

**OECD Check-List of Criteria to Define Terrorism
for the Purpose of Compensation**

RECOMMENDATION OF THE COUNCIL

This Check-List, prepared by the OECD Insurance Committee, was adopted by the OECD Council on 15 December 2004.

INTRODUCTION

Since the events of 11 September 2001, the definition of terrorism has become a priority policy issue for the insurance sector. The attacks revealed the unsuspected magnitude of modern terrorism threat and showed that no country can consider itself safe from terrorist attacks. At the same time, the various actors in the insurance world suddenly became aware of the need to redefine and scrupulously assess their commitments with respect to terrorism risk before any new major terrorism attack might occur. Terrorism risk, implicitly covered at no additional cost in former policies, now needs to be unambiguously defined.

It is therefore not surprising that this issue was listed on the agenda of OECD Ministers for their 15-16 May 2002 meeting. On that occasion, Ministers spotlighted the importance that should be given to work on terrorism risk insurance, and to the definition of terrorism in particular and mandated the OECD to develop policy analysis and recommendations in this area¹. A Task Force devoted to terrorism risk insurance was subsequently created to assist the Insurance Committee to implement this mandate. The first assignment of the Task Force was to prepare a report on the definition of terrorism².

Experience sharing and cooperation at an international level is relevant to approach the concept of terrorism in many ways. It enables countries more exposed to terrorism and related compensation problems in the past to share the lessons learned from their experience with other countries in order, for instance, to avoid the multiplication of lawsuits involving insurers as a result of an ambiguous or incomplete definition of terrorism. International co-operation in the same form is also needed to respond to the global threat of modern terrorism, and to develop more consistent national approaches to this concept in order to facilitate risk management strategies of global insurance/reinsurance actors.

Defining terrorism is however a difficult exercise. Past work on a general definition of terrorism has often been controversial, and no consensual definition has emerged at the international level. Therefore, decision makers in the insurance sector looking for a workable definition of terrorism have sometimes had recourse to definitions already used at national level in other fields such as criminal law. More often however, they have developed a definition tailored to the specific constraints of the insurance business. Meanwhile, the question of definition is still open in many countries, where no definition has been agreed upon at national level, through insurers associations for instance, as a guide to private entities.

The existing definitions of terrorism used for insurance purposes in OECD member countries were collected by the Task Force via a questionnaire. On the basis of these definitions and other sources, a note presenting possible elements of definition was drafted and submitted to several rounds of discussion and written comments by the Task Force, given the complexity of this exercise and the need to reconcile the quite different approaches adopted by Member countries.

The consultation process resulted in the identification of two main elements which could be included in a definition of terrorism: “means and effect”, and “intention”.

However, identifying possible elements to define the nature of terrorism acts does not solve the question of the definition of terrorism risks for the purpose of compensation. The Task Force therefore also

¹ “We recognise the adverse effects of the shrinkage of affordable insurance cover for terrorism risks. We would welcome OECD policy analysis and recommendations on how to define and cover terrorism risks and to assess the respective roles of the insurance industry, financial markets and governments, including for the coverage of “mega-terrorism” risks”. See OECD Council at Ministerial Level, 15-16 May 2002: Final Communiqué PAC/COM/NEWS(2002)58.

² Conclusions on the other aspects of the mandate will be reported separately.

analysed the criteria for coverage through insurance mechanisms (insurability criteria), and through other compensation mechanisms (criteria for compensation through mechanisms other than insurance: if these are met, compensation may be granted even though the risk is not insurable). This analysis resulted in a second check-list of elements of definition, qualifying not only terrorism acts, but terrorism acts for which compensation can be granted.

Finally, the Task Force highlighted the importance of a common understanding on the status of this “check-list”, and agreed on the following remarks:

- This work does not aim at a general definition of terrorist acts, but at an attempt to define terrorism for the purpose of compensation;
- This work does not seek to propose a single and exhaustive international definition of terrorism, but to develop a checklist of key elements of definition which OECD countries and non-Member countries could consider. This checklist is therefore illustrative, and can be adapted by the various parties concerned to meet the needs of their specific market and regulatory frameworks as well as their policy objectives. The criteria proposed therefore do not necessarily reflect the elements of definition currently used in all OECD Member countries. Certain countries may also wish to take other criteria into consideration, to help distinguish terrorism from other types of offence. The criterion of affiliation to a group or organisation, for instance, has been successfully used in several Member countries to define terrorist acts³. Similarly, certain countries may not wish to take into account certain elements mentioned for their own definition of terrorist acts. For instance, the concept of “threat” of terrorism is not considered as a relevant element in defining terrorism acts in certain countries.
- OECD work is consistent with existing regional and international rules;
- The definition criteria are not binding. This checklist is presented in the form of a non-binding OECD Recommendation, which invites governments and other concerned entities in Member and non-Member countries to *consider* elements of definition. These elements may be useful, both for governments *establishing* a scheme designed to compensate terrorism related losses and for private sector entities in the insurance sector needing to define terrorism. It is up to these actors to decide whether they want to adopt the proposed elements of definition.
- These elements are formulated in generic form, leaving it to each entity/country to define their own criteria more precisely, possibly quantitatively or qualitatively when relevant, according to their specific policy and technical requirements. For instance, among the elements of definition of the nature of terrorist acts, it is suggested that terrorist acts covered should be those that cause “serious harm”. A more precise definition of what “serious” harm means is left to the concerned entities/states who elect to use this criterion. Similarly, a risk will generally be deemed insurable if the amount of losses entailed does not exceed a certain magnitude corresponding to the capacity of the insurance/reinsurance market (and of the State when it is involved as an insurer/reinsurer in terrorism compensation and if the government does not opt for an open-ended mechanism where the state would cover all losses not indemnified by other actors); the companies/market (and the State when relevant), will have responsibility to assess quantitatively their maximum participation in the insurance process.

³. Many other criteria are also mentioned in the various country definitions of terrorism, such as the fact that terrorist acts should be clandestinely prepared, premeditated, illegal, aiming at being publicized, targeting innocent and civilian victims, etc. The weight given to these criteria being however very different from one country to the other, they have not been listed in the check-list of core definition elements.

The Insurance Committee has approved in July 2004, via the written procedure, this checklist approach and the Council adopted the Recommendation set out in Annex I on 15 December 2004. Annotations explaining the genesis of the checklist are provided in Annex II. Country tables on the definitions of terrorism acts used for compensation purposes in OECD Member countries and Singapore are provided in Annex III.

ANNEX I:

RECOMMENDATION ON THE ESTABLISHMENT OF A CHECK-LIST OF CRITERIA TO DEFINE TERRORISM FOR THE PURPOSE OF COMPENSATION

THE COUNCIL,

Having regard to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14th December 1960;

Considering that, on the occasion of the OECD meeting at Ministerial Level on 15-16 May 2002, Ministers mandated the OECD to develop “policy analysis and recommendations on how *to define* and cover terrorism risks and to assess the respective roles of the insurance industry, financial markets and governments, including for the coverage of “mega-terrorism” risks” [See OECD Council at Ministerial Level, 15-16 May 2002: Final Communiqué PAC/COM/NEWS(2002)58];

Considering that this Recommendation does not aim at a general definition of terrorist acts, but at an attempt to define the concept of terrorism for the purpose of compensation;

Considering that this Recommendation does not aim at proposing a single and exhaustive international definition, but at developing a checklist of key elements of definition which OECD and non-OECD countries could take into consideration; noting that this checklist is therefore illustrative, and can be adapted by the various parties concerned to meet the needs of their specific market and regulatory frameworks or policy objectives; recognising that certain countries may also wish to take other criteria into consideration, to help distinguish terrorism from other types of offence;

Considering that the definition criteria are not binding and that the consideration of these elements may be useful for governments establishing a scheme for the compensation of terrorism related losses and for private sector insurance entities;

Considering that it is left to each country/entity to define its own criteria more precisely, possibly quantitatively or qualitatively when relevant, according to their specific policy and technical consideration;

On the proposal of the Insurance Committee:

RECOMMENDS that Member countries and private sector entities involved in the compensation of terrorism related losses consider, when defining terrorism for the purpose of compensation, the checklist of criteria for definition which is set out in the Appendix to this document of which it forms an integral part.

INVITES non-Members to take due account of the terms of this Recommendation.

APPENDIX

CHECK-LIST FOR A DEFINITION OF TERRORISM FOR THE PURPOSE OF COMPENSATION

This check-list is meant to help private sector entities as well as governments involved in terrorism compensation to define terrorist acts and criteria relevant to determine which terrorist acts can be indemnified, be it through private insurance mechanisms or through other compensation mechanisms. This check-list is illustrative, and neither binding nor exhaustive; it can be adapted by the various parties concerned to mirror specific market and regulatory frameworks or policy objectives.

The following criteria may be considered when defining terrorism acts for the purpose of compensation.

a) elements of definition of a terrorist act, which could include^(a):

Criterion 1 - Means and effects

A terrorist act is:

- an act, including but not limited to the use of force or violence, causing serious^(b) harm to human life, or to tangible or intangible property,
- or a threat thereof entailing serious^(b) harm;

Criterion 2 - Intention

A terrorist act is committed or threatened:

- with the intent to influence or destabilize any government or public entity and/or to provoke fear and insecurity in all or part of the population;
- in support of a political, religious, ethnic, ideological or similar goal.

b) factors of insurability, which could include:

Criterion 3 - Technical insurability^(c), including in principle:

- assessability (probability and severity of losses should be quantifiable);
- randomness (the time at which the insured event occurs should be unpredictable when the policy is underwritten, and the occurrence itself should be independent of the will of the insured);
- mutuality (numerous persons exposed to a given hazard should be able to join together to form a risk community within which the risk is shared and diversified).

Criterion 4 - Economic insurability^(c), which could depend on the following elements:

- magnitude of potential losses: it should in principle not exceed the capacity of the private insurance/reinsurance market or the capacity of a mix of private and public multi-layer mechanisms when these exist. The insurability of the risk will be assessed against the maximum aggregate amount of funds made available by the various potential stakeholders (insurers, reinsurers and, possibly, pooling mechanisms allowing (inter)national spreading of risks, and governments) reflecting their respective capacity. The *quantitative segmentation of risks, i.e. the threshold/sub limits (the nature and the amount of sub-limits, and the basis on which they should be calculated)* should be defined ex ante;
- nature of the potential losses: to be insurable, potential losses should correspond to the lines of business that the available insurance mechanisms are able to cover. The list of business lines to be covered should be defined through an ex-ante *qualitative segmentation of risks*.

-- price of cover: for the risk to be insurable, it should be possible to set an adequate and actuarially fair insurance premium;

Criterion 5 - Legal/regulatory insurability:

Regulatory authorities may decide that a given risk, or type of risk (e.g. worker compensation, business interruption), is - explicitly or implicitly - defined as insurable, for instance through a certification procedure and/or if insurance against this risk is made compulsory. In this case, a risk may be labelled as insurable while other insurability criteria may not be met.

c) factors of compensability (insurance excluded), which could include:

Criterion 6 - Compensability by the State: States need to decide about the possibility of compensation on the basis of their own public policy concerns. The risk should not exceed in magnitude the maximum financial involvement that the State is able or willing to supply for the compensation of losses entailed by terrorism.

Criterion 7 - Compensability through non-governmental mechanisms: the technical characteristics of the risk should allow it to be covered through financial mechanisms other than insurance, for instance bonds placed on capital markets.

^(a) Certain countries may wish to take other criteria into consideration. The criterion of affiliation to a group or organisation, for instance, has been successfully used in several Member countries to define terrorism acts. Similarly, certain countries may wish not to take into account certain elements mentioned for their own definition of terrorist acts. For instance, the concept of "threat" of terrorism is not considered as a relevant element of definition of terrorism acts in certain countries.

^(b) It is left to each country/entity to define the criteria more precisely, possibly quantitatively or qualitatively when relevant, according to their specific policy and technical consideration. It should however be noted that at least one OECD country has adopted a definition of terrorism based exclusively on qualitative criteria.

^(c) It should be remembered that, unless terrorism risk insurance has been made compulsory, the determination of the insurability of a risk by private entities ultimately depends on internal analysis and appreciation of the insurance/reinsurance company(ies) at stake. A (re)insurer may decide, for commercial or strategic purposes in particular, to cover a risk that may not easily meet the theoretical criteria of insurability. It may also decide not to cover a risk, to take into account for instance concerns regarding its solvency situation or the balance of its risk portfolio at a given moment in time.

ANNEX II: ANNOTATIONS

1) RATIONALE OF THE WORK ON THE DEFINITION OF TERRORISM

1.1) Defining terrorism: what for?

One cannot fight against, punish, or insure against terrorism in the absence of a clear understanding of the concept of terrorism. The definition of terrorism has indeed concrete implications from a penal standpoint, insofar as it serves the purpose of classifying punishable acts and establishing correlative sanctions. It also has concrete implications from the particular standpoint of insurers, to delineate the extent of coverage and the scope of their commitments: the amount of compensation and the responsible party for such compensation will vary a great deal, depending on whether the acts are to be qualified as terrorist acts or not.

The events of 11 September 2001 made the various actors in the insurance sector aware of the need to redefine and assess their commitments with respect to terrorism risk. In many States, the risk of terrorism was generally not explicitly mentioned in contracts and coverage for it was extended at no additional cost generally as part of the protection against fire⁴. Since 11 September, however, insurers and reinsurers have radically changed their underwriting practices with respect to these risks and the insurability of terrorism risks has been closely scrutinised. Accordingly, risks of terrorism have been explicitly excluded or covered, with some States offering the possibility of recourse to compensation mechanisms dedicated to insurance against terrorist acts in excess of a specified amount of losses.

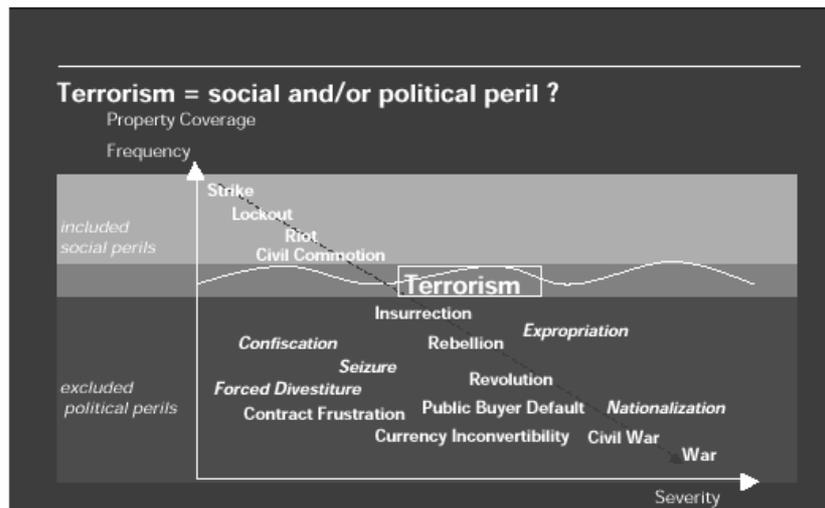
Because it is the subject of an insurance contract, terrorism risk needs to be defined precisely. Insurers and reinsurers must have certainty that the definitions of terrorism used in the clauses of their contracts can be relied upon by all contracting parties.

It is particularly important to distinguish between terrorist acts and other manifestations of violence such as civil war, riots, vandalism, and acts of war, the latter being systematically excluded from insurance cover. Indeed, "terrorism lies on the borderline between political perils, considered as uninsurable by insurers/reinsurers, and socio-political perils, ordinarily covered by those same (re)insurers"⁵.

The detailed drafting of a definition may however need to take into consideration specific features, such as national characteristics. This explains inter alia why the current international exercise was limited to the provision of general criteria which could be considered when developing such detailed definition.

⁴. Some lawmakers had also made insurance against terrorism risks compulsory, as had the French parliament, which stipulated in Article 9 of the Act of 9 September 1986 on the fight against terrorism and breaches of State security that "Property insurance contracts shall not exclude the guarantee of insurance against damage resulting from acts of terrorism (defined herein as acts perpetrated with a view to disturbing public order through intimidation or terror) or attacks committed on national soil".

⁵. *Challenges to the Re-/Insurance Industry*, Swiss Re, December 2001.



Swiss Re

1.2) International consultations and co-operation: what value added?

It is certainly useful to compare and analyse the experience of Member countries, in order to make the elements of a definition of terrorism as precise and relevant as possible: some countries have for long been exposed to terrorist attacks, and had to face well before September 11th the question of definition of terrorism acts that could trigger terrorism compensation mechanisms. Moreover, the variety of terrorism attacks and the numerous legal and economic problems they have raised over the years have forced the most exposed countries to fine-tune their approach of the concept of terrorism.

Information and experience sharing in this respect may also enhance consistency between the different definitions enforced in national markets or sub-markets, and ease the risk management of multinational companies. Reinsurers for instance, who are heavily exposed to the risk of terrorism in many countries, would benefit from a greater comparability of definitions adopted in various national markets.

Furthermore, September 11th 2001 marked the advent of a new type of terrorism radically different from the isolated threats posed by pockets of national or regional terrorists: international terrorism, of unpredictable magnitude, against which no country can claim to be protected. This new threat calls for co-ordinated reflection on an international scale as to what constitutes terrorism in the 21st century, and on the forms and potential magnitude of new attacks, so that terrorism risk can be spread and managed accordingly. Lastly, the issue of definition will be crucial to any consideration that may be given to the introduction of international mechanisms for covering international mega-terrorism risks.

2) **ELEMENTS OF DEFINITION OF TERRORIST ACTS FOR THE PURPOSE OF INSURANCE OR OTHER COMPENSATION MECHANISMS**

2.1) Relevance of past work on a general definition of terrorism

2.1.1) **Defining terrorism: a difficult exercise**

Are attacks on political leaders to be qualified as acts of terrorism? Can terrorism acts be inflicted by a State? Is terrorism always international? Should terrorism acts be physically violent, or is it enough to instil fear? Can a terrorism act be inflicted by an individual not acting on behalf of any specific terrorist

organisation or ideology? Are terrorist goals always political by nature? These questions may be answered differently, according to the definition of terrorism considered.

The word “terrorism” is given a great variety of different - and sometimes contradictory - meanings, depending on political, social, national or cultural bias and on the subjective evaluations of the legitimacy of the cause being defended. Moreover, the diversity and constant changes in the manifestations and motivations of terrorism are a source of confusion.

To identify generic elements of definition of terrorism is therefore a complex exercise. The definition must be broad enough to provide adequate protection to people and property, and yet targeted enough not to encroach unnecessarily upon the economy or the freedom of citizens – freedom of movement in particular – and their quality of life. The Commission of the European Communities recently encountered this difficulty: the definition put forward in its proposed framework decision on combating terrorism, meant as sufficiently wide-ranging to allow optimal protection in times of rising terrorist threat, was considered too broad and contrary to certain social freedoms, and attracted criticism. Likewise, Canada’s Anti-Terrorism Act (Bill C-36) was challenged on similar grounds.

From an insurance standpoint, the same reluctance to delineate the scope of terrorism has been experienced: in particular, when a definition of terrorism is used for purposes of exclusion, it must not be so broad as to jeopardise businesses that could not operate without insurance cover -- this argument had been invoked by a number of US states to reject the definition of terrorism established by the ISO⁶ before the enforcement of the TRIA (US federal Terrorism Risk Insurance Act) -- nor so narrow as to endanger the solvency of insurers/reinsurers.

To circumvent the difficulty of defining terrorism, some legislators resorted to the enumeration of illegal terrorist organisations, or of certain common acts and practices committed by terrorist organisations. However, because terrorism is a fast evolving reality, the forms of future terrorist acts cannot always be anticipated and any list of organisations or acts based on past experience may become rapidly obsolete. A more general approach is therefore necessary.

2.1.2) Controversial developments in international law

International law does not hold out any “ready to use” definition of terrorism that could provide a strong and non-controversial working basis for the insurance sector. A first attempt to arrive at an internationally acceptable definition was made under the League of Nations. A convention drafted in 1937 defined terrorism as “all criminal acts directed against a State and intended or calculated to create a state of terror in the minds of particular persons or group of persons or general public”. This convention, however, never came into existence. In 1992, a report for the UN Crime Branch suggested that acts of terrorism could be defined as the “peacetime equivalent of war crimes”. Also, in 1999, a resolution stated that “criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purpose are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them”⁷. In various other work on terrorism, guidance has also been provided on the ways to define

⁶. ISO (Insurance Services Office, Inc.) is an organisation that develops standardised insurance contracts for use by property and casualty insurers in the United States.

⁷. GA Res.51/210 Measures to eliminate international terrorism.

this concept⁸. While work is still ongoing, for the time being, the UN members do not have an agreed-upon definition of terrorism.

At the European level, the word ‘terrorism’ appeared only recently in the legislation, with the 1977 European Convention on the Suppression of Terrorism,⁹ which was the first international instrument to deal with terrorism in general terms. Although it contains a list of terrorist acts, it does not provide a positive definition of terrorism. In 1999, in its Recommendation 1426, the Council of Europe gave this definition of terrorism: “any offence committed by individuals or groups resorting to violence or threatening to use violence against a country, its institutions, its population in general or specific individuals which, being motivated by separatist aspirations, extremist ideological conceptions, fanaticism or irrational and subjective factors, is intended to create a climate of terror among official authorities, certain individuals or groups in society, or the general public”. A more recent initiative in defining terrorism is that of the Commission of the European Communities, which on 19 September 2001 presented its proposal for a Council Framework Decision on Combating Terrorism [COM(2001)521 final]. In this document, terrorism is defined as “offences, defined according to [the] national law [of each Member State], which are intentionally committed by an individual or a group against one or more countries, their institutions or people with the aim of intimidating them and seriously altering or destroying the political, economic, or social structures of a country”. Moreover, Article 3 of the proposal contains a long list of terrorist offences, which, according to the Commission’s explanatory memorandum, “could include, for instance, acts of urban violence”. This proposal, however, has been criticised, and the Union has been pressed to provide explicit guarantees of the freedoms of association, assembly, and expression and the rights to demonstrate and to organise. As a consequence, the original proposal has been amended and a Council Framework Decision was finally adopted on 13 June 2002¹⁰ (2002/475/JHA - *Official Journal L* 164, 22/06/2002 P. 3 - 7).

⁸ The UN General Assembly, in resolution 51/210 of 17 December 1996, established an Ad Hoc Committee to deal with the issue of international terrorism. Since its establishment, the Ad Hoc Committee has negotiated several texts resulting in the adoption of two treaties: the International Convention for the Suppression of Terrorist Bombings adopted by the General Assembly in resolution 52/164 of 15 December 1997 and the International Convention for the Suppression of the Financing of Terrorism adopted by the General Assembly in resolution 54/109 of 9 December 1999; both conventions, however, delineate the scope of terrorist action without defining it. By the end of 2000, work had begun on a draft Comprehensive Convention on International Terrorism: Article 2 of the draft proposal currently under discussion contains a general definition of offences within the meaning of the Convention, but no final agreement has been reached to date. Under the terms of General Assembly resolution 58/81 adopted on 9 December 2003 (operative paragraph 15), the Ad Hoc Committee shall continue to elaborate a Comprehensive Convention on International Terrorism, as a means of further developing a comprehensive legal framework of conventions dealing with international terrorism. Meanwhile, further to UN Security Council Resolution 1373 (2001) of 28 September 2001, the Commonwealth Secretariat adopted Model Legislative Provisions on Measures to Combat Terrorism in order to provide a flexible tool that countries can use in preparing and enacting domestic law to meet their obligations under said resolution. Model Legislative Provisions of September 2002 presents alternative ways of defining a terrorist act: option 1 defines the offence as not requiring a political, ideological or religious motivation in addition to the intent to intimidate the public or a section of the public, or to compel a government or an international organization to do, or refrain from doing, any act, while option 2 requires such a motive. These definitions, however, are merely intended to provide guidance and are not binding.

⁹ ETS No. 90.

¹⁰ According to Article 1 of this Framework Decision: “(e)ach Member State shall take the necessary measures to ensure that the intentional acts referred to below in points (a) to (i), as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation where committed with the aim of: - seriously intimidating a population, or - unduly compelling a Government or international organisation to perform or abstain from performing any act, or - seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation, shall be deemed to be terrorist offences: (a) attacks upon a person's life which may cause death; (b) attacks upon the physical integrity of a person; (c) kidnapping or hostage taking; (d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss; (e) seizure of aircraft, ships or other means of public or goods transport; (f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of,

2.2) Identifying elements of a definition of terrorist acts workable for insurance or other types of compensation purpose

As mentioned above, international law does not provide for a definition of terrorism agreed upon on a world-wide basis that would be relevant for insurance purpose. At the European level, the Council Framework Decision of 13 June 2002 (2002/475/JHA) does not seem to have been used, so far, as an explicit reference to define terrorism for insurance purposes. Decision makers in the insurance sector had sometimes recourse to definitions enforced at national level, in criminal law for instance. Yet, such definitions are not available in all jurisdictions since only some legislatures have taken the initiative of defining terrorism.¹¹ Also, in a given country, the definition used even by various governmental entities may not always be the same¹².

Many actors in the insurance sector have therefore developed an operational definition, tailored to the specific constraints of insurance/other types of compensation (in most countries, general legal definitions of terrorism, when they exist, are indeed not imposed on insurers, who may use it or not as they see fit). Initiatives in this regard came from individual insurance or reinsurance companies, insurers' associations, or the State - when specific terrorism compensation mechanism involving State guarantee had been established. Following the 11th September attacks, governments have been called upon to play an at least transitory role in many OECD countries, to cover major terrorism risks in particular. Given the political and international dimension of terrorism risk and its potential extreme magnitude, and because of this often new role of the State as a potential actor in the compensation of losses, the involvement of the State in establishing a definition of terrorism for insurance purposes appears relevant. The degree of a State's involvement in defining terrorism may vary, depending on whether it takes part in efforts to formulate a definition, proposes a legal definition or requires political authorities to review acts deemed to be acts of terrorism, and decide whether the acts can be certified as such.

The existing definitions of terrorism used for insurance purposes in OECD Member countries have been collected by the Task Force via a questionnaire. The comparison and analysis of country replies to this questionnaire provides a strong basis to identify key elements of the definition of terrorism. A set of possible definitional elements was subsequently submitted to several rounds of consultation and redrafting by both the Terrorism Insurance Task Force and the Insurance Committee experts.

At the term of this consultation process, it appeared that a definition of terrorism may include the following elements:

- Means and effects:

biological and chemical weapons; (g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life; (h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life; (i) threatening to commit any of the acts listed in (a) to (h)". It is also expressly stated that the Framework Decision shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.

¹¹ For instance "in the European Union, there are different situations in Member States in relation to legislation related to terrorism. Some have no specific regulations on terrorism. In these States, terrorist actions are punished as common offences. In other Member States there are specific laws or legal instruments concerning terrorism where the words 'terrorism' or 'terrorist' are expressly mentioned and where some terrorist offences are expressly typified. This is the case in France, Germany, Italy, Portugal, Spain and the United Kingdom." *Explanatory memorandum preceding the Proposal for a Council Framework Decision on Combating Terrorism* [COM(2001)521 final].

¹² In the US for instance, federal agencies failed to agree on a common definition of terrorism. A report by the House Permanent Select Committee on Intelligence subcommittee on terrorism and homeland security had found that practically every agency of the US government with counterterrorism mission uses a different definition of terrorism.

Terrorism is manifested by an act, including but not limited to the use of force or violence, causing serious harm to human life, tangible or intangible property, or a threat thereof entailing serious harm.

– Intention:

A terrorist act is committed or threatened:

- with the intent to influence or destabilize any government or public entity and/or to provoke fear and insecurity in all or part of the population;
- in support of a political, religious, ethnic, ideological or similar goal.

3) **ELEMENTS OF A DEFINITION OF INSURABLE/COMPENSABLE TERRORIST ACTS**

Defining the nature of terrorism acts does not however solve the key question for the purpose of compensation, which is the definition of insurable or at least compensable terrorism risks.

After defining terrorist acts, the two following concepts should therefore be clearly defined:

- insurable terrorist acts (acts meeting the criteria for insurability),
- terrorist acts that can be compensated via mechanisms other than insurance (since they do not meet the criteria for insurability).

3.1) **Terrorism risk insurability: a complex and fast evolving concept**

3.1.1) **Criteria for insurability¹³ of terrorism risk**

This paper will not explore in detail the general criteria for insurability, which is clearly beyond the scope of this brief note. It will focus on the practical insurability challenges and criteria for terrorism risk, as well as on the impact of September 11th on terrorism insurability.

Conditions of insurability have been extensively reviewed in the literature¹⁴. They can for instance be summarised under the following headings¹⁵: (a) regulatory and legal constraints; (b) the potential for the pooling of risk exposures; (c) sufficient information to price insurance contracts; (d) an acceptable level of moral hazard; (e) the financial capacity to absorb extremely large losses; and (f) commercial feasibility, which allows insurers to charge adequate and actuarially fair prices in order to earn an acceptable rate of return on their capital. This list of criteria, which is not exhaustive, could be categorized as follows:

¹³. This chapter focuses on the criteria of insurability by private entities. It should nevertheless be reminded that States may also act as (re)insurers, most often on top of private (re) insurance mechanisms. In this case, capacity or price setting issues for instance are obviously not stated in the same terms.

¹⁴. See, among others, Berliner, B. (1982) *Limits of insurability of risks*, Englewood Cliffs, NJ, Prentice-Hall, Inc, Faure, M.G. 1995: *The limits of insurability from a Law and Economics Perspective*, Geneva Paper on risk and insurance, 454-462; Skogh, G. (1998), *Development risks, strict liability and the insurability of industrial hazards*, Geneva Paper on risk and insurance, 87, 247, etc.

¹⁵. See Pr G. Dickinson, July 2002, *Insurability challenges for large terrorism and natural catastrophe risks*, OECD_(unpublished manuscript).

- **Technical insurability**, including in principle:
 - assessability (probability and severity of losses should be quantifiable);
 - randomness (the time at which the insured event occurs should be unpredictable when the policy is underwritten, and the occurrence itself must be independent of the will of the insured);
 - mutuality (numerous persons exposed to a given hazard should be able to join together to form a risk community within which the risk is shared and diversified).
- **Economic insurability**, which could depend on the following elements:
 - magnitude of potential losses: it should in principle not exceed the capacity of the private insurance/reinsurance market or the capacity of a mix of private and public multi-layer mechanisms when these exist. The insurability of the risk will be assessed against the maximum aggregate amount of funds made available by the various potential stakeholders (insurers, reinsurers, governments, and possibly pooling mechanisms allowing (inter)national spreading of risks, and governments) reflecting their respective capacity. The *quantitative threshold/sub limits* - their *nature*, their *amount*, and the *basis on which they should be calculated* - should be defined ex ante;
 - nature of potential losses: to be insurable, potential losses should correspond to the lines of business that the existing insurance mechanisms are able to cover. The list of business lines to be covered should be defined through an ex-ante *qualitative segmentation of risks*.
 - price of cover: for the risk to be insurable, it should be possible to set both adequate and actuarially fair insurance premium;
- **Legal/regulatory insurability**¹⁶:

Regulatory authorities may decide that a given risk, or type of risk (e.g. worker compensation, business interruption), will be - explicitly or implicitly - defined as insurable for instance through a certification procedure¹⁷ and/or if insurance against this risk is made compulsory. In this case, a risk may be labelled as insurable while other insurability criteria may not be met.

3.1.2) The evolution of insurability of terrorism risk since September 2001

Since September 2001, the appreciation of terrorist risk insurability against these criteria has evolved rapidly. Terrorism risks potentially comprise events of such magnitude and diversity that, after the heavy losses incurred in the wake of the attacks of 11 September 2001, insurers and reinsurers have preferred to adopt a prudent stand and exclude them altogether as uninsurable or restrict drastically the cover while substantially raising the level of premium. This trend has since slowed down as several private operators

¹⁶ National policy considerations may sometimes play a decisive role in the decision to indemnify certain risks, even though they may not easily meet more theoretical criteria of insurability.

¹⁷ Certification appears as a useful criterion, although it raises complex policy issues. This criterion has been made compulsory in the US for instance. In this country, terrorism acts can be insured through TRIA only after a governmental representative has certified that the acts considered were terrorism acts. To be effective, the certification by a governmental representative can usually not be subject to appeal. Such certification is certainly a guarantee of seriousness in the examination of the nature of the act, although the certification may also induce some political bias: through the certification requirement, the legal determination of an act of terrorism could be turned into a more political determination. The certification procedure also creates timing issues and uncertainties, which are difficult to cope with for insurers – these reasons have been put forward in Spain to abolish the certification procedure.

were ready to come back on this market and take advantage of potentially profitable niches. The present situation regarding terrorism insurability is therefore generally more balanced, and the scope of terrorism insurance offer has been widened. Nevertheless, insurers and reinsurers have adopted very selective underwriting practices, and market perspectives remain very hard to predict.

3.1.3) Main factors behind the evolution of insurability of terrorism risks

Terrorism risk poses serious challenges to the insurance market. The frequency, magnitude and location of future terrorist attacks are obviously difficult to predict: for lack of relevant statistical series on past attacks comparable to those of September 11th 2001¹⁸, and faced with events dictated by terrorists intentions, that are less decodable that could be for instance certain meteorological parameter preceding natural catastrophes, insurers are left deprived of key risk management tools. Other technical obstacles also hinder insurability, and in particular: the problems encountered in pooling these risks, their high concentration and correlation (making prevention even more complex), adverse selection phenomena, or the difficulties to estimate the probability and magnitude of damages for potentially ubiquitous risks. These obstacles, first considered as insurmountable, still explain insurance and reinsurance market difficulties to cope with terrorism risk.

Nevertheless, recent changes in market response to terrorist risks reflect a certain evolution in the ability of insurers/reinsurers to manage them. The sophistication of private insurance techniques to respond to the new forms of terrorism risks, and in particular the dynamism in the area of terrorism risk modeling¹⁹, is certainly encouraging – even if such models are necessarily more subjective than models relative to natural or industrial catastrophes. Consequently, some of the technical obstacles to terrorism insurability may progressively be lifted, even though several characteristics of terrorism risks mentioned above structurally hinder insurability for certain lines of business, and above certain amount of losses.

The other decisive evolution in favour of insurability has been the supply of new capacity. After the attacks on the WTC, the fear that capacity may not be sufficient to absorb new terrorism risks was one of the major obstacles to insurer involvement. In response to the capacity problem, many have endeavoured to accelerate capacity building in the terrorism insurance business. Certain companies have recapitalised the terrorism insurance activity while several new ventures have been created. Various pooling mechanisms have also been designed to make up for the limited financial capacity of individual entities.

Lastly, a decisive impetus in many markets was given by governments, willing to best protect their citizens and commercial entities, and to avoid major disruption in economic activity. State backing, and the enforcement of private and public/private mechanism specifically devoted to the coverage of terrorism risks, has proven to be a key condition of private players' involvement on the terrorism market above a certain level of risk exposure.

3.2) Compensation through non insurance mechanisms

If a risk cannot be covered through insurance mechanisms, compensation for losses resulting from its occurrence may nevertheless be compensated, if it meets the criteria required for:

¹⁸ Even though some 20 000 acts of international terrorism have been recorded in the last 30 years (See Swiss Re in *Terrorism risks in property insurance and their insurability after September 2001* (2003), the WTC attacks had no precedent, in particular with regard to their magnitude. Past statistical material was therefore not sufficient to foresee any such attack and will also be of limited relevance for the modelling of possible future mega terrorist acts.

¹⁹ Endeavours in this area are lead by the three main modeling firms: Applied Insurance Research, EQECAT and Risk Management Solutions. These firms have developed sophisticated models based on extensive data bases allowing in particular an assessment of the impact of a large number of terrorism attack scenarios.

- **Compensation by the State:** States need to decide about the possibility of compensation on the basis of their own public policy concerns. The risk should not exceed in magnitude the maximum financial involvement that the State is able or willing to supply for the compensation of losses entailed by terrorism, without endangering national economic equilibrium;
- **Compensation through non-governmental mechanisms:** the technical characteristics of the risk should allow it to be covered through financial mechanisms other than insurance, for instance bonds placed on capital markets²⁰.

The organisation of compensation of terrorism risks through non insurance mechanisms has also gone through important changes since September 11th. As it is meant to complement or replace a limited insurance capacity, it obviously mirrors the awareness of terrorism threat, as well as the trends in insurability, and in particular the changing technical characteristics of the risks to be covered, the difficulties or progress of the insurance market in the management of these new risks, or national market capacity and reinsurance availability.

Since the WTC attacks and the shrinkage of insurance/reinsurance capacity, several governments have offered to complement insurance mechanisms with other types of compensation, such as credit lines or free compensation of losses above a certain amount of damages. Such State involvement as a provider of non insurance compensation should be distinguished from the involvement of States as providers of additional insurance/reinsurance capacity, also organised in several countries.

Besides, the shrinkage of capacity following September 11th was seen as an opportunity for new financial market instruments (comparable to those created to cover natural catastrophe risks in the mid 90s'), and "terrorism bonds" in particular, to develop as alternatives to limited and expensive insurance/reinsurance products. However, these transactions remain comparatively expensive and complex, while the underlying risk – the frequency and severity of terrorist attacks - is perceived by investors as difficult to assess. While two transactions covering terrorism risk (bundled with other risks) have been initiated in 2003, by the FIFA and Swiss Re respectively, these alternative risk transfer solutions are not expected to increase substantially market capacity.

3.3) Towards quantitative and qualitative criteria of insurability and compensability

Beyond the identification of general criteria for insurance or other forms of compensation, each operator and/or market (when a national compensation scheme is established), has to define quantitative and qualitative criteria to determine what type of risks can be covered, by which entity or mechanism, and up to what amount. This could be done through:

- Quantitative thresholds, reflecting the maximum amount of losses insurable by a given coverage mechanism (individual insurer/reinsurer, private pool, State when involved, etc...), and ultimately the limit of global national capacity above which a risk would need to be excluded as currently impossible to compensate.
- A qualitative classification of the nature of potential losses i.e. mainly of insurance lines involved (private/commercial lines, third party liability, business interruption, worker compensation, etc.)

²⁰. Financial markets can provide a complementary capacity to conventional insurance and reinsurance markets; they are particularly attractive in case of shrinkage of insurance/reinsurance offer and consecutive rise in premiums.

differentiating between those that can be covered and those that need to remain excluded under a given terrorism coverage mechanism.²¹

3.3.1) The quantitative criterion: defining the maximum amount of losses that can be absorbed by each party involved in terrorism risk coverage

- *Level of sub-limits delineating the scope of intervention of the various stakeholders*

The insurability of terrorist risks, and the type of insurance mechanism requested to cover a risk, could be determined according to pre-defined thresholds/sublimits delineating the scope of intervention of the various players. Risks could therefore be classified according to the type of coverage mechanisms or “layer” to be triggered when claims arise. One could differentiate, at the national level, between:

- *Privately insurable terrorism risks, i.e. terrorism acts that meet the insurability criteria and in particular that of adequacy between risk magnitude and insurance capacity: these risks involve human and economic damages that would not exceed the private market capacity (insured retention + insurer intervention - backed by reinsurance treaties and possibly by pooling mechanisms);*
- *Risks insurable through national private/public partnership (when existing), i.e. risks that meet the technical insurability criteria but exceed the private insurance/reinsurance market capacity*
- *Risks currently uninsurable although they can be compensated through State support or through (non-insurance) financial mechanisms. This would refer to risks that fail to meet the insurability criteria, but for which the State would accept to offer compensation through a non insurance mechanism, or which could be covered through other financial mechanisms such as the securitisation of terrorism risk.*
- *Risks that cannot currently be indemnified at the national level²², since they involve damages potentially exceeding a country’s financial capacity - or willingness - to compensate for market failure and to compensate for losses, without endangering the national economy.*

This categorisation of risks is obviously fluid, since it relies on fast evolving risks, insurance techniques and degree of State involvement.

- *Nature of thresholds : measuring the magnitude of losses*

There are several options to measure the importance of damages incurred and define the nature of intervention thresholds.

- The extent of the damage can be measured primarily by the **number of losses of human life and bodily injuries**. The definition drawn up jointly by the ISO and the NAIC in the United States before the Terrorism Risk Insurance Act was passed was illustrative of this approach. It included

²¹ Some countries also added differentiation relating to other qualitative characteristics than the line of business involved. They may for instance introduce *causality* clause: until 2002 the Pool Re scheme in the UK only covered commercial property damage and consequent business interruption costs arising from an act of terrorism which results in fire and explosion. Since 2002, however, the scheme was extended to cover acts of terrorism which cause commercial property damage and consequent business interruption by “all risks” (though with some exclusions, for instance for war risks). In the US, a qualification of *nationality* applies: only international terrorism acts (those by non-US citizens) are indemnified under the TRIA. Such qualifications are however rare and country specific; it was therefore thought that they should not appear among general elements of definition.

²² Even with the support of reinsurance markets (international by nature).

not only qualitative criteria for characterising a terrorist act, but also quantitative criteria, and in particular a threshold of 50 seriously or fatally injured victims.

- The **amount of the financial damage incurred** is another possible criterion, which has generally been adopted by the schemes currently in existence.

When a terrorism insurance scheme is introduced, an amount of damage needs to be defined, that will delineate the scope of intervention of the individual insurers and that of the scheme. Such schemes usually cover risks above a certain critical mass. Under the US Terrorism Risk Insurance Act for instance, an act must cause at least \$5 million in damage to be covered by the programme.²³ In France, GAREAT covers only risks of an insured value above Euro 6 million. In Germany, Extremus AG covers risks of and insured value above Euro 25 million.

At the other end of the risk spectrum, a maximum amount of losses that can be covered may also be defined. In the absence of an international compensation mechanism, extreme risks remain uncovered, since State intervention itself is capped, *de jure* or *de facto*. The maximum amount of losses for which compensation can be granted is therefore defined as the available capacity of the private market to cover terrorism risk, or, in case of State guarantee, as the estimated maximum financial involvement that the State is able or willing to supply for the compensation of losses entailed by terrorism, without endangering national economic stability. This upper limit may for instance correspond to the \$100 Bn per year set in the USA for State involvement²⁴, or to the Euro 8bn limit fixed in Germany. It should however be highlighted that several countries have opted for an open-ended state guarantee system. The UK and Spain have experienced success with such schemes for many years. More recently, France has also chosen not to set any ceiling to State intervention: the State will reinsure the GAREAT pool above Euro 2bn for 2004, 2005 and 2006. Similarly, the Australian scheme does not stipulate the maximum loss amount that can be indemnified. It was decided to cover all losses that result from defined acts of terrorism, with the insurance industry retaining the first layer of loss of \$A10M per event (but with the retention of each individual insurer capped at \$A1M per year). If insured damage exceeds the total of \$A10.3bn plus the retention, a reduction factor is applied to payouts.

The various thresholds differentiating the risks according to their magnitude can be established on different bases: event vs. time period, single company vs. entire market, upon each company performance, as measured by its market share or amount of premiums collected, etc. While the definition of threshold is necessary, a certain amount of flexibility should be maintained. The possibility to opt for a case-by-case examination by competent authorities of the importance of the damage incurred could also be left open. This solution may prove more operational in case of damage to intangible goods, public health, electronic systems or caused by business interruption – the magnitude of which may not be easily and rapidly quantifiable. Lastly, possibilities of weighting various thresholds could be contemplated as well.

3.3.2) The qualitative classification: defining which lines of business the various insurance coverage mechanisms can cover

Risks also need to be segmented qualitatively. If a given risk (e.g. attack of a commercial building) is qualified as insurable, it most often does not follow that all lines of business where losses may be suffered will be covered: this will (for terrorism as for other types of risks) need to be defined ex-ante.

²³ The US Terrorism Insurance Act will expire in December 2005 and its extension is uncertain at this stage. Consequently, one might expect a change in the definition of a terrorist act used in the US for insurance purposes after that date.

²⁴ Beyond this cap, Congress will determine the sources and procedures for the excess payments.

It is interesting to note in this respect that the various countries that have set up schemes benefiting from public guarantee to insure terrorism risks are not always covering the same types of losses. The exclusion of certain insurance lines, such as third party liability, has been debated at length in several countries. In countries like Germany, it was a condition sine qua non for government intervention that the insurance industry should provide sufficient capacity in life, health, accidents and liability insurance to cover the risk of terrorism in these areas. Workers compensation (covered even in case of war under the US scheme, but excluded by the UK Pool Re for instance)- or bodily injury - are not treated the same way across borders. Lastly, the list of covered losses may also evolve in a given country, further to market or political developments for instance.

3.4) Theoretical and actual insurability: the issue of price

One of the criteria for insurability refers to the possibility of setting economically adequate premiums. This implies that, for the insurer, certain technical characteristics of the risks be gathered to allow for a premium commensurate with the risk to be calculated (the “actuarially justified premium”). Meanwhile, on the demand side, the set level of premium should also be considered as affordable by potential insured parties.

Several years after September 11, 2001, the relationship between premium rates and insurability turns out to be an issue more complex than could have been expected. Directly after the WTC attacks, insurance cover was provided for certain limited risks, however at costs often viewed as unaffordable by potential buyers. While insurance premiums have tended to decrease since 2003 in the United States²⁵, the demand for terrorism insurance remains low to date in most OECD markets. The main reasons behind this low insurance penetration as explained by potential insureds are mainly that the perceived risk of another attack has declined since 2001 (due to a general tendency to believe that catastrophe risk reduces over time after a disaster, and despite the occurrence of new attacks, such as the 2004 Madrid bombings), and also the level of premium for terrorism coverage, which remains high. The issue of premium level should therefore remain a key concern for governments aiming at enhancing terrorism risk insurability in the future.

²⁵ Marsh (2004), *Marketwatch : Property Terrorism Insurance*, April 2004

**ANNEX III: DEFINITIONS OF TERRORISM ACTS FOR THE PURPOSE OF COMPENSATION
IN OECD COUNTRIES AND IN SINGAPORE²⁶**

Country	Status of definition of terrorism	Intention of terrorist act	Identification of authors/people behind the act	Means used	Targets/effects
Australia	Contained in s.5 Terrorism Insurance Act 2003 Act of terrorism has to be certified by the Commonwealth Treasurer, after consultation with the Commonwealth Attorney-General.	Action done, or threat made, with the intention of advancing a political, religious or ideological cause, with the intention of coercing or influencing by intimidation the government of Australia or the Australian States or Territories, or a foreign country, or intimidating the public.	Not specified	An act (or threat of an act), that is not advocacy, protest, dissent or industrial action, that causes specified damage.	An action that causes serious harm to a person, serious damage to property, causes death or endangers life or creates a serious health or safety risk, or seriously interferes with, or disrupts or destroys an electronic system.
Austria	Industry definition	To influence the government or put the public or any section of the public in fear.	Terrorist organisations or individuals NB: Standard policy conditions for property and loss insurance excludes inter alia damages incurred as a consequence of acts of violence committed by (political or) terrorist <u>organisation</u> (not defined). Such damage can only be covered through a special agreement.	Act or threat of violence	Human life, tangible or intangible property or infrastructure

²⁶ Singapore is currently observer in the Insurance Committee.

Belgium	Royal Decree on simple fire risks: terrorism (or sabotage) defined as a sub-division of the attack	Ideological, political and social aims: either to impress the public and create a climate of insecurity (terrorism), or to hinder the movement or normal functioning of a service or enterprise (sabotage)	Individual or group	Action organised clandestinely	Attacks on people or destruction of goods
Czech Republic	Internal definition of the office of the State Supervision in Insurance and Pension Funds	Claiming the views and will of an individual or a group of people with the aim to overpower individual or social resistance towards the said views and will tokens	Individual or group	Use of physical or psychological violence	Not specified
France	Article L421-1 of the Criminal Code (no distinction between the notions of “attack” and “terrorist act”)	Seriously and intentionally disrupt law and order	Individual or joint undertaking	Intimidation or terror	List of offences: 1. Deliberate attempts on people’s lives, deliberate attacks on people’s wellbeing, abduction and false imprisonment, as well as the hijacking of aircraft, ships and any other means of transport; 2. Theft, extortion, destruction and damage, as well as computer-related crime; 3. Offences relating to combat groups and movements that have been disbanded; 4. The manufacture or possession of arms, lethal weapons and explosives, as defined in Article 3 of the Act of 19 June 1871 repealing the Act of 4 September 1870 on the manufacture of weapons of war; - the production, sale, import or export of explosive substances, as defined in Article 6 of Act No. 70-575 of 3 July 1970, amending the regulations applying to explosive powders and substances.
Germany	Definition of EXTREMUS AG	Acts committed for political, religious, ethnic or ideological purposes suitable to create fear in the population or any section of the population and thus to influence a government or public body	Persons or groups of persons	The insurer shall indemnify, if this has been specially agreed, in respect of insured property which is destroyed, damaged or lost due to: a) fire, explosion, b) impact or crash of aircraft or aerial bodies and vehicles, also craft, of all kinds, their parts or their cargo, c) other malicious damage, insofar as the mentioned perils are caused by an act of terrorism committed in the Federal Republic of Germany.	

Hungary	Act No IV of 1978 on the Criminal Code, Section 261 (the amendment for Acts of Terrorism came into effect: 1 March 2003)	See Act No IV of 1978 on the Criminal Code, Section 261	See Act No IV of 1978 on the Criminal Code, Section 261	See Act No IV of 1978 on the Criminal Code, Section 261	See Act No IV of 1978 on the Criminal Code, Section 261
Italy	Industry definition provided by ANIA (Italian Association of Insurance Companies) Reference definition pertaining to the insurance and reinsurance sector (i.e. insurance and reinsurance companies have agreed on this definition of terrorism risk). It does not have any legal relevance and is not binding for undertakings.	Action intentionally taken or even only threatened in order to frighten, to condition or to destabilise a country, its population or part of it	One or more persons belonging to organised groups	Not specified	Not specified
Luxembourg	The law on the RC of motorised land vehicles brings in a definition of what constitutes a terrorist act. No other positive definition	Acts organised and perpetrated for ideological, political, economic or ethical reasons, with the intention of impressing a government and/or spreading fear amongst all or part of the population	Individual or one or more groups of people acting on their own or on behalf of or in conjunction with one or more organisations	Violent operation	Not specified
Netherlands	Definition used for the operation of the Terrorism Risk Reinsurance Company (start of activities: 1 July 2003)	Attacks or series of attacks likely to have been planned or carried out with a view to serve certain political and/or religious and/or ideological purposes	Whether or not in any organisational context	Any violent act and/or conduct – committed outside the scope of one of the six forms of acts of war as referred to in Article 64(2) of the Insurance Business Supervision Act [1993 wet toericht verzekeringsbedrijf] – in the form of an attack or a series of attacks connected together in time and intention, as a result whereof injury and/or impairment of health, whether resulting in death or	Acts against persons and property of any nature.

				not, and/or loss of or damage to property arises or any economic interest is otherwise impaired	
Norway	Report of the Task Force of the Norwegian Financial Services Association (17 December 2001); definition not yet widely introduced by Norway's insurance industry	Influencing a political, religious or ideological body, or spreading fear	Not specified	Criminal and harmful act (e.g. an act of violence or the harmful dispersal of biological or chemical substances)	Aimed at the public
Singapore	Definition for industrial risks:	Acts committed for political purposes and designed to spread fear amongst all or part of the population.	Individuals or groups of individuals acting on behalf of or in connection with an organisation	Use of violence	Not specified
	Definition for personal insurance (accident/travel, etc.):	Acts committed with the object of overthrowing or influencing a <i>de jure</i> or <i>de facto</i> government			
Slovak Republic	Insurance association definition	To influence the government and/or plunge the population, or part of the population into a state of fear	Any person or group of people acting alone or on behalf of or in connection with organisations or governments committed to political, religious, ideological or ethical purposes or reasons	Any act including, but not limited to, the use of force or violence, or the threat thereof	Human life, tangible and intangible property and infrastructure
Spain	Definition of the risks covered by the Consortium (no prior government statement is needed in order to compensate for damage under this heading)	Acts committed with the object of destabilising the established political order or generating fear and insecurity in the social environment in which they are perpetrated	Not specified	Act of violence	People and goods
	Specific case of state terrorism Criminal Code definition of terrorism (Section 2, Art. 571)	Disrupt the Constitution or seriously undermine law and order	Members of armed factions or people working for or in co-operation with armed factions, organisations or groups whose aim is to disrupt the Constitution or seriously undermine law and order	Acts of destruction or fires started deliberately	Not specified

Sweden	No definition in the insurance regulations or any issued by the financial supervisory authority Definitions given hereafter are collected from insurers by way of example.	Illegitimately affect, damage or displace governments, other organs of state, associations of states or the public. Some definitions require the aim or intent to be religious, political, ideological, social or ethnic. Such intent is however probably difficult to prove or disprove. It may be difficult to separate terrorism from civil war or the resistance against occupation or an invading state that falls under the Geneva Convention.	Individuals, groups of individuals or organisations	Acts of violence or threats or the creation of fear of such actions. Specific means or instruments can be mentioned explicitly in some definitions	The public
	1 st Example of definition	Acts that appear to be committed with the intention of influencing a political, religious or ideological body, or spreading fear	Not specified	Harmful criminal acts E.g.: acts of violence or the dispersal of biological or chemical substances	The public
	2 nd Example of definition	To influence the government and/or to put the public, or any section of the public in fear	Any person or group(s) of persons acting alone or on behalf of or in connection with any organisation(s) or government(s) committed for political, religious, ideological or similar purposes	Any act including, but not limited to, the use of force or violence, and/or the threat thereof	Human life, tangible and intangible property and infrastructure
Switzerland	Definition of the insurance association	In pursuit of political, religious, ethnic, ideological or similar purpose which may result in putting the public or any section of the public in fear or influencing any government or governmental organisation.		Act or threat of violence. The definition shall not include civil unrest (act of violence against persons or property committed in the course of unlawful assembly, riot or civil commotion or associated looting)	

Turkey	Definition of terrorism used in insurance contracts in line with the Counter terrorism Act of 1991.	Any organisation attempted by a person or persons belonging to an organisation, with the aim of altering the political, legal, social, secular and economic order of the country, destroying the unity of the State with its nation and territories, weakening, destroying or capturing the state authority, eliminating the basic rights and freedoms, disrupting the domestic and foreign security of the State and public order or general health.	Oppression, use of force and violence, intimidation, terrifying or threat.	Harm to people, damage to tangible or intangible property.
United Kingdom	Reinsurance (Acts of Terrorism) Act 1993 (for Pool Re arrangements in Great Britain – other arrangements apply in Northern Ireland).	Acts of persons acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of her Majesty's government in the United Kingdom or any other government de jure or de facto.	Not specified	Targets are not specified in the definition of terrorism itself. However, the Pool Re scheme is limited to damages to commercial property and consequent business interruption costs arising from an act of terrorism.
United States	Terrorism Risk Insurance Act of 2002 – Public Law 107-297 An act of terrorism is an act certified by the Secretary of the Treasury in concurrence with the Secretary of State and the Attorney General of the United States; Any certification or decision not to certify an act or event as an act of terrorism shall be final and may not be subject to judicial review; Acts or events committed in the course of a war declared by Congress, or losses resulting from acts or events which, in aggregate, do not exceed \$5 000 000, shall not be certified as terrorist acts	Part of an effort to coerce the civilian population of the United States, or to influence policy or affect the conduct of the US by coercion	Committed by one or more individuals acting on behalf of any foreign person or foreign interest	Violent act or dangerous act Endanger human life, property or infrastructure Result in damages within the United States, or outside the US in the case of an attack of an air carrier or vessel, or premises of a US mission.