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**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON  
MEASURES TO STRENGTHEN COOPERATION IN THE  
PREVENTION AND COMBATING OF TERRORISM**

## **REPORT OF THE CHAIRPERSON OF THE COMMISSION ON MEASURES TO STRENGTHEN COOPERATION IN THE PREVENTION AND COMBATING OF TERRORISM**

### **I. INTRODUCTION**

1. At its 15<sup>th</sup> Ordinary Session held in Kampala, Uganda, from 25 to 27 July 2010, the Assembly of the Union adopted decision Assembly/AU/Dec.311(XV) on the prevention and combating of terrorism. In that decision, the Assembly expressed serious concern over the worsening of the scourge of terrorism and the threat posed by this situation to peace, security and stability in Africa. The Assembly strongly condemned all terrorist attacks perpetrated in the continent, in particular the attack carried out in Kampala, on 11 July 2010. The Assembly underscored the need for renewed efforts and increased mobilization to combat the scourge of terrorism and, in this respect, requested the Commission to expeditiously submit to Council concrete recommendations aimed at strengthening the effectiveness of Africa's action in the prevention and combating of terrorism.

2. The present report is part of the follow-up on that decision. It provides an overview of the terrorism threat and vulnerability in Africa, as well as an update on AU's efforts to address this scourge, including through the elaboration of a normative framework and the establishment of the required institutional capacity. The report concludes with recommendations on the way forward.

### **II. GENERAL OVERVIEW OF THE TERRORISM THREAT AND VULNERABILITY IN AFRICA**

3. Terrorism continues to be one of the most serious threats to international peace and security. Africa and its people have witnessed terrorism long before the dramatic events of 9/11, with incidents in several regions of the continent, particularly in Kenya and Tanzania, Egypt, Algeria, Nigeria and South Africa. In the past decade, the threat of terrorism has assumed greater proportions. Regions that previously did not perceive the seriousness of the threat, or were considered to be immune from terrorism, have been targeted by terrorists.

4. Although many parts of Africa share similar vulnerabilities to terrorism, it is important to highlight that the threat level varies from region to region, making it difficult to forge a common perception of the threat. This is inevitable on a continent as immense and diverse as Africa. Terrorist threats on the continent could be broken down into a number of categories that include: i) terrorist attacks on African interests; ii) terrorist attacks on Western interests; iii) use of African territory as a safe haven; iv) Africa as a terrorist breeding ground and source of recruits and financing; and v) Africa as a transit point for terrorists and fund-raising tied to other illicit activities.

5. While the vulnerabilities to terrorism vary from region to region and even within each region, most African countries share a number of vulnerabilities and are faced with similar challenges as they seek to develop and implement strategies to address the threat. Among the *common vulnerabilities* that have been identified, one can enumerate the vast and unoccupied land mass that is evident in virtually all the countries suffering from terrorism; this is particularly true in the Sahel. Such vast expanse of land provides training camps for terrorist organizations, some of whom have a broad financial base to use the desert to suit their specific needs. Long stretches of porous, remote, and largely unmonitored and uncontrolled borders facilitate undocumented migration and criminal activity. When combined with the vast ill-administered spaces that continue to exist across Africa, this provides fertile ground for terrorist support activity. Corruption within local branches of law enforcement agencies is another all-pervading problem that is exacerbated by the lack of resources, training and equipment. Mention should also be made of the proliferation of small arms and light weapons (SALW), which leaves the continent highly vulnerable to terrorist violence. Widespread conditions of conflict, poverty and deprivation experienced by large sections of the African population provide a breeding ground for alienation and radicalization.

6. Given the transnational nature of the threat, border monitoring and control is one of the major challenges in Africa. Cross-border legal and other counter-terrorism cooperation, including border monitoring and the sharing of intelligence and other information, remain inadequate across much of Africa. Some Member States continue to lack either counter-terrorism legislations and/or effective criminal justice systems that are essential not only for combating terrorism, but also crime and corruption.

7. Predominantly, the terrorist threat in Africa has been shaped by activities in two regions and led by two terrorist organizations, both affiliated to Al Qaeda, namely Al-Qaeda in the Islamic Maghreb (AQIM), in North and West Africa, and Al-Shabaab in East Africa, including Al-Ittihad al-Islamiyyaa (AIAI). The Lord's Resistance Army (LRA) also represents a terrorist threat to civilians. As noted by the regional ministerial meeting on the LRA, held in Bangui, Central African Republic, on 13 and 14 October 2010, this organization has, over the past few years, extended its activities, moving from Uganda, where it originally started its attacks, to Sudan, DRC and CAR, and has continued to carry out atrocities against innocent civilians. Other terrorist organizations cannot be ignored, but have not been as active as the Al-Qaeda affiliated groups and the LRA.

8. Following their allegiances to Al-Qaeda Central (AQC), both groups have moved from a locally-driven agenda to a more global one. This was translated by not only a shift in strategy to copy al-Qaeda's model, but also in ideological rhetoric, recruitment, financing and propaganda methods, as well as in terms of *modus operandi* that saw the use of suicide attacks and Improvised Explosive Devices (IEDs) and that of teenagers and disabled individuals to commit the attacks. Kidnap-for-Ransom has been the major source of financing for AQIM. Since 2006, it has kidnapped 20 individuals of which 18 were released and 2 were executed. Seven hostages that were kidnapped in Niger are still in captivity. It is reported that the ransoms paid for the release of hostages amount to millions of dollars.

Moreover, terrorist demands have now shifted to include the release of imprisoned terrorists as a condition for the release of hostages, thus undermining the fight against terrorism and ensuring impunity for perpetrators of terrorist acts.

9. Al-Shabaab's leadership was supportive of al-Qaeda (AQ) long before their allegiance to it. This group continues to present a serious terrorist threat to Somalia and throughout the Horn of Africa. Due to the ongoing fighting between al-Shabaab, Hizbul Islam, other armed factions and militias and Somalia's Transitional Federal Government (TFG), Somalia remains highly unstable, and provides a conducive environment for terrorist transit and training. Foreign fighters, an increasing number of AQ operatives, and likeminded indigenous Islamic extremists, continue to pose a threat to regional security.

10. Traditionally, terrorist groups in Africa relied on overseas funding and logistics, but since 9-11 and the successful operations of the security forces, especially in North Africa, that have dismantled the support base and major revenue sources for the terrorist groups, the latter had to seek alternative source of funding and logistics. These vary from kidnap-for-ransom to all forms of illicit trafficking, thus confirming the nexus between terrorist groups and transnational organized crime.

### **III. EXISTING LEGAL INSTRUMENTS**

11. African concerns at the continental level to prevent and combat the scourge of terrorism have a long history. As far back as 1992, the Organization of the African Unity (OAU), during its 28<sup>th</sup> Ordinary Session, held in Dakar, Senegal, adopted resolution AHG/Res.213 (XXVIII), aimed at enhancing cooperation and coordination of efforts among Member States in order to fight the phenomenon of extremism. In 1994, at its 30<sup>th</sup> Ordinary Session, held in Tunis, Tunisia, in June 1994, the OAU Summit adopted declaration AHG/Decl.2 (XXX) on the Code of Conduct for Inter-African Relations, which unequivocally rejected fanaticism and extremism or the use of religion to commit acts of violence, including terrorist acts. These efforts culminated in the 1999 OAU Convention on the Prevention and Combating of Terrorism and the Protocol to the OAU Convention on the Prevention and Combating of Terrorism.

#### **(a) The 1999 Convention on the Prevention and Combating of Terrorism**

12. The Convention on the Prevention and Combating of Terrorism was adopted by 35<sup>th</sup> Ordinary Session of the OAU Summit, held in Algiers, Algeria, in July 1999. It entered into force on 6 December 2002. To date, 49 Member States have signed the Convention, while 40 have ratified it. The Convention provides a legal framework for preventing and combating terrorism at the continental level. It identifies a number of terrorist offences and areas of co-operation among Member States, and contains detailed provisions on extradition, extra-territorial investigations and mutual legal assistance.

13. Under the Convention, Member States undertook to review their national laws, establish criminal offences for terrorist acts, and make such acts punishable by appropriate

penalties; consider, as a matter of priority, the signing or ratification of, or accession to, relevant international instruments; implement the actions required in terms of the relevant international instruments; and notify the Secretary-General of the OAU (presently, the Chairperson of the Commission) of all the legislative measures they have taken and the penalties imposed on terrorist acts within one year of ratification of, or accession to, the Convention. Member States also undertook to refrain from any acts aimed at organizing, financing, committing or inciting to commit terrorist acts, or providing havens for terrorists, pledging, in this respect, to take a number of steps, as well as to cooperate among themselves in preventing and combating terrorist acts, through strengthened exchange of information, mutual assistance with regard to procedures relating to the investigation of terrorist acts and arrest of terrorists, exchange of studies and researches, and provision of technical assistance.

14. Improvement of surveillance and border patrol capacities is another point of emphasis in the Convention. Countries are required to develop and strengthen their methods of monitoring and detecting plans or activities aimed at the illegal cross-border transportation, importation, export and stockpiling and use of arms, ammunitions and explosives and other materials and means of committing terrorist acts. The Convention requires States to develop their methods of monitoring and controlling land, sea, customs and immigration check points to pre-empt infiltration by those involved in the planning, organization and execution of terrorist acts.

**(b) The Protocol to the OAU Convention on the Prevention and Combating of Terrorism**

15. The Protocol to the OAU Convention on the Prevention and Combating of Terrorism was adopted by the 3<sup>rd</sup> Ordinary Session of the Assembly of the Union, held in Addis Ababa, in July 2004, in pursuance of Article 21 of the Convention. The main purpose of the Protocol is to enhance the implementation of the Convention and to give effect to article 3(d) of the Protocol Relating to the Establishment of the Peace and Security Council on the need to coordinate and harmonize continental efforts in the prevention and combating of terrorism in all its aspects, as well as in the implementation of other relevant international instruments. The Protocol has been signed by 41 Member States, while 10 have ratified it; 15 ratifications are required for its entry into force.

16. Under the Protocol, State Parties commit themselves to implement fully the provisions of the Convention and to undertake a number of other steps, including establishing national contact points in order to facilitate the timely exchange and sharing of information on terrorist groups and activities at the regional, continental and international levels, including the cooperation of States for suppressing the financing of terrorism; to submit, on an annual basis, or at such regular intervals as shall be determined by Council, reports on measures taken to combat and prevent terrorism; to report to Council all terrorist activities in their countries as soon as they occur; and to become parties to all relevant continental and international instruments on terrorism.

17. Article 4 of the Protocol stipulates that Council shall be responsible for harmonizing and coordinating continental efforts in the prevention and combating of terrorism. To this end, Council is to establish operational procedures for information gathering, processing and dissemination; establish mechanisms to facilitate the exchange of information among State Parties on patterns and trends in terrorist acts and the activities of terrorist groups and on successful practices in combating terrorism; present an annual report to the Assembly of the Union on terrorist activities on the continent; examine all reports submitted by Member States on the implementation of the Protocol; and establish an information network with national, regional and international focal points on terrorism.

18. The Protocol also identifies the role to be played by the Commission, through providing technical assistance on legal and law enforcement matters, following-up with Member States and with Regional Mechanisms for Conflict Prevention, Management and Resolution on the implementation of decisions taken by Council and other organs of the Union on terrorist related matters, providing advice and recommendations to Member States, and maintaining contacts with organizations and entities dealing with terrorism. The Regional Mechanisms are also expected to play a complementary role in the implementation of the Protocol and the Convention, including through the establishment of contact points.

#### **IV. THE AU PLAN OF ACTION FOR THE PREVENTION AND COMBATING OF TERRORISM**

19. The Plan of Action was adopted by the AU High-Level Inter-Governmental Meeting on the Prevention and Combating of Terrorism in Africa, held in Algiers, from 11 to 14 September 2002. The Plan is intended to give concrete expression to the commitments and obligations of AU Member States and to enhance and promote African countries' access to appropriate counter-terrorism resources. It contains both general and specific provisions. With regard to the latter, Member States are, *inter alia*, expected to:

- i) enhance their border control capacity, including through the issuing of more secure travel and identity documents and the provision of regular training for immigration, customs and other related officials;
- ii) update and harmonize legal systems, both national and regional, to keep abreast with challenges;
- iii) finalize African extradition and mutual legal assistance instruments;
- iv) suppress the financing of terrorism, including through the strengthening of legislative measures and the establishment of financial intelligence units (FIUs) within Member States;
- v) enhance the exchange of information and intelligence relating to terrorist groups, entities and individual, their methods of work and means and source of finance.

20. The Plan of Action devotes specific provisions to the role to be played by Council and the Commission. Among others, Council is to prepare, publicise and regularly review a list of persons, groups and entities involved in terrorist acts.

**V. THE AFRICAN CENTRE FOR THE STUDY AND RESEARCH ON TERRORISM (ACSRT)**

21. In the Plan of Action, Member States undertook to establish the African Centre for the Study and Research on Terrorism (ACSRT), to serve as a structure that will centralize information, studies and analyses on terrorism and terrorist groups and develop training programmes. The Centre was established in 2004 in Algiers. The ACSRT has provided a forum for interaction and cooperation among Member States and the Regional Mechanisms, through their Focal Points. It has also taken steps to provide technical assistance to Member States by developing technical expertise in a number of counterterrorism areas, through training course and seminars.

22. So far, the Centre has held four meetings of national and regional Focal Points during which a number of important decisions have been adopted. These include a Code of Conduct regulating the relationship between the Centre and the Focal Points (this document was considered by the UN Security Council resolution 1267 Monitoring Team as an example of best practice, which should be shared with other stakeholders), the threat Assessment Template and, in terms of capacity building, the 2010-2013 Strategic Plan of Activities. Furthermore, in implementation of the Plan of Action, the Centre has launched the "*African Journal for the Prevention and Combating of Terrorism*," in addition to the Counterterrorism news-briefs received daily by its Focal Points through the ACSRT-Counterterrorism Situation-Room. Moreover, the Centre takes active part in the monitoring missions conducted by the UN Security Council Counter-Terrorism Executive Directorate (CTED), contributing to the reports submitted to the UN Security Council. These visits are conducted to monitor the implementation of the provisions of Security Council resolution 1373 (2001).

23. At the level of the headquarters, the Commission has continued its cooperation with the relevant international organizations dealing with counter-terrorism issues. The Commission, through the ACSRT, organized number of capacity building activities in partnership and collaboration with a number of International Organizations such as the UN Counter-Terrorism Committee (CTC) and the United Nations Office on Drugs and Crime (UNODC). Furthermore, the Commission participated in the First Round-Table meeting to launch the Knowledge Management System on Chemical, Biological, Radiological and Nuclear (CBRN) Trafficking in North Africa, in June 2010, organized by United Nations Interregional Crime and Justice Research Institute (UNICRI). The launch of the project was a very important initiative to further strengthen the international mechanism and coordination in the fight against illicit CBRN trafficking, promote the Chemical Weapons Convention (CWC) in Africa and enhance capacity for counter-terrorism in Africa. The Commission encouraged UNICRI to envisage the possibility of extending the program to include other parts of Africa.

## **VI. RECENT EFFORTS IN THE PREVENTION AND COMBATING OF TERRORISM**

24. As a follow-up to existing African instruments and decisions, and in response to some of the challenges encountered in the fight against terrorism, the AU has recently taken a number of initiatives, relating to the payment of ransom to terrorist groups, the elaboration of a model law and the appointment of a Special Representative for Counter-Terrorism Cooperation.

### **(a) Prohibition of the payment of ransom to terrorist groups**

25. As a result of the growing concern by Africa over the phenomenon of the payment of ransom to terrorist groups, the Assembly of the Union, at its 13<sup>th</sup> Ordinary Session, held in Sirte, Libya, from 1 to 3 July 2010, adopted decision Assembly/AU/Dec.256(XIII) to address this situation. In that decision, the Assembly, having strongly condemned the payment of ransom to terrorist groups in exchange of the release of hostages, stressed that the payment of ransom constitutes one of the main methods of financing international terrorism, reaffirmed the urgent need to consolidate the existing legal arsenal to combat terrorism, and requested the international community to consider the payment of ransom to terrorist groups as a crime. More specifically, the Assembly requested:

- i) the Security Council to adopt a restrictive resolution against the payment of ransom, building on UN Security Council resolutions 1267(1999) of 15 October 1999 and 1373(2001) of 28 September 2001;
- ii) the United Nations General Assembly to include this issue in its agenda and to initiate negotiations with a view to elaborating a Supplementary Protocol to the 1979 International Convention Against the Taking of Hostages or the 1999 International Convention for the Suppression of the Financing of Terrorism.

26. In the Tripoli Declaration on the Elimination of Conflicts and the Promotion of Sustainable Peace, adopted by the Special Session of the Assembly of the Union on the Consideration and Resolution of Conflicts, held on 31 August 2009, the Heads of State and Government reiterated their commitment, in conformity with the decision adopted in Sirte, in July 2009, to cut off the sources of funding for terrorism, in particular those originating from the payment of ransom in situations of hostage taking. In Kampala, in July 2010, the Assembly rejected all forms of blackmailing carried out by terrorist groups, such as the threat of execution of hostages and demand of ransom to finance terrorist operations. The Assembly requested the Commission to mobilize wide international support towards combating terrorism in Africa, including cutting off its financing sources and ending the payment of ransom. The Commission has taken a number of follow-up actions both at the level of the United Nations and in the context of the Africa-EU partnership.

**(b) Elaboration of African Anti-Terrorism Model Law**

27. As part of the implementation of the 2002 Plan of Action, the Commission is in the process of finalizing the African Model Law on the Prevention and Combating of Terrorism. The final draft of the Model Law will be presented to the meeting of experts from Member States, due to be held in Algiers from 15 to 16 December 2010. The main purpose of the African Anti-Terrorism Model Law is to promote national implementation of the continental and international instruments for the prevention and combating of terrorism. It will serve as a template that would guide Member States in developing, strengthening and/or updating their existing national laws, to better meet their international and regional obligations.

28. The draft Model Law covers the following areas: the creation as offences under domestic law of all the acts that States are required to criminalize under the relevant counter-terrorism Conventions and UN Security Council resolution 1373(2001); the establishment of jurisdiction of States over the crimes in question in the circumstances required by the relevant treaties; the creation of offences relating to terrorist financing and support for terrorism; and extradition and mutual legal assistance. It also addresses the issue of the payment of ransom to terrorist groups.

**(c) Appointment of an AU Special Representative for Counter Terrorism Cooperation**

29. In its above-mentioned decision on the prevention and combating of terrorism adopted at its 15<sup>th</sup> Ordinary Session, the Assembly, *inter alia*, underscored the need for renewed efforts and increased mobilization to combat the scourge of terrorism, and requested the Commission to initiate appropriate measures to this end. As a follow-up to this decision, I, on 7 October 2010, appointed Mr. Francisco Caetano Jose Madeira, from Mozambique, as my Special Representative in charge of Counter-Terrorism Cooperation and, concurrently, as the Director of the ACSRT.

30. In his capacity as Special Representative, Mr. Madeira will coordinate efforts aimed at ensuring the effective implementation of the relevant AU instruments. His efforts will also focus on the mobilization of the international community in support of Africa's efforts towards combating terrorism. As Director of the ACSRT, Mr. Madeira will work towards the enhancement of the capacity of the Centre, including its human resources, as well as of its coordinating role and overall contribution to the efforts to prevent and combat terrorism. In so doing, he will build on the results achieved so far. Mr. Madeira will assume duty in December 2010.

**VII. OBSERVATIONS**

31. Terrorism continues to be one of the most serious threats to international peace and security. Africa has paid a heavy toll for these outrageous criminal acts. The July 2010 terrorist attacks in Kampala were a dramatic reminder that this threat is ever present. Today

more than ever before, there is need for renewed commitment and action to prevent and combat terrorism.

32. As indicated above, over the past years, the AU has adopted a number of instruments to facilitate and promote a coordinated and effective action against terrorism. The 1999 Algiers Convention and its 2004 Supplementary Protocol, as well as the establishment of the ACSRT, provide a sound legal and institutional basis for enhanced cooperation among Member States, particularly as it relates to exchange of information on the activities and movements of terrorist groups in Africa, mutual legal assistance, exchange of research and expertise, and the mobilization of technical assistance both from within and outside Africa.

33. I call on the Member States that have not yet done so to urgently sign and ratify the 1999 Convention and its Protocol. I am concerned that six years after its adoption, the 2004 Protocol has been ratified by only ten Member States. Equally important is the need for Member States that are Parties to the Convention to fully implement its provisions. In line with the 2002 Plan of Action and building on the provisions of the Protocol to the Algiers Convention, Member States should be urged to submit reports to Council on an annual basis, or at such regular intervals as shall be determined by Council, on measures taken to prevent and combat terrorism, as well as report to Council all terrorist activities in their countries as soon as they occur. Such reports will go a long way in facilitating coordination of efforts and follow-up by the Commission on the decisions adopted at continental level.

34. Additional steps need to be taken to ensure more effective sharing information among the African stakeholders. So far, sharing of information has been a one way relation, whereby the Centre continuously engages with Focal Points with little if no reaction. Only a small number of Member States are sharing information with the Centre. Out of the 44 officially designated National Focal Points, 20 have sent some sort of report to the Centre. Out of the 7 Regional Focal Points, only two have sent reports to the Centre (IGAD/ICPAT and SADC). The main reason mentioned by the Focal Points is the need for a secured communication system. The Centre has taken steps to address this issue; the required system will be operational by mid-2011.

35. Efforts continue to be made to enhance the existing legal framework. In this respect, I look forward to the adoption by Member States of the Model Law and to concrete follow-up measures at national level. Follow-up is also needed on the decision of the Assembly on the payment of ransom to terrorist groups. Further mobilization is required from Member States to generate as much support as possible for the decisions adopted on this issue by the AU policy organs, both at the level of the United Nations and in other fora, in particular the European Union as part of the Africa-EU partnership. Council should strongly urge the Security Council to adopt a binding resolution that would strengthen and supplement resolutions 1267(1999), 1373(2001) and 1904, and the General Assembly to adopt a resolution that would give mandate to its relevant organs to initiate negotiations towards the elaboration of a Protocol to its relevant Conventions.

36. The RECs/RMs have a key complementary role to play in the prevention and combating terrorism. The Plan of Action and Article 6 of the 2004 Protocol detail the activities they are expected to undertake. While some RECs/RMs have taken a number of initiatives as a follow-up to the Plan of Action, there is clearly need for greater mobilization on their part.

37. The crucial role to be played by Council hardly needs to be overemphasized. Both the Plan of Action and the Protocol deal extensively with this issue. Among other immediate steps, Council may wish to consider the following: preparing, publicizing and regularly reviewing a list of persons, groups and entities involved in terrorist acts, it being understood that such a list shall be drawn up on the basis of precise information or material proof from Member States and other sources; requesting all Member States to report on an annual basis on the steps taken with respect to terrorism; and presenting an annual report to the Assembly of the Union on the situation in the continent as far as terrorism is concerned. Council may also wish, in line with the relevant provisions of the PSC Protocol, to establish a Committee on counter-terrorism cooperation to enhance its capacity to exercise the powers entrusted to it by the PSC Protocol and other AU instruments.

38. On its part, the Commission will pursue and intensify its efforts. Particular emphasis will be placed on the enhancement of the capacity of Member States, through training and exchange of experiences. Steps will be taken to strengthen the capacity of ACSRT in terms of human resources and equipment. The Commission will also pay particular attention to the issue of extradition with the elaboration of an African Union arrest warrant to facilitate action against terrorist individuals and groups. This proposed AU arrest warrant will be submitted to Member States for consideration and further action in due course. Furthermore, I have requested my Special Representative to undertake consultations with Member States currently facing the threat of terrorism and other stakeholders, to identify practical measures through which the AU can better support their efforts.

39. In conclusion, I cannot but emphasize the need, in our fight against terrorism, to uphold the highest standard in terms of human rights. Significantly, the 2004 Protocol to the Algiers Convention stressed the need for Member States to implement all relevant continental and international humanitarian and human rights instruments.

2010-11-22

# Report of the Chairperson of the Commission Measures to Strengthen Cooperation in the Prevention and Combating of Terrorism

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