

**REPORT OF  
THE WORKSHOP ON  
LEGISLATIVE MEASURES TO  
COMBAT TERRORISM**

**10-14 February 2003**

**St. John's, Antigua**



**Commonwealth Secretariat**

## LEGISLATIVE ACTION PLANS

### ANTIGUA AND BARBUDA

#### Amendments to the Prevention of Terrorism Act 2001 Legislation Action Plan

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|---|--|
| <b>Definition of Terrorism</b>  | <p>1. The definition of Terrorism under the Prevention of Terrorism Act, 2001 is adequate. It captures all the elements of conduct which constitute acts of terrorism in the various UN Conventions.</p> <p>There is no exclusion clause in the definition of Terrorism in the Prevention of Terrorism Act. The absence of an exclusion clause may affect conduct which is considered to be a legitimate protest in a democratic society. An amendment is therefore necessary to exclude certain categories of lawful protest. Section 1(3) of CS Model will be adopted.</p> |
| <b>Criminalization of sufficient funds committed amendment is terrorist activity Model S. 4.</b>  | <p>2. The provision in the Prevention of Terrorism Act 2001 is but there is need to enhance this provision. An amendment is needed to make it more specific as in CS Model S. 4.</p>   |
| <b>Prohibiting making Financial services or economic resources available persons or entities in the commission of Terrorist Acts &amp; use of Territory</b> | <p>3. Section 6 of the Prevention of Terrorism Act need to be expanded as in paragraph 2 above. CS Model S. 9 and Canada 83, 18-19-21, 22, (83-23) are considered useful. CS Model 15 may also be adopted as additional provision to enhance section 6 of the to Prevention of Terrorism Act 2001.</p>   |
| <b>Criminalise deal support for and Model recruitment for meet this require-terrorist groups</b>  | <p>4. Section 4 of the Prevention of Terrorism Act 2001 does not with support and recruitment for terrorist groups. CS sections 12, 13, 17, 18 and 19 will be adopted to meet this require-ment under Security Council Resolution 1373.</p>  |
| <b>Prevention and early warning</b>   | <p>5. Section 8 of the Prevention of Terrorism Act 2001 needs to be amended to make provision for disclosing information about</p>   |

transaction involving terrorist property. CS Model section 31 will be considered for adoption.

**Use of Territory or responding Services for only to the prohibition terrorist activity.**

6. The Prevention of Terrorism Act is deficient in paragraph 2( d) of Security the Act is limited of the use of the financial Council Resolution 1373. Section 6 of services in Antigua and Barbuda for terrorist purposes.

Amendment is required to section 6 to include the prohibition of use of the territory of Antigua and Barbuda for terrorist acts. Section 6 of CS Model will be adopted to enable the legislation to satisfy paragraph 2 (d) of Resolution 1373.

**Participation in the Commission of Offences Under the Act - Associated with this is Proscribed Organization**

7. This provision is absent in the Prevention of Terrorism Act 20 States are required under Security Council 1373 to ensure that persons who participate in the financing, planning, preparation or perpetration of terrorists acts are brought to justice and punished. The Prevention of Terrorism Act will be amended to provide this requirement. CS. Model 19 as well as Mauritius sections 4 and 5 will be considered for adoption.

**Jurisdiction**

8. Jurisdiction does not form part of Antigua and Barbuda legisla1 on Prevention of Terrorism. More discussion is needed on subject.

**Freezing & Forfeiture**

9. Section 3 of the Prevention of Terrorism Act 2001. Under section 3, the Supervisory Authority appointed under the Money Laundering Prevention Act is authorized to direct the freezing of an account belonging to a designated person or group. The Free: provisions under the Money Laundering Prevention Act are extensive and include provision for civil forfeiture as well. There is however no linkage with the powers exercised by the Supervisory Authority under the Money Laundering (Prevention) Act and the Prevention of Terrorism Act. An amendment is necessary to establish this linkage.

Under the Prevention of Terrorism Act, the confiscation provision comes into force automatically if no application is made within three months to defreeze the asset of a terrorist or terrorist organization. Discussion on this subject would appear to lean towards obtaining a judicial order as a first step towards confiscation. It has also been suggested that no order should be made by the judicial authorities until all interested parties have given the opportunity to be heard.

**Preventing movement of Terrorist and regulating borders**

10. There is already a provision under the Immigration and Passport Act to declare any undesirable person a prohibited immigrant. This provision is sufficient to authorise the refusal of entry into Antigua and Barbuda of a person suspected of engaging in terrorist activity.

It is useful to create a mechanism for immigration officers to exchange information on passengers entering or leaving Antigua and Barbuda. The same mechanism may apply to customs officers regarding shipment of cargo. In this regard, the Immigration and Passport Act as well as the Customs Control and Management Act, may require amendment to authorize the sharing of information relating to passengers and cargo of vessels and aircrafts entering and leaving Antigua and Barbuda. CS Model Section 37 is a useful provision to be considered in this regard.

**Prevent use of Immigration Laws allow for safe Haven**

11. No specific provision in the Prevention of Terrorism Act 2001 addresses the use of Antigua and Barbuda as a safe haven. CS to Model 39 may be adopted.

**Extradition**

12. For greater certainty sections 27, 28 and 29 of the CS Model may be considered for inclusion in the existing Extradition Act. Section 22 of the UK Extradition Act 1989 will be considered as an amendment to enhance the Extradition Act 1993. The UK provision deems the ratification of the UN Conventions on Terrorism and Terrorist related activity as implying, without more, the existence of extradition arrangement under the Extradition Act.

**Mutual Legal**

13. Exchange of Information under CS Model 26 will be adopted for inclusion in the Prevention of Terrorism Act 2001. The provision in the CS Model 26 is considered essential for cooperation in the fight against terrorism.

**Financing of Terrorism Regulatory approach**

14. See section 9 of the Prevention of Terrorism Act 2001 does not include a requirement to disclose information that may lead to the prevention of terrorism by any person who possess such knowledge. Section 9 needs to be amended to include such requirement. Section 30 of the CS Model is preferred as a useful provision.

**Pre-charge detention**

15. Provision is not made in the Prevention of Terrorism Act 2001 for pre-charge detention. Section 21 of the CS Model will be considered.

**Information gathering**

16. The prevention of Terrorism Act 2001 has no provision for information gathering. This is not a requirement under Security Council Resolution 1373, but in the global context it is necessary to have a data base as a source of essential information to combat terrorism worldwide. Provision will therefore be made to include information gathering. CS Model section 22 and Canada section 83.28 will be considered for adoption.

**Interception of an in-Communication Government.**

17. Interception of communication is a policy matter and require depth study before making a recommendation to

## THE BAHAMAS

### PROPOSED LEGISLATIVE ACTION PLAN

#### Offences

A preliminary draft Bill prepared by The Bahamas contains –

The offence of terrorism; (see Option 2 of the definition of terrorist act of the Model Legislation)  
the offence of financing terrorism -see sections 14 & 16 of model legislation;  
the offence of harbouring terrorist; the offence of weapons training;  
the offence of the use or possession of terrorist property;  
the offence of the support of terrorist organizations; and  
the offence of the provision and collection of funds for the purpose of terrorist acts.

The Penal Code presently covers the offences of aiding and abetting, including the offence of attempt and participation.

#### Disclosure

Provisions for disclosure presently exists under the Proceeds of Crime Act, 2000 but relates to the offence of money laundering or the proceeds of any relevant offence.

**Proposed Action:** To extend the Proceeds of Crime Act to any terrorist offence. To consider section 6 of the Barbados Legislation which allows for disclosure in relation to funds related to or to be used in relation to a terrorist offence. (Legitimate funds)

#### Ancillary Offences

None.

Penalties

In the draft Bill, the most serious penalty is life imprisonment. All of the offences except one, are indictable.

**Proposed Action:** To amend the draft Bill to make all offences indictable offences. Consideration will be given to increasing fines where fines are specified.

#### Jurisdiction

To consider the adoption of Option 1 of section 24 of the model legislation and section 12 of the Barbados legislation.

## **Freezing and Forfeiture**

The existing Proceeds of Crime Act provides for freezing and forfeiture of the proceeds of crime. Once the Act is amended or extended to terrorist offences, these provisions will apply to the proceeds of such offences.

**Proposed Action:** To consider including the provisions of section 32, 33, 34 & 35 of model legislation and section 8 of the Barbados Act to deal with freezing and forfeiture of legitimate funds used or suspected of being used for terrorist offences.

## **Immigration and Border Control Refugees**

To review the Passport and Immigration Act and to consider the adoption of sections 37, 38 and 39 of the model legislation.

## **International Cooperation**

### **A. Extradition**

The existing Extradition Act is wide enough to allow extradition for offences under existing Counter Terrorist Conventions.

**Proposed Action:** To amend the Extradition Act to ensure that extradition in the case of terrorist offences cannot be refused on the basis of political reasons.

To also consider the provisions of the London Scheme.

### **B. Mutual Legal Assistance**

Presently have a Mutual Legal Assistance Act and a Criminal Justice International Cooperation Act, which allows us to assist in criminal matters. Our Mutual Legal Assistance Act already provides for a temporary transfer of witnesses.

## **Administration and Law Enforcement Cooperation**

Presently have an exchange of information provision in the Financial Transactions Reporting Act, 2000 for regulatory bodies with overseas regulatory bodies.

Under the Proceeds of Crime Act, there is a provision to allow a police officer to share information if necessary.

## **Counter Terrorism**

Presently The Bahamas is a party to six out of the twelve conventions including the Suppression of the Financing of Terrorist Funds Convention.



The Bahamas has implemented legislation to give effect to those counter terrorism conventions to which it is a party. However, there may be a need to review the legislation in light of certain points raised during discussions at the Workshop. For example, provisions to ensure the rights of the accused.

The Bahamas has not ratified the Suppression of Terrorist Financing due to the fact that it has not enacted relevant legislation to-date.

**Proposed Action:** To enact legislation to give effect to the Convention on the Suppression of Terrorism Financing.

### **Optional Special Investigative and Detention Powers**

Existing provisions relating to pre-charge detentions exist in the Criminal Procedure Code to allow for detention up to 96 hours. Special consideration may have to be given to prohibit access to accused persons suspected of terrorist offences similar to Mauritius.

Presently The Bahamas has a Listening Devices Act which provides for the conventional method of intercepting telephone calls.

**Proposed Action:** Will consider legislation from Jamaica and Barbados on the interception of communications at a later date.

## BARBADOS

### LEGISLATIVE ACTION PLAN

The Barbados Anti-Terrorism Act, 2002-6 meets the basic obligations that arise under the U.N. Resolution 1373 and to a large extent the international instruments / Conventions relating to terrorism.

However this legislation could be enhanced in certain areas and to this extent the following Clauses appearing in the Commonwealth Secretariat's model law are being considered as a guide for possible amendments to the Act in due course:

- a) Clause 6: Use of property for commission of terrorist acts
- b) Clause 7: Retention or control of such property;
- c) Clause 8: Dealing with such property;
- d) Clause 11: Provision of devices to those involved in terrorist activity;
- e) Clause 12: Recruitment of persons for participation in terrorist activity;
- f) Clause 13: Provision of training for such persons;
- g) Clause 15: Provision of facilities to support terrorist activity.

It may also be useful to consider whether the list of persons regarded as terrorist by the U.N. should be dealt with not only administratively but should be part of Regulations made under section 17 (1) of the Act.

Revision of the Money- Laundering And Financing of Terrorism (Prevention and Control) Act is being considered.

The Convention on the Marking of Plastic Explosives appears to be the only Convention which Barbados is now to ratify.

## **BELIZE**

### **LEGISLATIVE ACTION PLAN**

#### **I: OFFENCES (including jurisdiction)**

##### **Definitions relevant to offences**

Property: S. 2(1) of our Money Laundering (Prevention) Act (hereinafter MLP Act) Chapter 104, defines property. Definition is wide enough to cover "funds".

Terrorism: S. 2 of our Amendment to the Money Laundering (Prevention) Act (hereinafter MLP Act Arndt) Act No.5 of 2002, defines "terrorism". It is consistent with option 2 on p. 5 of the model, with the exceptions that 2(f) and "international organisation" in (ii), as well as (h) along with the proviso, are not included. We intend to include 2(f) and "international organisation" (into our 2(a)(ii) of our MLP A) but do not think that (h) along with the proviso is necessary as any action falling under this subsection, if not caught by the proviso, would also fall under another subsection.

Terrorist group: There is no definition in our legislation at present. We wish to include the option provided on page 6 (a) of the model. In relation to (b) -"a specified entity", further discussion would be needed in relation to whether designation will be done by the Minister or through a Court process.

##### **Legislative provisions relating to the obligation to ...**

There is no existing legislation in this regard.

In relation to (I) and (2), we intend to adopt Ss. 4 and 5 on pp. II and 12 of the model. It will also be made an offence to aid, abet etc. the commission of these offences.

In relation to (3) and (5), we intend to insert into our section which creates the offence, (S. 3 of the MLP Act Arndt) "aid, abet, counsel, procure etc" so we are of the view that these offences will be caught thereunder.

In relation to (4), further discussion will definitely be needed on this topic.

#### **B. Ancillary offences**

As stated above, this will be included in the section creating the offences. "Attempt" can also be included in this section.

In any event, these ancillary offences are already provided for in our Criminal Code.

### **C. Penalties**

Presently, under our Money Laundering (Prevention) Act, as amended, terrorism carries the same penalty as that of a money laundering offence, which, under Section 6, is "a fine which shall not be less than \$25,000.00 but which may extend to \$100,000.00, or with imprisonment for a term which shall not be less than three years but which may extend to six years, or with both such fine and term of imprisonment." We consider this penalty to be too lenient in the context of a terrorism offence and intend that it be reconsidered.

### **D. Jurisdiction**

Under S. 27(2) of our Money Laundering (Prevention) Act, "All offences under this Act shall be tried summarily without the consent of the accused unless otherwise directed by the Director of Public Prosecutions". The anomaly is that the penalty section does not distinguish between conviction on summary trial and conviction on indictment -this will also have to be reconsidered. Further, our definition of terrorism includes acts committed outside of Belize -S. 2(d) of the MLP Act Amdt.

## **II: FREEZING AND FORFEITURE**

Freezing can be done under S. 19 of our MLP Act (terrorism, even though the offence did not exist within our laws, is a prescribed offence under the Act -see the Second Schedule -all the other offences will now, of course, have to be made prescribed offences) and under S. 5 (1A(I)) of our amendment thereto. Forfeiture however, is presently only possible under S. 20 and this applies to money laundering offences which would not include the financing of terrorism. We would need to consider whether the definition of money laundering should be broadened or a section created to deem a person convicted of financing terrorism to be convicted of a money laundering offence so as to invoke S. 20 or whether we should simply create another section to provide for forfeiture after conviction of that offence.

## **III: REFUGEES, IMMIGRATION AND BORDER CONTROL**

In relation to (1), (2) and (3), there are systems in place under our Refugee Act, Chapter 165, our Immigration Act, Chapter 156, our Border Management Agency Act, Chapter 144 and our Aliens Act. What we think is needed, is proper administrative measures to be adopted -training of personnel etc.

## **IV: INTERNATIONAL COOPERATION**

A. Extradition Act, Chapter 112 (for extradition to the United States) and the Fugitive Offenders Act (for extradition to countries of the Commonwealth). The latter does not list terrorism as an extraditable offence and so this would need to be amended. We would also need to amend both to include p. 24 S. 29 of the model in relation to deeming terrorist offences not to be offences of a political character. The relevant Conventions would also have to be considered for appropriate measures to be taken to incorporate them into our legislation.

B. Mutual assistance. Obvious need for a Mutual Legal Assistance Act which will provide for assistance which is not necessarily treaty based.

C. Administrative and Law Enforcement Cooperation. This is provided under our MLP Act S. 23(4) and under our Financial Intelligence Unit Act, S.7.

#### **V: FINANCING OF TERRORISM REGULATORY APPROACHES**

The regime is set up under the MLP Act, but "suspicious transaction" (S. 13(2)) will have to be widened to refer to terrorism.

Under FIU Act the unit is responsible for investigating *gjlf* prosecuting. Police officers are seconded to the unit, and when fully staffed, the unit will have its own legal counsel who will conduct prosecutions on its behalf.

#### **VI: OPTIONAL SPECIAL INVESTIGATIVE AND DETENTION POWERS**

These will have to be further considered.

#### **VII: COUNTER TERRORISM CONVENTIONS**

Belize has not yet ratified all the Conventions. Of priority will be, of course, the Financing Convention. The status of all Conventions however, will be visited and the necessary steps taken.

**CHERYL-LYNN BRANKER- TAITT**  
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## COMMONWEALTH OF DOMINICA

### LEGISLATIVE ACTION PLAN

#### INTRODUCTION

Dominica appointed a multi-disciplinary Task Force with the special mandate to oversee the implementation of UN SCR 1373.

The Honourable Prime Minister in a statement in the House of Assembly re-affirmed **Dominica's** commitment to take the necessary measures to prevent and suppress the financing of terrorism. These measures would **include** criminalising the willful provision and collection of funds for terrorist related activities. A Bill shortly entitled the "Suppression of Financing Terrorism Act 2002" was introduced in December 2002 in the House of Assembly.

Information respecting listed entities and other matters received from United Nations subsequent to the introduction of the Bill in the House of Assembly tends to indicate that the Bill fell short in satisfying the mandatory obligations under the UN SCR 1373 and the International Convention for the Suppression of the Financing of Terrorism.

A revised Bill has been prepared which will be reviewed and refined by the Cabinet appointed UN SCR Task Force subject to instructions on matters of policy. The Task Force in its review/refinement exercise will have regard to the model draft prepared by the Commonwealth Secretariat and additional information provided at the Workshop on Legislative Measures to Combat Terrorism held, February 10-15, in Antigua under the auspices of the Commonwealth Secretariat.

#### **I: OFFENCES** (including Jurisdiction)

- (a) The extent to which this obligation is met under existing law:  
The offences contemplated in Article 2 of the Convention are not offences under our existing laws;
- (b) The gaps in the law would have to be filled in the manner as set out in paragraph (c);
- (c) Proposed legislative approach to address gap:  
The revised draft Bill in the interpretation clause will seek to define "terrorist acts" as consisting of the underlying conduct, activity and/or threats for the intended purposes as expressed in Article 2 paragraph 1 of the Convention. The expressions "terrorist" and "terrorist group" will be defined accordingly.

The Bill would contain the requisite clauses that seek to:

- (i) criminalize the provision and collection of funds for the purpose of terrorist acts;
- (ii) prohibit making funds, assets, property or financial services or other related services available to terrorists and terrorist groups. The related services include

- dealing with property of terrorists or being involved in a transaction respecting property of terrorists. The same prohibition would apply to persons or entities owned and controlled by terrorist or terrorist groups as well as persons and entities acting on behalf or at the direction of terrorists or terrorist groups;
- (iii) Criminalize the provision of supply and support to terrorists and terrorist groups;
  - (iv) Prevent the use of the territory of Dominica for the financing, planning, support and commission of terrorists act against other states and the citizens of such states;
  - (v) Provide the ancillary offences of incitement of, promotion of and participation in the commission of the offences referred to in sub-paragraph (i) (ii) and (iii). These ancillary offences include attempts and conspiracy to commit the relevant offence; and aiding, abetting, counseling and procuring the commission of the relevant offence;
  - (vi) Penalise the offences based on the seriousness of each offence. Generally the offences would be indictable offences but some provisions in particular those respecting breach of a reporting obligation is likely to be made triable summarily;
  - (vii) Provide the High Court with the necessary jurisdiction to try the offences whether committed within or without the territory of Dominica by citizens or residents of Dominica or against citizens and residents of Dominica or the property of such persons.

## **II. FREEZING AND FORFEITURE**

Freezing and forfeiture of property are provided for in related enactments namely the Money Laundering (Prevention) Act, 2000, the Drugs (Prevention of Misuse) Act 1988 and the Proceeds of Crime Act 1993. Generally, the forfeiture/confiscation of the property must be ordered by the Court upon conviction. In a word, the forfeiture is conviction based.

The revised Bill would seek to empower the Minister responsible for national security to order the freezing of funds/property of terrorists and suspected terrorists as a precautionary measure and also as part of the investigative tool. That approach would be utilised because of our particular national circumstances, conditions and capabilities and the nature of the terrorist related offences. The necessary safeguards respecting constitutional and human rights would have to be provided to prevent possibly abuse of such powers. The standard conviction based forfeiture would also be provided.

## **III. IMMIGRATION AND BORDER CONTROL/REFUGEES**

### **1. Preventing movements of terrorists:**

- (a) The Immigration and Passport Act, Chapter 18:01 empowers an immigration officer to deny "prohibited immigrants" permission to enter Dominica. The expression "prohibited immigrants" is defined in that Act. Persons seeking to enter Dominica must also produce the relevant travel document. The draft Bill will provide for the searching of information between relevant authorities respecting immigration.

- (b) Gaps exist in the law because of exceptions to the term "prohibited immigrants". Our draft Bill would seek to address those gaps by empowering the Minister responsible for immigration as well as immigration officers to deny entry into Dominica to terrorists and suspect terrorists.

## **2. Prevent the abuse of travel Documents**

Persons are not allowed to enter Dominica without the proper travel documents. Our laws criminalize forgery and falsification of documents. Administrative measures may be instituted to make it more difficult for persons to duplicate or falsify travel documents.

## **3. Refugees**

So far no one has applied for refugee status in Dominica. The status of the law in this area would have to be further reviewed. In any event, having regard to the nature of terrorism, we intend to empower the Minister for immigration to refuse applications for refugee status on the grounds as stated in the Convention and considerations of national security.

# **IV. INTERNATIONAL COOPERATION A. EXTRADITION**

## **1. Effective extradition**

Dominica has in force an Extradition Act similar to that found in most Commonwealth Caribbean Countries. The extraditable offences are set out in the Schedule to that Act. Only certain serious offences are extraditable offences and extradition could be sought only if there in place some form of extradition arrangement between Dominica and L11e other Party/Parties the extradition application. The offences relating to the financing of terrorism are serious offences. Our revised Bill makes provision for the insertion of those offences to the schedule offences in the Extradition Act. Further, the draft Bill seeks to deem the Convention extradition arrangement between Dominica and other parties to that Convention if there is such arrangement between them.

## **2. Political offence exception**

This exception would not be extended to extradition in respect of terrorism related offences.

## **3. The Convention a basis for extradition**

The draft Bill seeks to deem the Convention an extradition arrangement between Dominica and other parties to that Convention if there is no such arrangement between them.

# **B. MUTUAL ASSISTANCE**

## **1. International cooperation**

There is in place laws to render mutual legal assistance in criminal and civil matters. We also have on our statute book legislation respecting exchange of information so as to assist regulatory authorities in other countries relating to companies and financial services. However, application of the Exchange of Information Act is restricted. Our proposed Bill would provide for exchange of information respecting, among other persons, terrorists or suspected terrorists.



## **2. Counter-terrorism conventions the basis for extradition**

Our Bill would provide for existing counter terrorism conventions as the basis for extradition.

## **3. Temporary transfer of detainees**

Subject to policy directives, the proposed Bill would provide powers for the temporary transfer of persons from Dominica to assist or give evidence in criminal matters. However certain conditions including those respecting international humanitarian law would have to be satisfied.

## **C. ADMININSTRATIVE AND LAW ENFORCEMENT COOPERATION**

It is the policy of the Government of Dominica to effectively cooperate within its particular conditions and capabilities in the exchange of information. There are in place several arrangements respecting this subject area both at the level of CARICOM and the Organisation of Eastern Caribbean States. The relevant authorities would have to consider ways and means of extending such arrangements, or making them applicable, to states parties to the Convention.

## **IV. FINANCING OF TERRORISM REGULATORY ARRANGEMENTS**

It is our intention, upon further review of the relevant legislation and where the need arises, to make consequential amendments to the Money Laundering (Prevention) Act and the Proceeds of Crime Act so as to achieve the appropriate level of harmony between these pieces of legislation and the proposed legislation respecting terrorism.

## **V. COUNTER-TERRORISM CONVENTIONS**

Our revised draft Bill would contain the legislative provisions in respect of the following:

- (a) To implement the offence provisions of the existing international counter terrorism conventions;
- (b) To provide for jurisdiction in accordance with convention requirements;
- (c) To ensure offences are extraditable and exclude political offences
- (d) To provide for mutual assistance;
- (e) To meet the extradite or prosecute obligation; and
- (f) To ensure rights of accused and suspects as specified in the Convention.

Our proposed Bill would seek to provide for the requisite notice to the relevant international organisations including the International Committee of the Red Cross.

## **VI. OPTIONAL SPECIAL INVESTIGATIVE AND DETENTION POWERS**

### **1. Pre-charge detention**

The revised Bill would seek to empower the Minister responsible for national security to order the freezing of funds/property of terrorists and suspected terrorists as a precautionary measure and also as part of the investigative tool. That approach would be utilised because of our particular national circumstances, conditions and capabilities and the nature of the terrorist related offences. The necessary safeguards would have to be provided. The standard conviction based forfeiture would also be provided.

## **2. Compulsory statement**

There are provisions in our Commission of Inquiry Act Chapter 19:01 that empowers commissioners of an inquiry appointed under that Act to compel the attendance of witnesses in an investigation. The Attorney General has sought a legal opinion on the constitutionality of such a provision in the context of terrorism.

## **3. Interception of communications**

Our existing legislation, the Telecommunications Act 2000, places constraints on the interception of communications. Section 61 of that Act provides as follows:

“Any message transmitted over a public telecommunications network shall be confidential and shall not be intercepted or interrupted without the consent of the sender or a court order made under this Act or any other enactment”.

In these circumstances our UN SCR Task Force would consider it wise to maintain the status quo regarding the interception of telecommunication. However, this is a policy matter to be considered by the Government.

## **Conclusion/Constraints re technical co-operation and other assistance**

Dominica is faced with substantial resource constraints (financial, human and otherwise) and the implementation of UN SCR 1373 and related Conventions has placed, and will continue to place, onerous and additional burdens on its already strained resources. Dominica, if required, is in a position to inform the appropriate international bodies of these constraints.

Suffice to say those constraints have been identified with the assistance of the Commonwealth Secretariat representative, Ms. Kamala Bhoolai, who visited Dominica just prior to the Workshop (supra). It is worthy to note that the Drafting Section/Department of the Ministry of Legal Affairs is manned by only one draftsman who is assisted by a legislative drafting consultant.

The delays associated with the implementation of the UN SCR 1373 Resolution and the Conventions are beyond our control. It bears emphasizing that the Government of Dominica fully committed to prevent and suppress the financing of terrorism and will seek to the fullest extent possible within its conditions and capabilities to deny safe haven to persons who finance, plan, support or commit or attempt to commit terrorist acts.

Irrespective of the foregoing, there is need to review in more detail our present draft Bill. In addition, the proposed legislation needs to be made more user-friendly. The policy issues will have to be addressed by both our local UN SCR Task Force and Cabinet. A final draft of the proposed legislation will be presented at the earliest to Cabinet for re-introduction in the House of Assembly.

Although the next sitting of Parliament is scheduled for some time in March this year, Parliament meets on an average every three or four months. The next sitting after the proposed Mac sitting is likely to be scheduled for the end of the financial year and by tradition only the Budget

for the next financial year is taken during that sitting. It may be possible for the Government to convene a special sitting of Parliament to enact legislation respecting terrorism. However, it is worthy to note that our Court of Appeal sits in the same room in which the House of Assembly sits. In a word at present it is not possible for these two constitutional institutions to sit at the same time in Dominica. Further the public and relevant stakeholder would need to be adequately informed of the roles, duties and responsibilities under the proposed legislation.

Finally, it bears repeating that Dominica in the interim will seek, to the extent possible under its existing law, to meet its obligations under the UN SRC 1373 and the related Conventions.

## GUYANA

### GUYANA'S LEGISLATIVE PLAN FOR THE IMPLEMENTATION OF THE UNITED NATIONS SECURITY COUNCIL RESOLUTION 1373 AND THE UNITED NATIONS CONVENTION AGAINST THE FINANCING OF TERRORISM

An Anti-Terrorism Bill is proposed to implement the UN Convention for the Suppression of the Financing of Terrorism and the UN Security Council Resolution 1373. The obligations in these international instruments will be drafted into legislative provisions taking into account our existing laws and constitutional sanctions. The general approach is to draft a new Act, as well as to strengthen existing legislation. Account will also be taken of the eight (8) special recommendations of the Financial Action Task Force. The content of these, as well as other, international instruments raise some controversial issues, which need to be deliberated upon further. Having regard to the foregoing, find below Guyana's proposals for legislative action plan for implementation.

ACTIVITY	EXISTING LEGISLATIVE OR OTHER PROVISIONS	GAPS OR DEFICIENCIES IN EXISTING PROVISIONS	PROPOSALS TO ADDRESS GAPS AND DEFICIENCIES
<b>SUBSTANTIVE OFFENCE PROVISIONS</b>	<b><u>TERRORIST ACT</u></b> - Guyana has recently enacted an amendment to our Criminal Law (Offences Act), which makes the commission of a 'terrorist act' an offence. This amendment also criminalizes any conspiracy, attempt, advocating, aiding	- The definition of terrorist act is very wide and essentially captures activity, such as industrial action, demonstrations, and the like. - The penalty where death	- Review the definition of 'terrorist act' having regard to the Model Legislative Provisions. - Include a clause in definition to exclude strike/industrial peaceful demonstrations, armed conflict and the like. - Will consider deleting the obligatory

- and abetting, advising, inciting or knowingly facilitating the commission of a terrorist act. The penalty where death results is a fine together with death. Where death does not occur, the penalty is a fine. With the ancillary offences, the offender is liable as if he were the principal offender.
- results may be too severe.
- On the question of jurisdiction, the amendment does not specifically state that a terrorist act is one which is committed both inside and outside Guyana (or wherever committed). The amendment is being challenged in our Court as being unconstitutional.
- Also criticism of the Act by Amnesty International.
- fine and retain death penalty for conviction of a terrorist act.
- Include in the definition the criminalization of a terrorist act wherever committed. This may involve restructuring of the definition.
- May include advancement of political, ideological or religious cause – bearing in mind difficulty in distinguishing between union and political activities.
- May want to provide for any future act, not now contemplated, which may later be considered a terrorist act.

**FINANCING OF TERRORISM**

- Guyana has not yet enacted legislation to criminalise the financing of terrorism.
- Enact Anti-Terrorism legislation, which will deal with all aspects of terrorism, including financing.
- Criminalise the provision or collection of property for commission of terrorist acts, using the word ‘property’ instead of ‘funds’, as property tends to have a wider meaning.
- Include subsection that states that it is not necessary that property actually be used in order to constitute offence. It is not likely that a distinction will be made between ‘persons’ and ‘grou’ having regard to definition of

person in our Interpretation and  
General Clauses Act.

- It is not clear yet how to deal with listing process. Guyana shares the concern that this may be unconstitutional. Will consider other countries' policies and legislation on this regard.
- Would necessarily have to review our relevant Charities Act, in light of the proposed Anti-Terrorism legislation.
- Likely to have general provision dealing with the ancillary offences (aiding, abetting, conspiracy, inciting, etc). as well as jurisdiction (offences under act whether committed inside or outside Guyana or wherever committed). Penalty will reflect the seriousness of the offences.
- Must criminalize this activity.
- Proposes the adoption of a wide definition given of 'support', so as to include not only what is in Model, but also provision of services, provision of devices, training and instructing, providing facilities and recruitment to commit.
- Having regard to our constitution, may not criminalize the membership of group. Decision to be made in this regard.

**PROVIDING SUPPORT  
FOR COMMISSION OF  
TERRORIST ACTS**

**HARBOURING OF PERSONS COMMITTING TERRORIST ACTS**

- no legislation
- Include provision on Anti-Terrorism legislation against willingly/knowingly harboring these persons.
- Penalties, jurisdiction, ancillary offences as above.
- Criminalise the use and dealing with property for the commission of terrorist acts.
- Include here dealings with “terrorist property’ (define).
- Here, may consider forfeiture of property as penalty in addition to fines and imprisonment.
- May also consider including a provision for attachment and tracing of terrorist property. But likely that this will be a Court based system.
- Intend to consider matter more fully, also have regard to how other countries have dealt with this issue.

**USE OF AN DEALINGS WITH PROPERTY FOR COMMISSION OF TERRORIST ACTS**

- no legislation
- There are concerns about imposing a duty to disclose on persons, and making it an offence for failure to do so. Also, difficulty in implementation.

**PREVENTION AND EARLY WARNING**

- This should be covered under the proposed offence provisions outlined about, particularly the ancillary offence provisions, and jurisdiction offences.
- May want to include here Treaty offences dealing with combating of terrorism to which Guyana is a party.

**PREVENTION OF ACTS AGAINST OTHER STATES**

- common law offence of conspiracy.
- This may not be sufficient in light of UNSCR 1373, and the Financing of Terrorism Convention.





**IMMIGRATION  
AND BORDER  
CONTROL**

- There are powers under Immigration Act, and Expulsion of Undesirables Act, to prohibit entry to Guyana.
- Ministry of Home Affairs is presently involved in a project to enhance immigration procedures and strengthen security, e.g. making our travel documents machine readable to better detect and prevent forgery, Immigration information being put on data base.
- We have in place informal measures as regards information sharing.
- Placement of police/army personnel along our borders.

- Need to provide for the maximum length of time that property can be frozen/seized.
- Consider adding designated terrorist (person who commits a terrorist act) as a prohibited immigrant under Immigration Act.
- Will do a review of this are of the law, re: compatibility, consistency.

## **EXTRADITION**

- Governed under our Fugitive Offenders Act, which not only addresses treaty countries, but makes provision for requests to be made for extradition to non-treaty and non-commonwealth countries.
- Terrorist offences (including financing) should be expressly stated in Act not to be considered as a political offence.

## **MUTUAL LEGAL ASSISTANCE**

- There is under our Narcotics Act, provision for enforcement of freezing orders of other countries.
- Guyana has yet to enact legislation in this regard. However, in process of drafting Bill.
- Provision under Narcotics Act only relates to drug offences.
- Also an informal mechanism exists for the sharing/exchange of information, regionally through police to police, etc. and internationally through international agencies, e.g., Interpol, FBI, DEA, etc.
- Enact Legislation to Provide for Co-operation with other states in criminal matters.
- May also contemplate regime for the civil enforcement of freezing as well as forfeiture orders – but there must be reciprocal arrangement (no decision taken as yet).
- Provision for assistance in temporary transfer of persons in custody to give evidence. This must be considered further.
- To make provision for the use of existing counter terrorism conventions as a basis for mutual legal assistance.

## **ADMINISTRATIVE AND LAW ENFORCEMENT COOPERATION**

- Also there is informal co-operation in criminal matters across our borders.
- no specific legislation in this area.
- May consider in light of mutual legal assistance.

**FINANCING OF TERRORISM REGULATORY APPROACHES**

- Under the Money Laundering Act, financial institutions required to report suspicious transactions.
- Money laundering Act does not apply to terrorist offences.
- Guyana also has draft Bill on the establishment of an FIU, which should regulate terrorist offences, including financing of terrorism.
- To carefully consider role of the FIU
- Need to issue guidelines for reporting, identifying, etc., suspicious transactions.
- Guyana is party only to the Montreal, Hague and Tokyo Conventions, as well as the Montreal Protocol. Guyana also signed the OAS Convention against Terrorism.
- Legislation needs to be enacted to bring these Conventions into effect.
- Also to implement the other terrorism Conventions.
- Cabinet has taken a decision to deal with the conventions collectively since they relate to similar issues.

**COUNTER TERRORISM CONVENTIONS**

The legislative plan outlined above may be revised after consultations with the relevant agencies involved and the policy makers.

Further, there are various constraints faced in Guyana that could affect the implementation of the plan outlined above. Guyana will also welcome Phase III assistance from the Commonwealth Secretariat.

## JAMAICA

### LEGISLATIVE ACTION PLAN

#### I -Offences

##### *A - Substantive Provisions*

- (1) **Criminalizing the provision and collection of funds for the purpose of terrorist acts:**  
The draft Prevention of Terrorism Bill proposes to make this an offence.
- (2) **Prohibiting making funds, assets or economic resources or financial or other related services available to -**
  - (i) persons who commit terrorist acts (including attempt and participation): The draft Prevention of Terrorism Bill proposes to make this an offence.
  - (ii) persons or entities owned or controlled by persons described in paragraph (i): The draft prevention of terrorism Bill proposes to make this an offence.
  - (iii) persons or entities acting on behalf of or at the direction of persons described in sub-paragraph (i): The draft prevention of terrorism Bill proposes to make this an offence.
- (3) **Criminalizing the provision of support to terrorist groups, including by way of recruitment and supply of weapons: The draft Prevention of Terrorism Bill proposes to make this an offence.**
- (4) **Prevention and early warning (disclosure offences):** The draft Bill provides a duty for financial institutions, including charities, to report on any property in respect of which they have reason to believe is owned or controlled by a listed entity.  
The draft Bill amends the Money Laundering Act to provide for suspicious transaction and threshold reporting in relation to terrorism offences.
- (5) **Preventing the use of a State's territory for the financing, planning, support or commission of terrorist acts against other States or its citizens:** The draft Bill provides for this.

##### *B - Ancillary Offences*

The draft Bill provides for ancillary offences in relation to terrorist acts.

The draft Bill does not now cover ancillary offences for the financing offences, but we propose that the provisions of the draft Bill be extended to cover ancillary offences.

##### *C - Penalties*

All terrorism offences are indictable offences. Penalty levels have been reserved for policy decision.

##### *D - Jurisdiction*

The draft Bill provides for jurisdiction over offences committed outside of Jamaica, as if offence had been committed in similar circumstances inside of Jamaica.

## **II - Freezing and Forfeiture**

- (1) The draft Bill prohibits dealing in property owned or controlled by a terrorist group. The draft Bill also provides for the restraint of property of a person charged or convicted of a terrorism offence, in relation to property used to carry out or facilitate a terrorism offence and derived, obtained or realized from the commission of a terrorism offence. "Terrorism offence" includes the collecting or allocating of property for the purposes of financing terrorism.
- (2) The draft Bill provides for the confiscation of property owned or controlled by a person charged or convicted of a terrorism offence, in relation to property used to carry out or facilitate a terrorism offence and derived, obtained or realized from the commission of a terrorism offence. "Terrorism offence" includes the collecting or allocating of property for the purposes of financing terrorism.

## **III - Immigration and Border Controls/Refugees**

Legislation controls the entry of non-nationals into Jamaica, issue of passports, visas, etc. The Minister (or his designate) has wide powers of to admit and refuse entry.

There are legislative procedures for Minister to remove a person determined to be an "undesirable person" or who poses a risk to national security.

There is no specific legislation on how to deal with refugees and asylum seekers. Administrative procedures exist, based on the -1951 Convention relating to the status of refugees (exclusion of refugees and loss of refugee status, based on the commission of criminal acts). We are considering enacting legislation to formalize this regime.

## **IV - International Co-operation**

### ***A -Extradition***

The Extradition Act already provides for the use of the Hague and Montreal Conventions a extradition treaties, and extradition cannot be refused on the basis of an offence of a political character where Jamaica is party to a treaty the purpose of which is to prevent or suppress: specific category of offence and which imposes an obligation on States to extradite or to submit to prosecution.

The draft Bill will amend the Extradition Act to provide that the terrorism conventions may be used as a basis for extradition. The Extradition Act will also have to be amended to provide for terrorist activity to be excluded as a political offence.

### ***B -Mutual assistance***

Legislation provides for mutual assistance in criminal matters and for the transfer of persons to give evidence.



The draft Bill will amend the Mutual Assistance in Criminal Matters Act to provide for terrorism offences to be specified offences under that Act.

#### *C - Administrative and Law Enforcement Co-operation*

The Mutual Assistance in Criminal Matters Act provides for the preservation of informal arrangements for assistance.

#### **V - Financing of Terrorism (Regulatory Approaches)**

The draft Bill will amend the Money Laundering Act to make terrorism offences predicate offences.

#### **VI - Counter-Terrorism Conventions**

The Aircraft (Tokyo, Hague and Montreal Conventions) Act implements the first three terrorism conventions.

The draft Bill incorporates the Convention offences as terrorism offences, with the exception of the Marking and Nuclear Materials Convention. It is proposed that the Marking Convention be dealt with separately, along with the OAS Firearms Convention and the Trans-National Organized Protocol on Arms Trafficking. It is proposed that the Nuclear Material Convention be dealt with separately, along with the Chemical Weapons Convention and the nuclear test ban treaty.

Since the Convention offences are terrorism offences under the draft Bill, jurisdiction, extradition and mutual assistance will apply as stated above.

The Constitution guarantees fundamental rights and freedoms, including right to counsel, and the Consular Conventions Act provides for the right to communicate without delay with, and to be visited by, a consular rep., and to be informed of the right to such access.

#### **VII - Optional Special Investigative and Detention Powers**

(1) **Pre-charge detention:** The Bail Act does not require charge or that a person be brought before the Court until after the expiration of 48 hours from the time of detention.

(2) **Compulsory statements:** Under rules of Court, a person can be compelled to appear before the Court. Consideration has not been given to compelling a person to make a statement.

(3) **Interception of communications:** Dealt with by the Interception of Communications Act. The definition of "terrorism" under that Act will be amended to incorporate the expanded definition of terrorism offences.



## ST. KITTS AND NEVIS

### LEGISLATIVE ACTION PLAN

St. Kitts and Nevis has enacted relevant legislation to meet her obligations that arise out of the UN Security Council Resolution 1373. The legislation in question is the Anti-Terrorism Act No. 21 of 2002.

However, after this workshop, there are still gaps in this law and measures are to be taken to amend the law in question in order to address the gaps. In that regard the following measures are to be taken.

- A.** It is proposed to amend the Anti-Terrorism Act in order to provide for the following:
1. a universally acceptable definition of 'terrorist act'. The observations made by participants in the Workshop will provide useful guidelines.
  2. reporting of suspicious transactions that relate to terrorist financing. It is intended to use the Money Laundering Guidelines as a precedent, of course with such modifications as may be necessary. Thus it will be necessary to set guidelines that would assist financial institutions etc in identifying a terrorist financing transaction. It will also be useful to provide for a procedure for dealing with reports submitted to the FIU.
  3. a right of appeal against an executive order made by the Minister under section 43.
  4. modification of section 62 (that relates to interception of communication) in order to bring it in line with the provisions of the Barbados and Jamaica legislation. That is to say, to ensure that whenever interception of communication is required a court order is first obtained.
  5. revisiting of the penalties provisions. Some of the penalties appear to be high for the particular offences.
  6. revisiting section 15 with a view to finding the proper terminology to be used.
- B.** Secondly, while St. Kitts and Nevis has ratified all the 12 Anti-Terrorism Conventions and Protocols, only three of these have been given legal effect. These are:
1. The Tokyo Convention;
  2. The Hague Convention; and the
  3. The International Convention for the Suppression of Financing of Terrorism, 1999.

However, measures are to be taken to give legal effect to other nine Conventions. In this regard, we shall adopt the models supplied by the Commonwealth Secretariat.

## SAINT LUCIA

### LEGISLATIVE ACTION PLAN

1. No definition of "Funds" or property in the Draft Bill. The intention is to adopt a similar provision to Barbados or Saint Vincent to take money in digital or electronic form into account.
2. This may involve consequential amendments to the Money Laundering (Prevention) Act 1999 and the Proceeds of Crime Act 1993.
3. The definition of Act of Terrorism in the Draft Bill will be adopted. This definition is similar to the Commonwealth Model.

#### **Terrorist Organization**

The definition section of the Draft Bill provides for a "Prescribed Organization" as deemed in section 4. Section 4 of the Draft Bill makes provision for an application to be made to a Judge in Chambers to deem an organization a prescribed organization. It is recommended that this function be delegated to the Minister with a right of appeal by the affected organization to the High or Judicial Review.

#### **Criminalization of Terrorist Funding**

Terrorist funding is covered by section 14 of the Draft Bill. However, it is recommended that the Bill be amended to outlaw the provision of financial services.

Support of terrorist groups through material by means other than money is covered by section 6 of the Bill.

#### **Recruitment**

Recruiting persons to join a terrorist organization is outlawed by section 5 of the Bill.

#### **Detection and Reporting of Transactions**

Section 8 of the Bill does not provide for the reporting of transactions involving terrorist property. This will be reviewed to provide for such reporting and protection from civil or criminal liability for the disclosure of this information.

#### **Prevent the Use of Territory to Plan Attacks Other States**

No provision is made in the Bill for such activity. Thought is to be given to inclusion of clauses 16 of the Commonwealth Model to criminalize this activity.

#### **Ancillary Offences**

No provision is made in the Draft Bill for ancillary offences. Clause 19 of the Commonwealth Model will be adopted to remedy this with due regard to the provisions under the Criminal Code 1992.

**Penalties**

Under the Draft Criminal Code any person who person who commits murder in furtherance of an act offence of terrorism is guilty of the offence of capital murder for which the penalty is a mandatory death sentence.

However, there will also be a review of the penalties in the Bill having regard to the seriousness of the offences.

## SAINT VINCENT AND THE GRENADINES

### LEGISLATIVE ACTION PLAN

#### (1)

The definition of the term "terrorist act" in the United Nations (Anti-Terrorism Measures) Act number 34 of 2002 is based on the definition in Article I paragraph I of the Financing of Terrorism Convention. It does not cover the use or threat of action involving matters like serious damage to property, the use of firearms or provision of consisterd services etc, when those actions also intimidate the population on compel a government or on international organisation to do or to abstain from doing any act.

We propose to amend the definition of "terrorist act" in act number 34 of 2002 to cover some of the other actions as indicated above.

#### (2)

The Financial Intelligence Unit is established under the Financial Intelligence Unit Act Number 38 of 2001 has at present been made responsible for receiving, analysing, obtaining and disseminating information relating to the proceeds of only the offences created by the Proceeds of Crime and Money Laundering (Prevention) Act number 39 of 200 I and offences under certain Acts listed in Schedule 2 of the Money Laundering Act like the Customs control and Management Act, the copyright Act, the Patents Act etc.

Apart from this if the director of the Financial Intelligence Unit suspects on reasonable grounds that a relevant offence has been committed he may require the production of information from financial institutions on the persons continued for the purpose of investigating the relevant offence but, the term relevant offence has been defined in our Money Laundering Act to mean only as offence in which the person has benefited in obtaining property as a result of having a connection with the commission of that offence.

Since the terrorist financing offences under Act number 34 of 2002 make providing on collecting of funds for terrorist acts, the provision of resources and services for terrorist or dealing with the property of terrorist may not actually bring any benefit financially to the person committing such offences it is questionable whether these terrorist related offences fall under the category of relevant offences in relation to the functions of the Financial Intelligence Unit.

So we propose to make a small amendment to the second schedule of the proceeds of crime and Money Laundering Provision Act to add the United Nations (Anti-Terrorism Measures) Act to the listed Acts under that schedule.

**TRINIDAD AND TOBAGO**  
**LEGISLATIVE ACTION PLAN**

**Anti-Terrorism Legislation**

**OFFENCES (including Jurisdiction)**

Definition relevant to offences:

Terrorist act: we will consider amending the definition to include acts committed outside of Trinidad and Tobago and to put in more general terms, the political intent *of* a person who commits a terrorist act.

Legislative provisions relating to the obligation to:

- 1) criminalize the provisions and collection *of* funds for the purpose of terrorist acts:

**See Clause 6 of T & T Bill patterned on CS Model s. 4**

- 2) prohibit making funds, assets or economic resources or financial or other related services available to:
  - i) persons who commit terrorist acts (including attempt and participation);
  - ii) persons or entities owned or controlled by persons described in sub-paragraph (i);
  - iii) persons or entities acting on behalf of, or at the direction of the persons described in sub-paragraph (i);

**See Clause 5, 7, 8 & 9 of T&T Bill patterned on CS Model sections 4 -8.**

- 3) criminalize the provision of support to terrorist groups, including by way of recruitment and supply of weapons:

**See Clause 10 -16 of T&T Bill patterned on CS 9-15**

- 4) prevention and early warning-disclosure offences

**See Clause 41 T & T Bill patterned on CS Model section 30**

**This provision will be subject to careful scrutiny by the Legislation Review Committee because of its serious implications for proceedings being instituted against innocent parties.**

- 5) prevent the use of a state's territory for the financing, planning support or commission of terrorist acts against other states or its citizens;

Trinidad and Tobago needs to insert provisions along the lines of section 16 of the Commonwealth Secretariat model legislation.

## **B) Ancillary Offences**

Under the laws of T&T ancillary offenders are punished as though they were principal offenders.

## **C) Penalties**

The penalties range from 2 yrs for failure to disclose information relating to offences and terrorists act to death for murder. The penalty for committing a terrorist act is 25 years. In addition to the existing penalty for the act which forms the subject matter of the offence in existing law.

## **D) Jurisdiction**

Option 2 of the CS Model was chosen since it also covered T &T's obligation on Suppressing of Terrorism convention.

## **II Freezing and Forfeiture**

Legislative provisions to:

- 1) allow for the freezing of funds, assets or economic resources of the persons named in sub-paragraphs 2(i)-(iii) above.

**See T &T 43 and 45 which is patterned on 32 and 34 of CS Model.**

The authority to be designated with responsibility for seizing the property will be the Financial Intelligence Unit which will be established in legislation soon to be prepared. It is intended that the FIU would be responsible for the seizure of property related to all crimes and provided under Proceeds of Crime and other similar legislation.

- 2) confiscation of funds, assets or economic resources of the persons named in sub-paragraphs 2 (i) -{ii) above:

**See T&T Clause 44 & 46 patterned on 33 & 35 of CS Model.**

## **III Refugees, Immigration and Broader Control**

Legislative provision to:

- 1) prevent movement of terrorists through measures such as enhanced boarder control etc.

**See T &T Clause 48 based on section 37 of CS Model.**

- 2) prevent the use of immigration laws to allow for safe haven

**See T &T Clause 49 based on CS Model section 38**

- 3) prevent the use of refugees laws by those involved in terrorists acts

**See T &T Clause 50 based on CS Model 39**

#### **IV International Cooperation A Extradition**

Legislative provisions to:

- 1) allow for effective extradition.

**T &T plans to implement the London Scheme for Extradition. Also allow for multi-lateral conventions to be treated as Treaty partners.**

- 2) ensure that extradition in the case of terrorists offences cannot be refused on the basis of the political offence exception.

**Clause 40 T &T Bill based on CS Model 29**

- 3) provide for use of the existing counter terrorism conventions as a basis for extradition .

**Clause 38 T&T Bill based on CS37**

#### **B Mutual Assistance**

Legislative provisions to:

- 1) provide for international cooperation by way of mutual legal assistance:

T & T's Mutual Assistance legislation will have to be amended to cater for the compelling of witnesses to give evidence. T &T will look at the Jamaica model or the CS section 22.

- 2) provide for use of the existing counter terrorism conventions as a basis for mutual; assistance:

**See Clause 39 T &T's Bill based on s. 28 CS Model.**

- 3) provide for temporary transfer of persons.

T & T's legislation caters for temporary transfer persons in the MLA.

### **C. Administrative and Law Enforcement Co-operation**

Legislative provisions to:

- I) intensify and accelerate exchange of information

**See T & T's Bill Clause 37 based on s. 26 CS Model**

### **V: Financing of Terrorism Regulatory Approaches**

Disclosure of Information/Duty to Report (FIU/FIC)

Provide some information on:

- a) scope of duty to report
- b) the authority to be designated to receive the reports

The duty to report suspicious transactions is contained in our Proceeds of Crime Act. The body to which the report must be made to financial institutions the designated authority. Here again, there is need for FIU legislation which would establish the body responsible for receiving such reports. The financial institutions required to report include:

Building societies, Co-Operative societies, Insurance Companies, Exchange Bureau, Investment Advisers, Cash remitting services, postal services, or any other person declared by the Minister of National Security by Order, subject to negative resolution of Parliament, to be a financial institution for the purposes of the Proceeds of Crime Act 2000.

### **VI: Optional Special Investigative and Detention Powers**

Legislative provisions to:

- I) Pre-charge detention:

**See Clause 30 & 31 T&T Bill based on CS Model ss.21**

This provision will be subject to careful scrutiny by the LRC and will probably be not agreed to by members of the committee.

- 2) Compulsory Statements;

**See section 32 of T & T's Bill based on 22 of the CS Model Bill.**



3) **Interception of Communications:**

**This to be provided for in separate legislation which would authorize the interception of communication to assist in the investigation of certain specified offences including terrorism. Policy to be approved by the political directorate.**

**VII: Counter-Terrorism Conventions**

1. **Tokyo Convention -Already in Legislation**
2. **Hague Convention -Already in Legislation**
3. **Montreal Convention- Already in Legislation**
4. **Montreal Protocol -Already in Legislation**
5. **Diplomats Convention -Already in Legislation**
6. **Hostages Convention -Already in Legislation**
7. **Nuclear Convention - clause 25**
8. **Rome Convention -Already in Legislation**
9. **Rome Protocol- Already in Legislation**
10. **Explosives Convention -Provision to be inserted in Anti-Terrorism legislation**
11. **Bombings Convention - clause 21**
12. **Financing Convention**

*Note: T & T represents Trinidad and Tobago  
CS represents Commonwealth Secretariat*

