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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 10 June 2003 from the Permanent Representative of India to the United Nations addressed to the Chairman of the Committee

I forward herewith India's report called for under paragraph 6 of Security Council resolution 1455 (2003), on the steps taken to implement the Al Qaida/Taliban sanctions regime (see annex). I sincerely regret the fact that we were not able to send the report by the stipulated date.

The report is set out in terms of the guidelines prepared by the Committee pursuant to paragraph 12 of Security Council resolution 1455 (2003).

My Government stands ready to provide the Committee with any further information required regarding India's implementation of resolution 1455 (2003).

(*Signed*) V. K. **Nambiar**

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Annex to the letter dated 10 June 2003 from the Permanent Representative of India to the United Nations addressed to the Chairman of the Committee

Report by India on implementation of Security Council resolution 1455 (2003)

The following report details the steps undertaken by the Government of India in pursuance of Security Council resolution 1455(2003) concerning sanctions against Al-Qaeda/Taliban and related entities. The report has been set out in accordance with the guidelines provided by the 1267 Committee on the format of the report.

I. Introduction

Terrorism is one of the most serious, pervasive and pernicious threats to civilized societies and to international peace and security. Whatever the motive of their perpetration – political, ideological, philosophical, racial, ethnic, religious or any other, terrorist acts are unjustifiable. India is of the firm belief that the scourge of terrorism can only be eliminated by close cooperation and interaction among all States.

Over the past two decades, India has been the victim of terrorism and has faced numerous terrorist attacks. Al Qaeda / Taliban and related entities have been a major threat to India and its immediate neighborhood. Consistent with its efforts to fight the menace of terrorism in all its manifestations, India has been supportive of efforts, under the UN and elsewhere, to combat this threat and has imposed ban on these entities. The concerned intelligence, police, administrative and other relevant authorities, continuously assess the possible activities in India by Al Qaeda/Taliban and related entities.

No specific information is available, at present, regarding the presence of Al Qaeda/Taliban and related entities in India that can be conveyed to the Committee at this stage. Any concrete information that becomes available will be shared with the Committee.

II. Consolidated list

All the names in the list of individuals, entities and organizations associated with Taliban Al Qaeda have been circulated through the Ministries of Home Affairs and Finance to the relevant police, intelligence, immigration & customs authorities and other relevant agencies, both at the national and state levels.

The concerned agencies have confirmed that they do not have any specific information that any one these entities have established base in India. If any specific intelligence or information is made available on the links of any of these entities or individuals with India, these would be investigated by the concerned agencies.

III. Financial and economic assets freeze

The concerned agencies of the Government have confirmed that there is no specific information that these organizations maintain accounts or hold financial assets in India. The Banking Division of the Ministry of Finance, Government of India has directed the Reserve Bank of India (Central Bank) to take immediate action, if any information on such accounts or financial assets is detected.

Interception and consequential legal measures on illegal financial flows including financial flows related to terrorism are effected through a number of administrative agencies and mechanisms. These include: Police (both at the national and state levels), intelligence agencies and financial institutions.

Informal channels of financial flows such as "Hawala", through which terrorist related finances flow, are illegal as permission is required from the Reserve Bank of India for most categories of foreign exchange transactions. Hawala is a criminal offence under the Foreign Exchange Regulation Act (FERA), 1973 and penalties of up to five times the amount in contravention can be imposed for breach of these legal provisions. The offender can also be prosecuted under the Act with imprisonment and fine. Foreign Exchange Management Act (FEMA), which was recently enacted to replace FERA, confer on the competent authority the power to direct the confiscation of any currency, security or any other money or property in respect of which any contravention has occurred.

Several authorities in India, including the Enforcement Directorate, the Police, Customs and the Income Tax, as well as

State police organizations monitor financial activities, including Hawala transactions. The Enforcement Directorate (responsible for revenue intelligence), the Customs and the Police have adequate powers to initiate action against anybody indulging in illegal foreign exchange transactions. In addition, the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA) contains stringent provisions to deal with an offender indulging in such illegal foreign exchange activities. For monitoring the collection and use of funds and other economic resources by non–profit organizations and ensuring that these are not diverted for other unstated purposes, the Societies Registration Act is resorted to. Several States of India have also, subsequently, enacted their own Societies Registration Act that contain detailed provisions relating to registration, maintenance of accounts, collection and use of resources, and audit of accounts. Such legislation imposes certain mandatory obligations on non-profit organizations which, if not fulfilled, give the Government the right to dissolve the entity and to appoint a special officer to administer the society.

Under the Prevention of Terrorism Act (POTA), 2002, terrorist acts include acts of fund-raising by persons or organizations if such funds are intended for the purposes of terrorism. All such activities may be prosecuted under the Prevention of Terrorism Act, 2002.

The Foreign Contribution (Regulation) Act 1976 enables the competent authorities, at both the national and State levels, to closely monitor the receipt and use of foreign resources by organizations in India. A close and continuous interaction is maintained between the national and State Governments through intelligence agencies and the police to track and monitor any such diversion of funds for terrorist purposes.

The Income Tax Act also prohibits the expenditure of funds by such organizations for purposes other than those mentioned in their memorandum of association, and decrees that their funds may be invested only in scheduled banks, public deposits, bonds and Government securities. The Income Tax Department maintains a separate Directorate General that deals with non-profit organizations exempted from income tax. Organizations exempted from income tax are required to file regular statements with the concerned authorities, and their accounts are monitored by the Directorate General. An appropriate legislative framework, complemented by adequate enforcement mechanism, exists at the national and State levels to monitor and check the collection and use of funds and other economic resources by non-profit organizations.

The Criminal Procedure Code of 1973 deals with general provisions in connection with the attachment or forfeiture of property derived or obtained, directly or indirectly, by any person from the commission of an offence. With respect to terrorist offences, property may also be forfeited, as indicated above, under the provisions of Prevention of Terrorism Act, 2002.

As these agencies act in close coordination, the totality of information concerning any terrorist use of illicit financial transaction can be deduced and passed on to police and investigative authorities to register cases and initiate proceedings within the domestic legal framework. Listing Al Qaeda as a banned organization under this Act, in spite of lack of evidence of their presence in India, enables enforcement authorities under the Prevention of Terrorism Act 2002 to take action against Al Qaeda/Taliban etc, the moment its activities come to their notice.

IV. Travel Ban

All immigration authorities in India have been informed about the 1267 Committee's List. A stringent system of immigration control is maintained in India by utilizing latest data bases to check for terrorists and criminals. In addition, Immigration Authorities, Customs Authorities and Intelligence Agencies are fully equipped to ensure that undesirable individuals cannot enter India or seek safe haven in the country. India has extensive border controls on its land borders and strong Coast Guard Agency to patrol the Indian coastline. The Foreigners Act of 1946, various Foreigners Orders issued by the Ministry of Home Affairs, from time to time, and the Passport Act of 1967 provide the suitable legal framework to implement the Travel Ban.

Besides the above safeguards, provisions from the Visa Manual of the Government of India ensure that suspected terrorists do not get visas to visit India. Individuals identified as terrorists/ anti-social elements are placed on a negative list by the Ministry of Home Affairs of the Government of India, on the basis of inputs received from Intelligence Agencies. The names of individuals and organizations on the negative list are circulated to all visa issuing authorities, including India's Embassies/High Commissions/Consulates abroad, and all immigration check posts in India. This list is periodically reviewed based on inputs from the concerned agencies.

All immigration authorities have been informed about the 1267 Committee's List for enforcement of the travel ban.

V. Arms Embargo

India has been exercising control over the export of goods, materials and technology of direct and indirect application to Weapons of Mass Destruction and the means of their delivery. Through appropriate legal and administrative measures, India has instituted an effective and comprehensive system to regulate sensitive and dual-use exports from India to ensure that these do not fall into wrong hands – whether State or non-State actors.

The systems of controls over dual-use exports was last reviewed in 2000, when, through notifications beginning April 1, 2000, the Government of India specified a list of Special Chemicals, Organisms, Equipment and Technologies (SCOMET) that may have application or relevance to the development, production or use of Weapons of Mass Destruction, and the export of which is either prohibited or permitted only under license and the conditions included therein. Various agencies of the Government are empowered to enforce the provisions of the laws that form the legal and regulatory basis of India's system of export controls.

All munitions are manufactured or traded in by entities that are wholly owned, controlled by or are on contract to the Government of India. Legal and administrative measures are in place for regulating exports of military stores which are permitted only under written permission of the relevant agencies of the Government unless specified otherwise in the Government's Export Import Policy. This permission inter alia rests upon end-use and end-user certification on a government to government basis and is in conformity with the Government of India's foreign policy objectives which include a ban on military exports to entities under UN embargo.

Under the Indian legislative and administrative system, an arms embargo remains in place for all non-state actors. The arms embargo as required under United Nations Security Council Resolution 1455(2003) is in force.

VI. Conclusion

In its approach to terrorism, India believes that terrorism in all spheres needs to be combated and defeated by organized collective international action. For two decades, India has been a victim of terrorism, and India's approach to international efforts to combat terrorism is consistent with the need to further strengthen close cooperation between nations. Apart from initiatives on the legislative front, administrative financial, security and other related measures have been taken by the concerned agencies, both at the national and State levels, to meet the challenges posed by terrorism. India has not identified any area where the implementation of the Al Qaeda/Taliban-related sanctions regime is incomplete.