see paragraph 2 (g).

Subparagraph (e) — What steps have been take to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

Means available

The principle of compulsory prosecution and the principle of legality guarantee the effective prosecution of offences. Terrorist offences are crimes punishable by life imprisonment in some instances.

Measures taken or envisaged

See paragraph 1 (d).

Subparagraph (f) — What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

Means available

In addition to signing the multilateral conventions against terrorism (see annex II), Switzerland has put into place a network of bilateral instruments (with, inter alia, the United States) in the specific fields of judicial cooperation in criminal matters and the extradition and transfer of convicted persons, all of which are designed to combat crime, including terrorism.

The act on judicial cooperation in criminal matters and its implementing regulations enable Switzerland to cooperate in judicial matters with States with which it is not bound by treaty (article 1 of the Act on Judicial Cooperation in Criminal Matters). This act provides for interim measures, such as the freezing of bank accounts (article 18). Where proceedings are initiated in Switzerland, it authorizes the spontaneous transmission of evidence and information to foreign authorities (article 67).

Switzerland also cooperates with the international tribunals responsible for prosecuting serious violations of international humanitarian law (the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994) and with Interpol. Moreover, it has ratified the Rome Statute of the International Criminal Court and has adopted the federal act on cooperation with the International Criminal Court. In December 2000, it also signed the United Nations Convention against Transnational Organized Crime.

Measures taken or envisaged

Switzerland promptly and fully provided the information required in response to a cooperation request from the United States; it also supported that State by

transmitting information to it spontaneously. Switzerland also addressed judicial cooperation requests to the United States authorities.

Subparagraph (g) — How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

Means available

Federal and cantonal authorities check the travel documents and identity papers of aliens. Forged or falsified documents and authentic documents that are used fraudulently are confiscated or seized.

Measures taken or envisaged

Swiss diplomatic missions, border posts and the cantonal immigration authorities have been instructed to examine with particular care the authenticity and lawful possession of travel documents.

The Swiss Federal Aliens Office recently introduced a new security seal that prevents falsification more effectively. A computer-based visa issuance system was developed to which the main diplomatic missions are already linked online. By the end of 2002, all Swiss diplomatic missions and border posts will be linked to this system, permitting a smoother flow of information.

Border posts have been instructed to enhance controls at the country's entry points on grounds of immigration policy and security. Diplomatic missions have been requested to comply strictly with the relevant directives.

A number of plans aimed at enhancing efforts to prevent the forgery of alien residence permits and travel documents are under preparation.

3. International cooperation with respect to terrorism (para. 3)

Subparagraph (a) — What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

Means available

Police cooperation — prevention: see paragraph 2 (b) and the first part of paragraph 3.

General police cooperation: see paragraph 2 (f).

Counterfeit or falsified travel documents of asylum-seekers: see paragraph 2 (g).

Measures taken or envisaged

The Working Group on Facilitation of the European Civil Aviation Conference (ECAC) has been entrusted with the development of a facilitation information system on illegal immigration (ECFALIS). This system, provisionally funded by Switzerland, should enable ECAC member States and their airlines to alert each

other via electronic mail about falsified documents or possible clandestine immigration. The pilot programme started in April 2001. ECAC has assigned top priority to making the ECFALIS information system fully operational.

Police cooperation — prevention: see paragraph 2 (b) and (f) and the first part of paragraph 3.

Counterfeit or falsified travel documents: see paragraph 2 (g).

Subparagraph (b) — What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

Exchange of information between police services: see paragraph 2 (b) and (f) and the first part of paragraph 3.

Judicial cooperation: see paragraph 2 (f).

The Money Laundering Reporting Office is in a position to exchange information with its foreign counterpart authorities. Such authorities, referred to as financial intelligence units, are part of the Egmont Group, which includes Switzerland and 58 other States. That network has been extensively used, especially since the events of 11 September.

Exchange of information between police services: see paragraph 2 (b) and (f) and the first part of paragraph 3.

Subparagraph (c) — What steps have been taken to cooperate in the areas indicated in this subparagraph?

Judicial cooperation: see paragraph 2 (f).

Subparagraph (d) — What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Means available

Switzerland is a party to 10 of the 12 United Nations conventions and protocols for combating terrorism (see annex II). It is also a party to the Council of Europe Convention on the Suppression of Terrorism.

Measures taken or envisaged

The Federal Council's goals for 2002 include ratifying the International Convention for the Suppression of the Financing of Terrorism and acceding to the International Convention for the Suppression of Terrorist Bombings.

Subparagraph (e) — Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

Judicial cooperation: see paragraph 2 (f).

Subparagraph (f) — What legislation, procedures and mechanisms are in place for ensuring that asylum-seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

In compliance with international humanitarian law, Switzerland takes all possible steps to prevent the abuse of refugee status by terrorists. In addition to the measures referred to in paragraph 2 (c), the Federal Office for Refugees prepares individual country analyses providing instructions on the processing of asylum applications from these countries. Those analyses are consulted regularly before any decision on the granting of asylum is made.

Subparagraph (g) — What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Asylum: see paragraph 2 (c).

Article 3, paragraph 2, of the Act on Judicial Cooperation in Criminal Matters prevents claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Under that article, anyone who has endangered or threatened to endanger the freedom, life or physical integrity of individuals, including by hijacking aircraft, taking hostages or the use of weapons of mass destruction, may not raise the political offence exception.

At the request of the State where the offence was committed, Switzerland may punish the perpetrator of an act committed abroad if extradition is not possible, if the person is to be prosecuted in Switzerland for other, more serious crimes, and if the requesting State guarantees that it will not prosecute him for the same offence once he has been acquitted or has served his sentence in Switzerland (art. 85 of the act on judicial cooperation in criminal matters).

Asylum: see paragraph 2 (c).

Measures to be taken by Switzerland

- Accession to the International Convention for the Suppression of Terrorist Bombings (in 2002);
- Ratification of the International Convention for the Suppression of the Financing of Terrorism (in 2002);
- Implementation of the special recommendations to strengthen measures to prevent terrorist financing adopted by FATF in the wake of the attacks of 11 September (by June 2002);
- Linking all Swiss diplomatic missions to the computer-based visa issuance system in order to enhance the efforts to combat falsified documents;
- Forthcoming revision of the Penal Code to provide for the primary responsibility of entities for certain offences (organized crime: art. 260 ter PC; money-laundering: art. 305 bis PC; bribing of Swiss public servants: art. 322 ter PC; granting of an unfair advantage: art. 322 quinquies PC; bribing of foreign public servants: art. 322 septies PC).