

BARBADOS

Country Report: Anti-terrorism laws & policing

1. Country summary

- a. **Government:** Constitutional Monarchy
- b. **Population:** 279 254
- c. **Size:** 431 sq km
- d. **Region:** Caribbean
- e. **General**

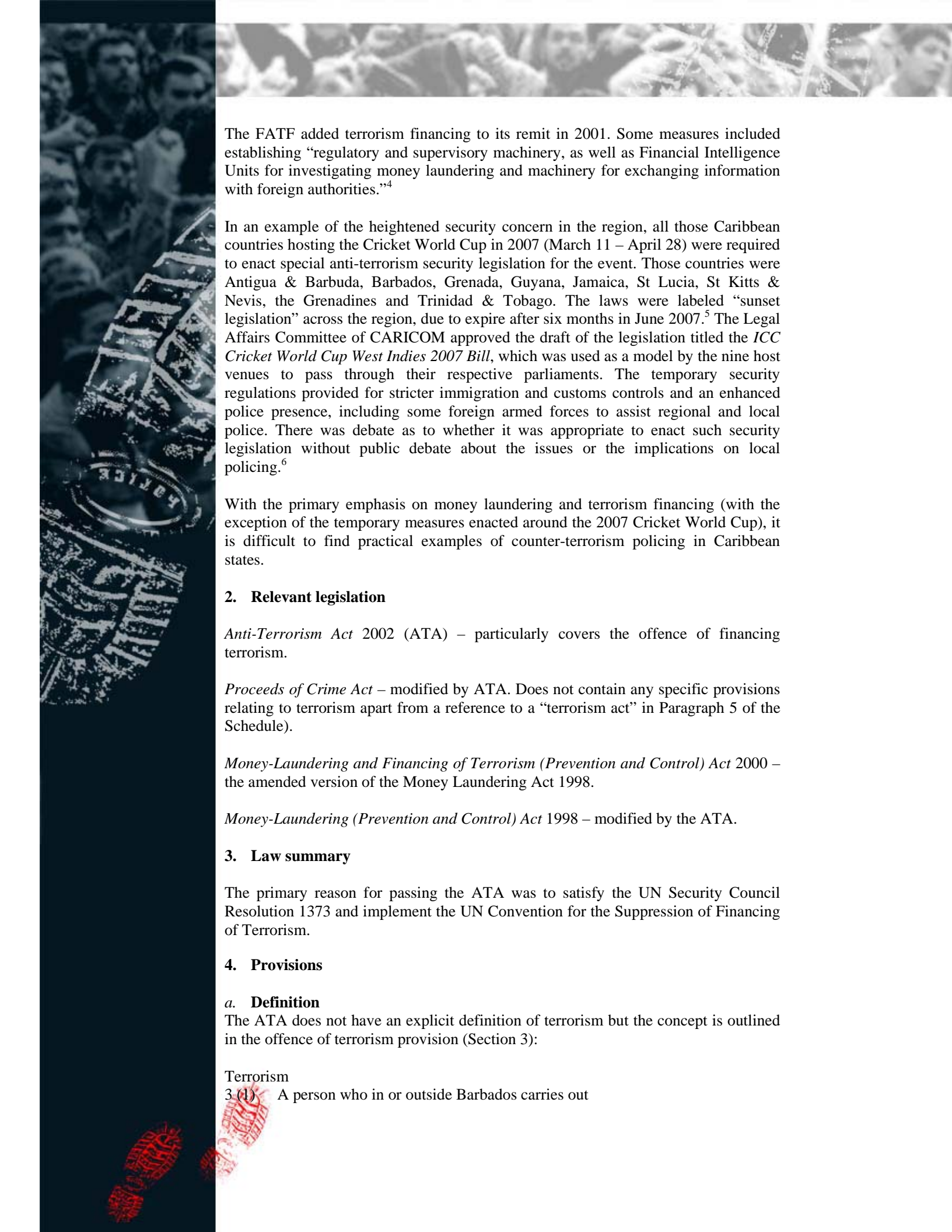
Barbados has briefly experienced terrorist activity in the past.¹ In July 1976, the British West Indian Airways office in Bridgetown was bombed. The Cuban organisation CORU claimed they carried out the bombing because the office was the Cubana Airlines agent in Barbados. In another incident shortly after in October 1976, 73 people died when a Cuban anti-Castro group placed explosives on a Cubana Airlines plane departing Barbados.

Traditionally, Barbados was heavily reliant on its sugar cane industry. But in line with other Caribbean countries in recent years, the economy's focus has shifted to offshore finance, light manufacturing, tourism and the information sector. In order to keep these sectors afloat, the Government is encouraging direct foreign investment and the privatisation of state owned companies. There has also been an increased development of tourism facilities and projects with the majority of tourism coming from the UK, Germany, the USA and other parts of the Caribbean. Barbados is also the beneficiary of the USA Caribbean Basin Initiative. An estimated 3,000 Americans reside in the country.

Counter terrorism measures in the Caribbean

The Caribbean is the tenth largest trading partner of the USA, a major regional source of migration and visitors to the USA, and an important destination for both tourists and business investments from America. The diplomatic ties, trade alliances and economic dependency on the USA, and the fact that Caribbean countries were seen as a base from where terrorists could carry out their operations, left the Caribbean with little choice but to adhere to the requirements outlined by the USA in the "war on terror". This is in spite of the fact that Caribbean countries have not been victim to any major terrorist attacks in the past. The requirements to implement anti-terrorist policies have proved extremely costly in the Commonwealth Caribbean particularly when the economies of these countries were already in decline.²

In those Commonwealth Caribbean countries with pre-existing anti-terrorism laws, the 2001 attacks on America led to a tightening of the existing laws. Additionally, the Financial Action Task Force on money laundering (FATF) has caused further concerns that the effect of international pressure and measures has been to undermine the sovereignty of some Caribbean states.³



The FATF added terrorism financing to its remit in 2001. Some measures included establishing “regulatory and supervisory machinery, as well as Financial Intelligence Units for investigating money laundering and machinery for exchanging information with foreign authorities.”⁴

In an example of the heightened security concern in the region, all those Caribbean countries hosting the Cricket World Cup in 2007 (March 11 – April 28) were required to enact special anti-terrorism security legislation for the event. Those countries were Antigua & Barbuda, Barbados, Grenada, Guyana, Jamaica, St Lucia, St Kitts & Nevis, the Grenadines and Trinidad & Tobago. The laws were labeled “sunset legislation” across the region, due to expire after six months in June 2007.⁵ The Legal Affairs Committee of CARICOM approved the draft of the legislation titled the *ICC Cricket World Cup West Indies 2007 Bill*, which was used as a model by the nine host venues to pass through their respective parliaments. The temporary security regulations provided for stricter immigration and customs controls and an enhanced police presence, including some foreign armed forces to assist regional and local police. There was debate as to whether it was appropriate to enact such security legislation without public debate about the issues or the implications on local policing.⁶

With the primary emphasis on money laundering and terrorism financing (with the exception of the temporary measures enacted around the 2007 Cricket World Cup), it is difficult to find practical examples of counter-terrorism policing in Caribbean states.

2. Relevant legislation

Anti-Terrorism Act 2002 (ATA) – particularly covers the offence of financing terrorism.

Proceeds of Crime Act – modified by ATA. Does not contain any specific provisions relating to terrorism apart from a reference to a “terrorism act” in Paragraph 5 of the Schedule).

Money-Laundering and Financing of Terrorism (Prevention and Control) Act 2000 – the amended version of the Money Laundering Act 1998.

Money-Laundering (Prevention and Control) Act 1998 – modified by the ATA.

3. Law summary

The primary reason for passing the ATA was to satisfy the UN Security Council Resolution 1373 and implement the UN Convention for the Suppression of Financing of Terrorism.

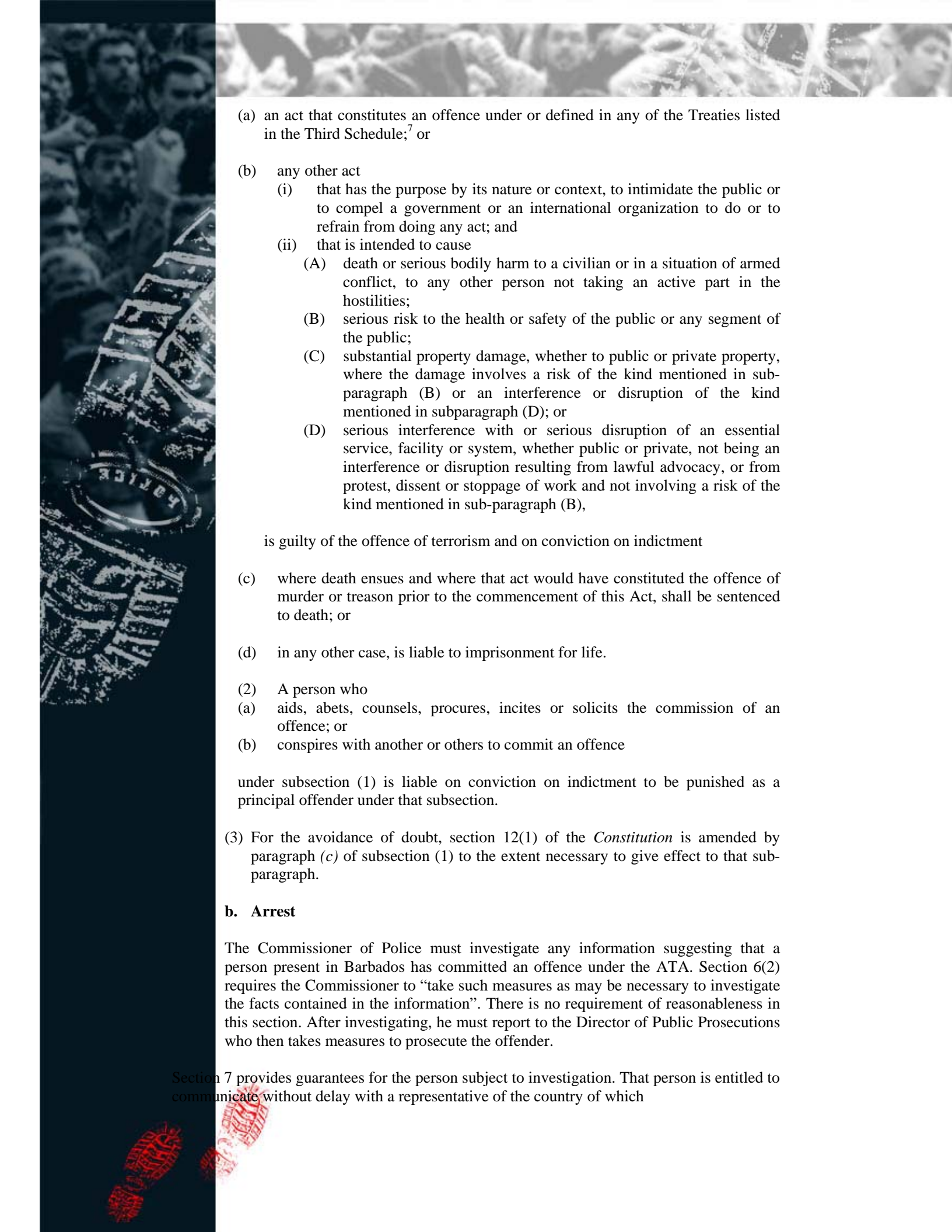
4. Provisions

a. Definition

The ATA does not have an explicit definition of terrorism but the concept is outlined in the offence of terrorism provision (Section 3):

Terrorism

3 (1) A person who in or outside Barbados carries out

- 
- (a) an act that constitutes an offence under or defined in any of the Treaties listed in the Third Schedule;⁷ or
 - (b) any other act
 - (i) that has the purpose by its nature or context, to intimidate the public or to compel a government or an international organization to do or to refrain from doing any act; and
 - (ii) that is intended to cause
 - (A) death or serious bodily harm to a civilian or in a situation of armed conflict, to any other person not taking an active part in the hostilities;
 - (B) serious risk to the health or safety of the public or any segment of the public;
 - (C) substantial property damage, whether to public or private property, where the damage involves a risk of the kind mentioned in subparagraph (B) or an interference or disruption of the kind mentioned in subparagraph (D); or
 - (D) serious interference with or serious disruption of an essential service, facility or system, whether public or private, not being an interference or disruption resulting from lawful advocacy, or from protest, dissent or stoppage of work and not involving a risk of the kind mentioned in subparagraph (B),

is guilty of the offence of terrorism and on conviction on indictment

- (c) where death ensues and where that act would have constituted the offence of murder or treason prior to the commencement of this Act, shall be sentenced to death; or
 - (d) in any other case, is liable to imprisonment for life.
- (2) A person who
 - (a) aids, abets, counsels, procures, incites or solicits the commission of an offence; or
 - (b) conspires with another or others to commit an offence

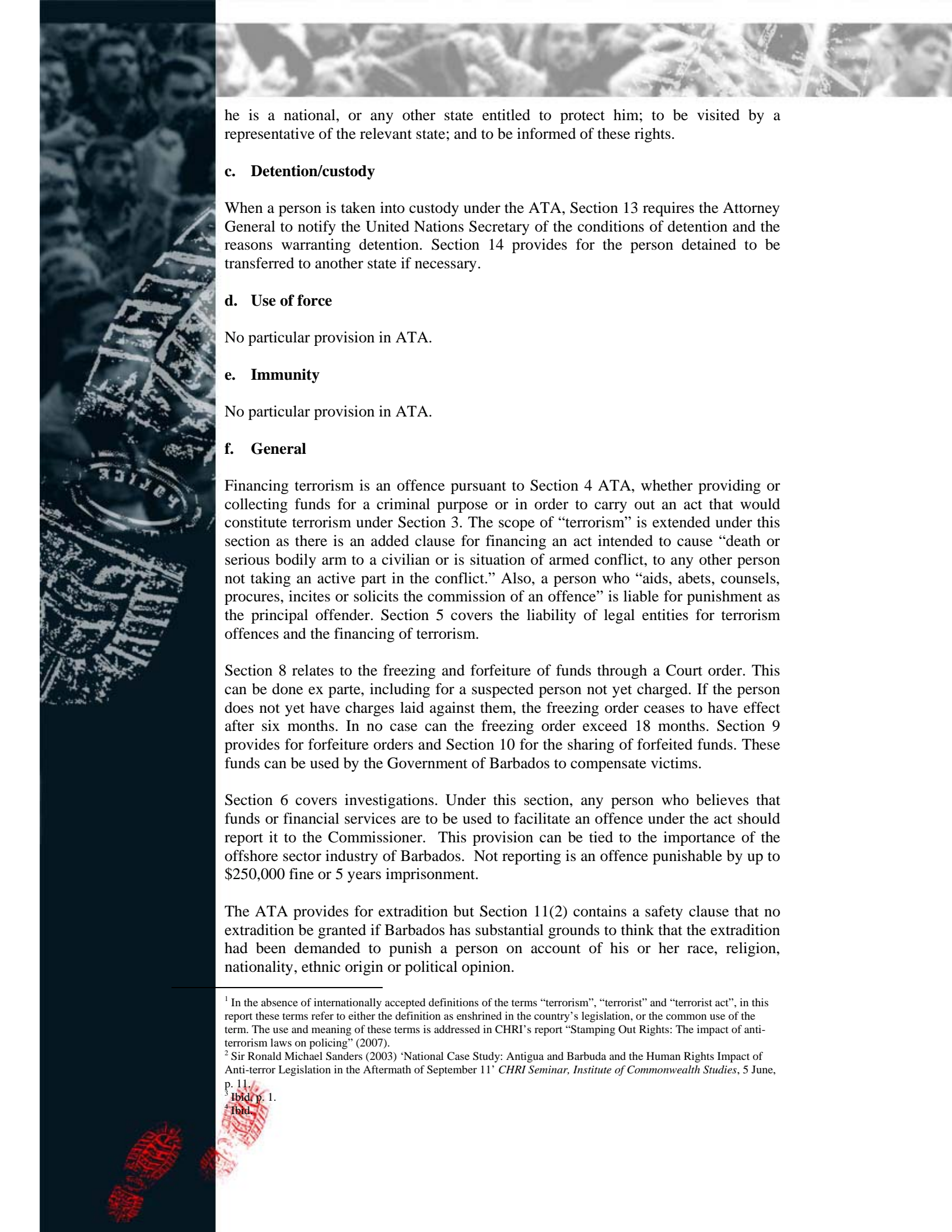
under subsection (1) is liable on conviction on indictment to be punished as a principal offender under that subsection.

- (3) For the avoidance of doubt, section 12(1) of the *Constitution* is amended by paragraph (c) of subsection (1) to the extent necessary to give effect to that subparagraph.

b. Arrest

The Commissioner of Police must investigate any information suggesting that a person present in Barbados has committed an offence under the ATA. Section 6(2) requires the Commissioner to “take such measures as may be necessary to investigate the facts contained in the information”. There is no requirement of reasonableness in this section. After investigating, he must report to the Director of Public Prosecutions who then takes measures to prosecute the offender.

Section 7 provides guarantees for the person subject to investigation. That person is entitled to communicate without delay with a representative of the country of which



he is a national, or any other state entitled to protect him; to be visited by a representative of the relevant state; and to be informed of these rights.

c. Detention/custody

When a person is taken into custody under the ATA, Section 13 requires the Attorney General to notify the United Nations Secretary of the conditions of detention and the reasons warranting detention. Section 14 provides for the person detained to be transferred to another state if necessary.

d. Use of force

No particular provision in ATA.

e. Immunity

No particular provision in ATA.

f. General

Financing terrorism is an offence pursuant to Section 4 ATA, whether providing or collecting funds for a criminal purpose or in order to carry out an act that would constitute terrorism under Section 3. The scope of “terrorism” is extended under this section as there is an added clause for financing an act intended to cause “death or serious bodily harm to a civilian or is situation of armed conflict, to any other person not taking an active part in the conflict.” Also, a person who “aids, abets, counsels, procures, incites or solicits the commission of an offence” is liable for punishment as the principal offender. Section 5 covers the liability of legal entities for terrorism offences and the financing of terrorism.

Section 8 relates to the freezing and forfeiture of funds through a Court order. This can be done ex parte, including for a suspected person not yet charged. If the person does not yet have charges laid against them, the freezing order ceases to have effect after six months. In no case can the freezing order exceed 18 months. Section 9 provides for forfeiture orders and Section 10 for the sharing of forfeited funds. These funds can be used by the Government of Barbados to compensate victims.

Section 6 covers investigations. Under this section, any person who believes that funds or financial services are to be used to facilitate an offence under the act should report it to the Commissioner. This provision can be tied to the importance of the offshore sector industry of Barbados. Not reporting is an offence punishable by up to \$250,000 fine or 5 years imprisonment.

The ATA provides for extradition but Section 11(2) contains a safety clause that no extradition be granted if Barbados has substantial grounds to think that the extradition had been demanded to punish a person on account of his or her race, religion, nationality, ethnic origin or political opinion.

¹ In the absence of internationally accepted definitions of the terms “terrorism”, “terrorist” and “terrorist act”, in this report these terms refer to either the definition as enshrined in the country’s legislation, or the common use of the term. The use and meaning of these terms is addressed in CHRI’s report “Stamping Out Rights: The impact of anti-terrorism laws on policing” (2007).

² Sir Ronald Michael Sanders (2003) ‘National Case Study: Antigua and Barbuda and the Human Rights Impact of Anti-terror Legislation in the Aftermath of September 11’ *CHRI Seminar, Institute of Commonwealth Studies*, 5 June,

p. 11.

³ *Ibid.* p. 1.

⁴ *Ibid.*

⁵ The package of laws enacted includes provisions addressing special measures for tourist visas and copyright during the event in addition to those relating to anti-terrorism and security measures.

⁶ *Barbados Free Press* (3 February 2007) "Cricket World Cup: Barbados Government to Give Power, Authority to Armed Foreign Soldiers and Police on Bajan Soil": <http://barbadosfreepress.wordpress.com/2007/02/03/cricket-world-cup-barbados-government.html>; as on 21 March 2007.

⁷ Treaties Listed in the Third Schedule of ATA 2002: Convention for the Suppression of Unlawful Seizure of aircraft, done at the Hague on 16th December, 1970 (Incorporated into the *Hijacking Act*, Cap. 135A); Convention for the suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23rd September, 1971 (Incorporated into the *Civil Aviation (Montreal Convention) Act*, Cap. 123A); Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14th December, 1973 (Incorporated into the *Internationally Protected Persons Act*, Cap. 123A); International Convention against the taking of Hostages, adopted by the General Assembly of the United Nations on 17th December, 1979; Convention on the Physical Protection of Nuclear Material adopted at Vienna on 3rd March, 1980; Protocol for the Suppression of Unlawful Acts of Violence at Airports, Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24th February, 1988; Convention for the suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10th March, 1988 (Incorporated into the *Shipping Act*, Cap. 296); Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10th March, 1988; and International Convention for the Suppression of Terrorists Bombings adopted by the United Nations General Assembly on 15th December, 1997.