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

Note verbale dated 20 November 2003 from the Permanent Mission of Malta to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Malta to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and in making reference to the note verbale dated 7 July 2003 concerning Malta's report pursuant to paragraph 6 of resolution 1455 (2003), has the honour to enclose herein the said report compiled by the competent Maltese authorities (see annex).

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Annex to the note verbale dated 20 November 2003 from the Permanent Mission of Malta to the United Nations addressed to the Chairman of the Committee

Malta's report pursuant to paragraphs 6 and 12 of resolution 1455 (2003)

I. Introduction

1. *Please provide a description of activities, if any, by Usama Bin Laden, Al–Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.*

The Maltese Authorities are not aware of any activities involving Usama Bin Laden, Al-Qaida, the Taliban and their associates in Malta.

II. Consolidated List

2. *How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?*

The National Interest (Enabling Powers) Act of 1993 envisages that sanctions or measures adopted by the United Nations Security Council are to be published as regulations in the Government Gazette. Upon such publication the measures enjoy the force of law. The U.N. Resolution 1267 (1999) was published as Legal Notice 214 of 1999.

The Malta Financial Services Authority (MFSA), the single regulatory authority responsible for the licensing and supervision of the entire financial services sector in Malta, has issued a circular informing all licence holders that they are to report to the MFSA without delay whether they hold any information connected or related to the individuals listed in the UN resolution.

In order to keep the licence holders up to date, the MFSA has created a section on its web-site entitled "Implementation of Sanctions" which is revised according to the changes to the lists contained in the regulations published in the Government Gazette. All MFSA licence holders have received a circular requesting them to consult this section of the web-site on an ongoing basis. Legal Notice 214 of 1999 and all subsequent consolidated lists are accordingly published on the MFSA web-site.

In so far as the police structure is concerned, the individuals listed in UNSC Resolution 1267 have been indexed in proper police records as well as immigration records in order to avoid the transit or movement of any of these individuals, and to avoid the issue of any visas if these are requested. Entities mentioned in the list, which has also been published in the Government Gazette, have also been noted by the proper services.

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

Problems have been encountered in cases where there are few particular details and mainly the absence of the dates of birth and nationality of the individuals. In this respect the consolidated list is rather more difficult to interpret. Otherwise no other problems were encountered.

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

No individuals or entities have been identified inside the Maltese territory.

5. *Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama Bin Laden or members of the Taliban or Al-Qaida that have not been included in the List, unless to do so would compromise investigations or enforcement actions.*

No information regarding additional names of individuals or entities is known.

6*. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List?*
Please specify and elaborate, as appropriate.

There have been no such proceedings.

7. *Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.*

Nothing to report. No individuals listed have been identified as being nationals or residents in Malta.

8. *According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.*

It is a crime under article 83 of the Criminal Code for any person to establish, maintain or belong to any association of persons who are organised and trained or organised and equipped for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object.

Moreover, under new article 83A of the Criminal Code, it is now also a crime for any person to promote, constitute, organise or finance an organisation of two or more persons with a view to commit criminal offences liable to the punishment of imprisonment for a term of four years or more and the mere fact of belonging to such an organisation is a crime in itself with an aggravation of the punishment where the number of persons in the organisation is ten or more. Where the person found guilty is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to exercise control within that body and the offence was committed for the benefit, in whole or in part, of that body corporate the person so found guilty shall be deemed to be vested with the legal representation of the same body corporate which itself shall be criminally liable to pecuniary penalties ranging from 10,000 maltese liri (25,000 Euro) to 500,000 maltese liri (1,250,000 Euro) depending on the nature of the offence committed. Under article 83A(5) of the Criminal Code, moreover, the relevant criminal action may be prosecuted in Malta notwithstanding that the organisation of persons is based or pursues its criminal activities outside Malta.

Security Council Resolutions are also implemented, and thus become enforceable on a domestic level, through Legal Notices issued under Section 3(1) of the National Interest (Enabling Powers) Act (Cap 365, Laws of Malta). Resolutions 1267 (1999), 1333 (2000) and Resolution 1390 (2002) were implemented through Legal Notice 214 of 1999, Legal Notice 22 of 2001 and Legal Notice 212 of 2002 respectively.

Section 4(2) of LN 214 of 1999 prohibits Maltese citizens and persons present in Malta from withdrawing or attempting to withdraw or using or attempting to use any funds or other financial resources owned or controlled, directly or indirectly, by the Taliban, or by any undertaking owned or controlled by the Taliban, saving the exceptions provided in SC Resolution 1267 (1999). The same section also prohibits the direct or indirect payment or attempt thereof, to or for the benefit of the Taliban or any undertaking owned or controlled, directly or indirectly by the Taliban.

Similarly, section 4(6) of LN 22 of 2001, makes provision for the prohibition of transfer of funds or financial resources. Indeed this section reads as follows:

"Notwithstanding any other law, no citizen of Malta and no person in Malta shall, whether directly or indirectly, transfer any funds or other financial resources … [for] the benefit of Usama bin Laden, his associates or any entities owned or controlled, directly or indirectly, by Usama bin Laden or individuals and entities associated with him, including the Al-Qaida organisation."

LN 212 of 2002 however, goes beyond funds and financial resources. Section 3(6) of the said LN imposes an arms embargo and prohibits the sale, supply or transfer of technical advice, assistance or military training or training related thereto, to individuals, groups, undertakings or entities as designated by the Committee established in terms of paragraph 6 of Resolution 1267 (1999).

Noteworthy for the purposes of this question, is the fact that in Malta there are no Al-Qaida training camps nor does the Al-Qaida movement carry out activities in Maltese territory.

III. Financial and Economic Assets Freeze

9. Please describe briefly:

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

As already stated in the answer to Question 8 of Section II, Legal Notices issued under the National Interest (Enabling Powers) Act, transpose into Maltese legislation the pertinent provisions of SC Resolutions. The legal basis for the implementation of the asset freeze can be found in Section 4 (5) of LN 22 of 2001 which states that any funds or other financial assets of Usama bin Laden and individuals and entities associated with him as designated by the Committee, including those in the Al-Qaida organisation, and all those funds which are derived from property owned or controlled directly or indirectly of the persons herementioned, are frozen with immediate effect and as such cannot be transferred to the persons herementioned. Besides, LN 212 of 2002 added to the freezing of funds imposed by previous Legal Notices the freeze of ‘economic resources’.

A list of persons or entities drawn up by the Committee was published in the Government Gazette dated 12 October 2001 (Government Notice No 847). This list is a consolidated list based on the following documents issued by the UNSC Committee concerning Afghanistan: AFG/131 SC/7028 of 8 March 2001, AFG/150 SC/7166 of 8 October 2001, AFG/142 SC/7124 of 20 August 2001.

Furthermore an additional list was published in Government Gazette No. 17157 of 2 November 2001 (Government Notice 910) which contained the list published in Press Release issued by the Security Council SC/7180, SC/7181 dated 19 October 2001.

Government Notice 967 published in the Government Gazette No. 17163 of 20 November 2001, listed the entities and individuals as indicated in SC Press Release SC/7206.

Towards the end of November 2001 the UN Afghanistan Sanctions Committee issued a consolidated list of entities/individuals whose assets are to be frozen. This list was published in the Government Gazette No 17175 of 14 December 2001 (Government Notice 1029).

On 26 December 2001 the UN Afghanistan Sanctions Committee issued an addendum to the consolidated list of entities/individuals whose assets are to be frozen. This list was published in the Government Gazette No 17185 of 11 January 2002 through Government Notice 42.

Following the issue of a new consolidated list updated as at 24 January 2002, Government Notice No 123 was published in the Government Gazette of 1 February 2002. Government Notice 327 was published in the Government Gazette 17226 of 9 April 2002 adding two entities (SC/7331 of 15 March 2002) to the consolidated list.

A revised consolidated list updated as at 26 August 2002 was published in Government Gazette 17285 of 3 September 2002 by means of Government Notice 768.

Following the addition of 25 names of individuals and entities (SC/7494 of 4 September 2002) and the addition of one individual and one entity (SC/7502 of 11 September 2002) a consolidated list was published on 24 September 2002 through Government Notice GN 835 (in Government Gazette No 17291).

Subsequently four Government Notices were published by the end of 2002 as follows: GN 926 of 15 October 2002, GN 951 of 25 October 2002, GN 984 of 5 November 2002 and GN 1105 of 20 December 2002. During the first five months of 2003 four consolidated lists were published in the Government Gazette as follows: GN 150 of 7 February 2003, GN 236 of 11March 2003, GN 358 of 22 April 2003 and GN 452 of 23 May 2003.

Legal Notice 212 of 2002 introduced a new mechanism relating to financial resources or funds subject to an asset freeze. A new article was enacted providing for notification of funds. Where a regulation enacted under the National Interest (Enabling Powers) Act requires a person or an entity to carry out the identification of funds or assets belonging to or in the possession of persons or entities as may be identified or identifiable under the regulation, or where a regulation requires the freezing or blocking of such funds or assets, any person or entity whose activities are subject to a licence, shall without delay notify in writing any relevant information in hand to its licensing authority. Such licensing authority is then bound to pass such relevant information to the Sanctions Monitoring Board established under the National Interest (Enabling Powers) Act.

10. *Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.*

In so far as the Malta Financial Services Authority is concerned the matter is dealt with in the manner described in the response to Section II paragraph 2.

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

This notion of 'know your client' is enshrined in the 'Prevention of Money Laundering Regulations' of 1994. Section 3 of these Regulations was purposely drafted to incorporate the principle of 'know your client'. It provides that no person shall in the course of carrying relevant financial business[1], form a business relationship or carry out a one-off transaction with another unless that person follows the identification procedures; the record-keeping procedures and the internal reporting procedures as laid down in the same Regulations.

In other words, these Regulations enable the persons entering financial business to provide part of the audit trail and also enable suspicious customers and transactions to be recognised and reported.

The identification procedures are laid down in Sections 5, 6 and 7 of the Regulations. As soon as it is reasonably practicable after contact is first made between a person and an applicant for business concerning any particular business relationship or one-off transaction, the following information is to be sought:

1. The production by the applicant for business of satisfactory evidence of his identity; or
2. The taking of such measures as will produce such evidence of identity and where that evidence is not obtained, the procedures shall require that the business in question shall not proceed or shall proceed only in accordance with any direction made by the Financial Intelligence Analysis Unit. This is qualified by a subsequent proviso in that where to refrain from proceeding is impossible or likely to frustrate efforts of investigating a suspected money laundering operation, then that business is to proceed on condition that a report is immediately lodged with the Financial Intelligence Analysis Unit.

For the purposes of the 1994 Regulations, evidence of identity is deemed satisfactory if it is reasonably capable of establishing that the applicant is the person who he claims to be and the person who obtains the evidence is satisfied, in accordance with the established internal procedures and policies of the business concerned, that it does establish that fact.

[1] 'Relevant financial business' is interpreted in the Prevention of Money Laundering Regulations, 1994 as meaning:
(a) any business of banking carried on by a person or institution who is for the time being authorised, or required to be authorised, under the provisions of the Banking Act;
(b) any activity carried on by a person or institution who is for the time being authorised, or required to be authorised, under the provisions of the Financial Institutions Act, 1994;
(c) life assurance business carried on by a person or institution who is for the time being authorised, or required to be authorised, under the provisions of the Insurance Business Act or the Insurance Brokers and Other Intermediaries Act;
(d) investment business carried on by a person or institution licensed, or required to be licensed , under the provisions of the Investment Services Act, 1994;
(e) a collective investment scheme licensed, or required to be licensed, under the provisions of the Investment Services Act, 1994;
(f) any activity carried on by a person pursuant to a valid stockbroker's licence issued under the provisions of the Malta Stock Exchange Act;
(g) any activity which is associated with a business falling within paragraphs (a) to (f) above.

Further to the above legislative machinery requiring identification procedures, the Guidance Notes for Credit and Financial Institutions, the Guidance Notes for Investment Services and Life Assurance Business and the Guidance Notes for Offshore Banking Licence Holders lay down detailed guidelines as to how identify a customer. These Guidance Notes include the specific procedures to verify identity in particular circumstances, for instance the identification procedure in the case of a face to face customer and the non-face to face verification. Provision is, inter alia, made for situations where the identification of corporate, unincorporate and other legal entities needs to be established. The myriad of cases catered for in these Notes ensure that comprehensive guidelines are provided in the context of a financial tracking.

Record-keeping is a matter regulated by Section 9 of the Money Laundering Regulations. The records which are to be kept are those relative to the verification of the identity of a person and those containing details concerning all transactions carried out by that person in the course of an established business relationship. The Regulations lay down a stipulated timeframe within which the said records must be kept. The commencement of this time frame varies according to the nature of the records as provided in Section 9(2).

Section 10 of the Money Laundering Regulations cater for the internal reporting procedures. Section 10 sets up a structure within which the workings of a reporting procedure are to take place. A person, coined ‘subject person’ under Section 10, is to maintain internal reporting procedures. To fulfil the obligations arising from the Money Laundering Regulations, the subject person is to employ a reporting officer. Reports of any information or any other subject matter which gives rise to a knowledge or suspicion that another person is engaged in money laundering are to be made to the reporting officer.

The latter officer is to examine the reports in order to determine whether the information contained therein gives rise to a knowledge or suspicion that another person is engaged in money laundering. A supervisory authority[2] is to maintain internal reporting procedures in accordance with the layout provided in the very same Section 10. The failure of a supervisory authority to do so would set in motion disciplinary proceedings against the officials or employees concerned.

According to Section 11 of the said Regulations where a supervisory authority or the ‘subject person’ obtains information and is of the opinion that the information indicates that any person has or may have been engaged in money laundering, then the authority or the subject person shall as soon as is reasonably practicable disclose that information to the Financial Intelligence Analysis Unit.

12. *Resolution 1455 (2003) calls on Member States to provide “a comprehensive summary of frozen assets of listed individuals and entities.” Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen*

[2] The interpretation article of the Prevention of Money Laundering Regulations gives a list of all those entities which qualify as a supervising authority. This list includes the Central Bank, the Malta Financial Services Authority and the Registrar of Companies.

pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

• *identification(s) of the person or entities whose assets have been frozen;*
• *a description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);*
• *the value of assets frozen.*

No relevant individuals, entities or assets have been identified to date, and consequently no assets have as yet been frozen.

13. *Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama Bin Laden or members of the Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.*

No relevant individuals, entities or assets have been identified to date, and consequently no assets have as yet been frozen.

14. *Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to Listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:*

- ***The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.***

All lists of individuals and/or entities listed by the Committee are published in the Government Gazette by means of a Government Notice (as already stated above in the answer to question 9). All lists, including updates, are sent regularly to the Malta Financial Services Authority, which in turn brings these updates to the attention of all credit and financial institutions in Malta. In fact, the Authority has issued a circular informing all licence holders that they are to report to the Authority without delay whether they hold any information connected or related to the individuals listed. In order to keep the licence holders up to date, the Authority has created a section on its website entitled 'Implementation of Sanctions' which is revised according to the changes to the lists. All the licence holders have received a circular requesting them to consult this part of the website on an ongoing basis.

- ***Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated.***

Pursuant to the provisions of the Prevention of Money Laundering Regulations 1994, Banks are required to disclose any knowledge or suspicion of money laundering to the Financial Intelligence Analyses Unit (FIAU) by means of a Suspicious Transaction Report (STR). The FIAU may supplement the STR with additional information that is already available to it or that the Unit may unrestrictedly demand. The Unit will then analyse the report together with such additional information and draw up an analytical report which is sent to the law enforcement for further investigation if, having considered the report, the Unit also has reasonable grounds to suspect that the transaction is suspicious and could involve money laundering.

- ***Requirements, if any, placed on financial institutions other than banks to provide STR, and how such reports are reviewed and evaluated.***

Same procedures as in the preceding question are applied for financial institutions other than banks.

- **Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.**

In the Exchange Control Act "gold" means gold coins or gold bullion. Dealings in gold have to be made by an authorized dealer. Further more the Minister may prescribe that the authorized dealer makes a declaration to the Minister highlighting the purpose for which the gold has been received or is required. If a person is not an authorized dealer and wants to surrender any gold, he can only do so with the permission of the Minister. Also the exportation of gold has to be permitted by the Minister.

The Exchange Control Act will remain in force until such time as the provisions of the Exchange Control Act (found in Act to amend various laws-Act IX of 2003) come into force. Among other things, these new provisions stipulate that:

"The Minister may by regulations require any person to declare to the Comptroller of Customs the import or export by such person of……precious metals into or from Malta in such amounts as may be specified in such regulation and to disclose such other information as may be prescribed in such regulations regarding such import or export."

Furthermore the procedure adopted by Customs is that local importers are required to deposit imports of precious goods with Customs. These are retained by Customs Department at point of entry until relative import documents are produced. Prior to release by Customs these goods are examined and valued by a representative of the Consul for Gold and Silver Smiths as stipulated in the Goldsmiths and Silversmiths Ordinance (Chapter 46 of the Laws of Malta). A copy of the invoice is handed over to the Consul by Customs prior to the examination of the goods. The goods are then released by Customs with the condition that these are taken to the Consul's officer for markings (as imported goods) to be stamped on the goods.

As regards to gold and precious goods imported in transit, the procedure is different in that the importer places the goods under Customs custody and a receipt is issued to the importer. This receipt indicates that such goods are being held by Customs pending re-export. The goods are invariably sealed by a customs numbered seal and this number is indicated on the Customs receipt. As soon as the importer's departing flight is announced, the goods are handed over to the importer, but a Customs Assistant again invariably escorts these goods to the Departure Lounge at the airport. If these goods are to leave by sea the same procedure is followed with the Customs escort attending to the goods until the vessel leaves the harbour.

- ***Restrictions or regulations, if any, applicable to alternate remittance systems such as – or similar to – 'hawala', as well as on charities, cultural or other non-profit organisations engaged in the collection and disbursement of funds for sociable and charitable purposes.***

The Prevention of Money Laundering Regulations, 2002 call for the identification of the customer, the identification of the true identity of the person on whose behalf a transaction is conducted (third party transactions) and the recording of this information and maintenance of such record for at least a five year period. The Regulations also require the reporting to the competent authorities (the Financial Intelligence Analysis Unit of the Central Bank) of any transactions that are suspected that could involve money laundering. The obligations under the Regulations are modelled on the requisites of the relevant FATF 40-Recommendations.

The undertaking of money transmission services is required to be authorized under the Financial Institutions Act, 1994 and therefore the undertaking of such activity without the necessary license is liable to criminal sanctions. Financial Institutions are subject to the regulatory and supervisory regime of the MFSA. Furthermore, authorised institutions are subject to the obligations of the Regulations and therefore subject to further monitoring by the Financial Intelligence Analysis Unit on compliance to their anti-money laundering obligations. Being subject to the provisions of the Financial Institutions Act and the Regulations, financial institutions are therefore also subject to the relevant administrative and other sanctions contemplated there-under for any breaches of their statutory and regulatory obligations.

In terms of the Guidance Notes issued to credit and financial institutions (see MFSA website at *www.mfsa.com.mt*), under Articles 107 – 109, institutions are required to ensure that details of the remitter and beneficiary are always completed in all wire transfers. The Guidance Notes are complementary to the Regulations. Indeed Regulation 3(3) requires that in determining whether a person has complied with all obligations under the Regulations, a Court **shall** consider any relevant guidance notes applicable to that person. This requirement enforces the strength of the implementation and observance of the guidance notes.

As regards non-profit organizations, as identified in FATF October 2002 document on *Combating the abuse of non-profit organizations*, the oversight of such organizations is very often a co-operative undertaking among the government, the philantropic community and persons who support them or benefit from them. To an extent, non-profit organizations that fund themselves from public collection in Malta are subject to the Public Collection Act which imposes licencing conditions for public collections but does not specifically provide for more comprehensive oversight. Non-profit organizations are subject to the same identification and due diligence process when opening bank accounts as other bank customers. Furthermore, non-profit organizations that in any way benefit from any type of government grant or assistance are required to be transparent in their finances through the publication of their annual audited financial statements.

IV. Travel Ban

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

In order to implement the travel ban, the names and identity details of the individuals appearing thereon are entered into a data base. The data base is a point of checking visa requests for persons travelling to Malta, from any foreign state. Concurrently, details are also included on the immigration stop list at all points of entry, namely the Malta International Airport, the Sea passenger terminal and the Yachts Marina. These are the sole entry points on the island and therefore no person appearing on these list will be granted leave to land on the island.

16. *Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.*

All the listed names have been included in the national stop list at points of entry. The only problems concern those names which do not contain a date of birth or nationality, since proper identification is difficult to ensure in case there is the necessity.

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

Updated lists are electronically disseminated at all border points immediately they are received. Searching of these lists is done electronically at all entry points and other central offices with the Police Immigration Services.

18. *Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.*

None of the listed individuals have so far been stopped at any of the points of entry in Malta.

19. *Please provide an outline of the measures, if any, taken to incorporate the List in the reference database of your Consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the List?*

To-date, Consular Officers in Maltese Embassies abroad refer all visa applications to a Central Visa Office at the Police Immigration Branch. All the visa requests are vetted against an electronic index which also contains the listed individuals. Consequently no visas can be issued to any person appearing on the said lists, if ever a visa is requested. No such persons have been identified during the processing of any visas.

V. Arms Embargo

20. *What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?*

Exports of conventional arms are controlled by the Military Equipment (Export Control) Regulations, 2001, which require that no person may export such items to any destination unless he is in possession of an export authorization issued from the Director, Trade Services. When applying for an export authorization, exporters must submit all the relevant information required for their applications. Authorizations granted by the Director, Trade Services may be subject to any conditions deemed fit and are limited so as to expire within a specified date (usually one year). Such authorizations may be annulled, suspended, modified or revoked by the Director.

Export controls of dual-use items as well as items which may be used in connection with programmes of weapons of mass destruction are regulated by the Dual-Use Items (Export Control) Regulations, 2001. The provisions of these regulations are similar to those described above. In addition, exports of spare parts or components of military equipment also require an authorization. These regulations control also the transfer of software and technology by fax, telephone or other electronic media, if such software or technology is related to the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of weapons of mass destruction or missiles capable of delivering such weapons. The regulations also prohibit the provision of technical assistance in any destination, if that assistance is intended, in its entirety or in part, for any of the uses outlined above or for a military end-use.

Persons guilty of an offence under any of the above regulations are liable on conviction to a term of imprisonment not exceeding five years or to a fine not exceeding fifty thousand Maltese liri (about 120,000 euros).

***21**. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?*

The Dual-Use Items (Export Control) Regulations are applicable to exports of **any** item if the country of destination is subject to an arms embargo decided by a common position or joint action adopted by the Council of the European Union or a decision of the OSCE or a resolution of the UN Security Council.

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

Malta does not have legislation on brokering. However, the above mentioned Dual-Use Items (Export Control) Regulations and Military Equipment (Export Control) Regulations apply to any person in Malta and to any Maltese citizen whether in Malta or elsewhere. Therefore, indirectly, the regulations apply to Maltese brokers abroad in the case when the export takes place from the Maltese territory.

***23**. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated?*

No weapons or ammunition are produced in Malta.

VI. Assistance and conclusion

24. Would your state be willing or able to provide assistance to other States to help them implement the measures contained in the above mentioned resolutions? If so, please provide additional details or proposals.

The Government of Malta will decide accordingly on what type of assistance , if any it could give to other States on the issues.

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

Malta believes that it has substantially implemented the Taliban/Al-Qaida sanctions regime. One area where the regulatory framework could perhaps be improved is that of non-profit organizations in respect of which further regulation and control could be required. This is an area which is being examined to address any deficiences that may be identified.

26. Please include any additional information you believe pertinent.

None