

Chapter 14

Prevention of Terrorist Financing

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This chapter on the prevention of the financing of terrorism will examine the international instruments and mechanisms in place to identify and prevent terrorist financing and describe and analyze the roles of the bodies involved in countering terrorist financing. It will also provide a general overview of some national-level programs, including the role of domestic financial intelligence units (and the different types generally employed.) The bodies, laws, regulations, and norms in place to prevent terrorist financing will be examined in the context of a terrorist financing framework that explores how terrorists raise, use, move, store, manage, and obscure their funds, and how (and to what extent) these bodies are able to detect such activities. Finally, a brief analysis will be offered on their role in detecting and preventing organization and operational financing, drawing the distinction between how terrorist organizations finance their activities, and how terrorist cells and individual actors finance their plots and attacks.

Keywords: counterterrorism, Egmont Group, financing of terrorism, financial intelligence units (FIUs), Financial Action Task Force (FATF), international convention, kidnapping, money laundering, ransom, United Nations, United Nations Office on Drugs and Crime (UNODC), United States.

Before the terrorist attacks of 11 September 2001, countering the financing of terrorism (CFT) was a nascent aspect of counterterrorism in the international community. The 9/11 terrorist attacks ushered in a new era of counterterrorist financing cooperation and action while building on pre-existing norms, specifically the United Nations' (UN) International Convention for the Suppression of the Financing of Terrorism,¹ adopted in 1999. Following those momentous terrorist attacks, the US and its allies led the international community in creating new norms and regulations, essentially demanding international action to counter the financing of terrorism. This action has primarily taken the form of the criminalization of terrorist financing at the international and national levels, the establishment of international norms to counterterrorist financing, and the provision of technical assistance to help individual jurisdictions achieve the international standard for preventing the financing of terrorism within their borders and internationally.

Shortly after the attacks, on 23 September 2001, President Bush issued Executive Order 13224, ordering the freezing of assets and blocking of transactions by individuals and entities associated with or supporting Al-Qaeda, Osama bin Laden, and other listed groups. Days later, on 28 September 2001, UN resolution 1373 (2001)² was adopted by the Security Council under Chapter 7 of the UN Charter, an action that made the resolution binding on all UN member states. The resolution calls on states to prevent and suppress financing and preparation of any acts of terrorism. Other international bodies followed suit: the Financial Action Task Force (FATF), the pre-eminent norm-setting body on money laundering (established in 1989) also adopted terrorist financing as part of its mandate in October 2001.³ The focus of these orders, regulations, and recommendations included encouraging countries to criminalize terrorist financing, to create or expand financial intelligence units to include the investigation and prosecution of terrorist financing offences, and to create the mechanisms for freezing terrorist assets. The FATF also created international "grey" and "black" lists, essentially a designation of certain countries for their inaction on countering money laundering and terrorist financing. These efforts remain ongoing, although in more recent years, efforts to counter the financing of terrorism have also increasingly relied on public-private partnerships.

Since 9/11, a veritable industry of counter-terrorist financing bodies and activities has emerged. The international structures and programs that have been created or adapted to counter the financing of terrorism include the FATF, the Egmont Group, parts of the UN including the UN Office on Drugs and Crime (UNODC), among others. Other bodies that have a role in detecting or deterring terrorist financing include the UN Sanctions Monitoring committee, the World Bank, Interpol, the Organization for Economic Co-operation and Development (OECD) and the International Monetary Fund (IMF). Non-governmental organizations, including not-for-profit entities, have also created programs for technical assistance in countering terrorist financing. National level structures and programs to counter and prevent the financing of terrorism have also been developed and include the creation or expansion of financial intelligence units and dedicated investigative agencies or task forces.

This chapter will examine the international mechanisms in place to prevent terrorist financing and describe and analyze the roles of the international bodies involved in countering terrorist financing. This chapter will also provide a general overview of national-level programs, including the role of domestic financial intelligence units and the different types generally employed. The bodies, laws, regulations, and norms in place to prevent terrorist financing will be examined in the context of a terrorist financing framework that explores how terrorists raise, use, move, store, manage, and obscure their funds, and how (or if) counter terrorist financing actors are able to detect these activities. A brief analysis will be offered on the role of these mechanisms and institutions in detecting and preventing organizational and operational financing, drawing the distinction between how terrorist organizations finance their activities, and how terrorist cells or individual actors finance their attacks or plots. Finally, an

examination of these prevention efforts will be undertaken in the context of the prevention framework developed in chapter 2 of the present Handbook.

What is Terrorist Financing?

Before launching into a description and analysis of the technical aspects of countering terrorist financing (CTF), it is useful to articulate and describe what exactly terrorist financing is and what activities are undertaken in support of this. A conceptual framework of terrorist financing can be very useful in the analysis of counterterrorism efforts, particularly in terms of whether they are, or are likely to be, effective.

Terrorist financing has traditionally been conceptualized as how terrorists raise and move funds. However, in recent years, more expansive analysis has described terrorist financing as the ways that terrorist actors also store, manage, and obscure funds.⁴ Moving beyond just how terrorists raise and move funds is critical: terrorist actors like ISIS, Hezbollah, and Al-Qaeda have all had elaborate financing structures that have necessitated equally elaborate and professional fund management skills. Those fund management skills include how terrorists store and manage funds raised, specifically in investments to protect them from the depreciating effects of inflation and ensure that the terrorist organization is able to access funds in the future. This evolution in the conceptualization of terrorist financing is a natural response to increased awareness of terrorist financing activities, in-depth studies of terrorist financing, and a broader understanding of the different facets involved in how terrorists finance their activities beyond the simple raising and moving of money.

Beyond understanding the various mechanisms involved in terrorist financing, it is also critical to note the distinction between the various actors involved in terrorist financing. Terrorist actors (whether they are organizations, cells, or individuals) finance their activities in different ways using a variety of strategies, depending on their objectives. Terrorist organizations have very different needs for funds, and use that money in ways that differ from those of single operational cells or individuals. Organizational and operational financing generally employ the same methods and techniques for raising, using, storing, moving, managing, and obscuring funds, but differ in terms of scope and scale.⁵ As such, the differences between organizational and operational activity should also be considered in our understanding of terrorist financing and the mechanisms involved, particularly in proactive analysis that seeks to identify how terrorists might finance their activities, absent concrete intelligence.

Generally speaking, terrorists raise funds in a few main ways: through donations, criminal activities, and business models like extortion and protection rackets. Donations to terrorists come from a wide variety of sources, including:

1. from state sponsors (benefiting such diverse groups as Lashkar e-Tayyiba, Hizb-ul-Mujahideen, the Algerian National Liberation Front, and Jaish-e-Mohammed);⁶
2. from wealthy donors;⁷
3. from other terrorist groups (“terrorist patrons,” examples of which include support from Al-Qaeda to its affiliates⁸ and support from ISIS to its provinces⁹), from support networks;¹⁰ and
4. from self-financing their activities¹¹ through elaborate business models, involving extortion and protection rackets (as seen in Al-Shabaab¹²), and smuggling and trafficking in drugs, goods, and people - to name a few.¹³

Terrorists also use a wide variety of other criminal activities to raise funds, including: kidnapping for ransom,¹⁴ financial crimes,¹⁵ robbery and theft,¹⁶ and natural resource exploitation.¹⁷ Essentially, terrorists will raise funds by exploiting the economic activity in the area in which they are operating. Terrorists specifically seek to exploit any activity, licit or

illicit, that have low barriers to entry, can generate money for their activities, and are unlikely to lead to disruption of their activities and plans by law enforcement or security services.

Terrorists use money to pay for their material needs and activities, ranging from organizational needs such as food, water, logistics, and salaries to preparing terrorist attacks. The use of funds by terrorists is widespread and extremely varied, and dependent on what their objectives are. There is also a significant difference in how terrorist organizations, cells, and individuals use funds. Organizations are more likely to spend the bulk of their money on maintaining their organizational cohesion, and in some cases, maintaining territory. For instance, the Liberation Tigers of Tamil Eelam (LTTE) spent significant funds operating an entirely parallel system of governance in the north of Sri Lanka.¹⁸ For their part, cells and individuals usually spend the bulk of their funds on operational issues such as the acquisition of weapons, operational security measures (like burner cell phones and safe houses), and in some cases, bribing officials for access to sensitive sites. A salient example of how terrorists use funds for operational activities was the San Bernardino attack in 2015 in the US. The two attackers used money to construct improvised explosive devices, buy two handguns, two assault rifles, 1,700 rounds of ammunition, and to rent an SUV for use during the terrorist attack.¹⁹ Examining how, and on what items, terrorists use funds is a critical component of preventing terrorist attacks and countering the financing of terrorism. It presents opportunities to understand their intent, capability, and level of planning and preparation for attacks, as well as their longer-term plans, such as territorial control.

Terrorists also have a need to move funds as part of their financing activities. Terrorists frequently raise funds in one jurisdiction, and then need to move the money to another for use for operational activities, or for organizational support. In some cases, some jurisdictions are exploited specifically for fundraising activities, and attacks in these jurisdictions are rare. For instance, Hezbollah is widely believed to raise funds in Canada,²⁰ but there have been no terrorist attacks by the group in that country. In many cases, funds may need to be moved from a jurisdiction primarily used for fundraising into one where a terrorist group is holding territory, or from a terrorist group to an operational cell or individual, to name but two examples of the need to move funds. Moving funds, particularly internationally, can increase the scrutiny on those funds due to the international norms and regulations set by counterterrorist financing bodies to enhance due diligence with regards to money transfers.

To move funds, terrorists use a wide variety of methods, most of which depend on the jurisdiction in which they are operating, and are dictated by the structure of the financial sector in both the sending and receiving jurisdictions. Despite the norms and regulations intended to prevent or detect the movement of terrorist funds in the formal financial sector (banks and money services businesses), the formal financial sector is still used extensively for the movement of funds, both for operations and organization support. Terrorist groups regularly use the formal sector to move funds to other terrorist groups,²¹ to receive funds from their state sponsors,²² when getting donations from their supporters, etc.²³ Operational activity is also supported by the movement of funds through the formal sector. As Oftedal notes, the Sauerland cell (2007), the liquid bomb airliner plot (2006), the London underground bombings (2005), the Hofstad group (2004) and the Madrid cell (2004) all moved funds through legitimate financial institutions.²⁴ Of course, terrorists also move funds in a variety of other ways, through cash couriers,²⁵ through money services businesses and informal value transfer mechanisms²⁶, as well as through cryptocurrency transactions²⁷ and trade based money laundering.²⁸ For instance, in 2016, the Mujahideen Shura Council, active in the Gaza Strip and considered a foreign terrorist organization by the US since 2014, launched a campaign for donations. They were specific in how they wanted those donations to be given, asking for donations through bitcoin, and stating that they would use the money for the purchase of weapons.²⁹

To illustrate the many methods of fund movement used by terrorist organizations, the case of ISIS is instructive. The group moved money across borders through a combination of cash

couriers and informal, trust-based *hawala* services which are widely used in the Middle East and beyond.³⁰ The methods were selected based on a number of factors, including the original state of the funds (in many cases, cash) and the ease of placing them in the formal financial sector, such as whether they had conscious or unwitting contacts in banks to help them place the funds and move them without reporting the transaction as suspicious. These decisions were based on the structure of the financial sector in the receiving jurisdiction, i.e., whether money services, businesses, *hawala*, or banks were more prevalent and widely used. Using multiple methods allowed the group to tailor its movement of money to the situation at hand and avoid detection, which is an important consideration for operational financing. These decisions can also be a reflection of the amount of money being transferred: in some cases, ISIS has used the formal financial sector. ISIS made use of the formal financial system to move funds to its affiliated groups, and reportedly wired \$1.5 million via banks to Mindanao in the Philippines.³¹ The variation in the funds movement mechanisms employed by ISIS demonstrates the group's breadth and depth in terms of financial acumen, but also reflects the jurisdictional challenges and opportunities for a group with such international reach and supporters worldwide.

Terrorists must also store and manage the funds that they obtain, either for organizational or operational purposes. Terrorist groups may use one or more persons to manage their money, with some groups employing committees and sub-committee structures to oversee their funds. At the operational level, management techniques are considerably less complicated. Most terrorist cells will have one person responsible for determining how much money is needed, devising strategies to obtain those funds, and in some cases figuring out how to obtain the goods needed to conduct their attacks without attracting the attention of law enforcement or security services. For instance, in the case of the thwarted 2006 Toronto 18 plot in Canada, one individual was responsible for obtaining and managing the money for the cell.³² Challenges are greater for organizational management of terrorist funds, as they can generate significant wealth or resources. Compounding this, terrorist groups must also store and invest their funds to protect them from seizure, as well as from the deleterious effects of inflation. Storage of funds often takes place in cash,³³ or in the formal financial sector. Terrorist actors also invest their funds in real estate, businesses, and even on the stock market³⁴ in order to ensure that their assets do not depreciate over time. Investment of funds is particularly critical for terrorist groups that have long-term time horizons, as inflation can reduce the purchasing power of even significant sums of money. Terrorists may also invest funds outside of the jurisdiction where they are operating to protect them from counterterrorism financing measures, either kinetic (in the case of air strikes on cash storage sites, for example), or sanctions or increased jurisdictional scrutiny.

Terrorist groups, cells, and individuals use a variety of methods to obscure the source and destination of their funds in order to prevent the detection of those funds and their potential use. Terrorists work to hide management structures and where their funds are stored, which are particularly vulnerable to seizure. Financial tradecraft, which involves methods to obscure their funding, is used throughout the terrorist financing process to prevent the detection of their funds by law enforcement and other counterterrorism financing actors. This tradecraft is applied from raising funds through the movement, use, management, and storage of funds. At the same time, these are not discrete categories; many of the techniques used by terrorists have multiple purposes. Terrorists use crypto-currencies and other financial technologies to obscure their funds, as well as gaining a degree of control over a financial entity. Terrorists can use intermediaries, third parties, false identities, and nominees to hide the source and destination of their funds, as well as charitable and non-profit organizations.³⁵ Some terrorist actors use money laundering techniques to obscure the origin of their funds, as well as specialists like financial facilitators. In some cases, terrorist specifically use women as nominees or even just cover names in financial transactions, as they believe that female names attract less counterterrorism financing scrutiny from banks.³⁶

In order to counter terrorist financing and prevent the financing of terrorist activity, all the methods that terrorists use to raise, use, move, store, manage, and obscure their funds must be understood, with the specific vulnerabilities outlined, and opportunities for counterterrorist financing activities illustrated. In many cases, these opportunities will be limited, as terrorists exploit territorial control for a good portion of their financing activities. In that case, the most effective counter terrorist financing activity would be to prevent or eliminate terrorist control of territory. Understanding all the mechanisms involved in terrorist financing can also help determine what, if any, international norms and regulations will be effective in particular jurisdictions to prevent or detect the financing of terrorism. Effectively countering terrorist financing requires both an organizational and operational understanding of terrorism - how terrorist organizations finance their activities - as well as the differences that exist in operational financing, and the different techniques (investigative, policy, regulatory, legislative, etc.) that are required to effectively detect and disrupt both operational and organizational terrorist financing.

Criminalization of the Financing of Terrorism

Efforts to prevent terrorist financing only began in earnest in the 1990s, and have led to the establishment of a plethora of counterterrorist financing bodies, regulations, norms, and institutions. These organizations are dedicated to establishing standards for countering the financing of terrorism, assessing whether states are implementing these standards and criminalizing terrorist financing, and providing technical assistance for “sub-standard” states. In effect, these organizations are responding to the international criminalization of terrorist financing.

One of the first international condemnations of terrorist financing came in 1997, the year in which the United Nations’ General Assembly (UNGA) resolution 51/210 called upon all states to take steps to “prevent and counteract, through appropriate domestic measures, the financing of terrorists and terrorist organizations...”³⁷ The resolution notes that terrorist financing can occur through charitable, social, and cultural organizations, and that nations should adopt regulatory measures to prevent and counteract the movement of suspected terrorist funds, but at the same time not impede legitimate capital movements. The resolution also calls on states to share information concerning the international movement of terrorist funds.³⁸ This resolution laid the foundation for the adoption of international norms to counter terrorist financing, but also to share information on terrorist financing, a key component of current prevention efforts.

Two years later, the UN adopted the “International Convention for the Suppression of the Financing of Terrorism” (Terrorist Financing Convention). While the convention was adopted in 1999, it only entered into force on 10 April 2002, following the required minimal ratification by twenty-two nations.³⁹ The convention criminalizes financing acts of terrorism and also calls for the freezing and seizure of funds.⁴⁰ This convention laid the foundation for some of the main methods of countering terrorism financing, which includes criminalizing terrorism financing, imposing sanctions, and freezing assets.⁴¹

Of course, one of the main events that led to this sea change in terms of action to counterterrorist financing were the terrorist attacks of 11 September 2001 in New York and Washington, DC. Following the attacks, on 25 September, President Bush issued Executive Order 13224. The Executive Order blocks property and prohibits transactions with individuals who commit, threaten, or support terrorism, and establishes a list of individuals prohibited from transacting in the US. This list is maintained by the Office of Foreign Assets Control.⁴² This Executive Order spurred action internationally, through multilateral organizations, and domestically, amongst allies of the US, to take similar action to counter and prevent terrorist financing.

Three days later, the United Nations Security Council (UNSC) adopted resolution 1373 that requires members states to implement measures to enhance their ability to prevent and counter terrorist activities, including the financing of terrorism.⁴³ Implementation was slow and uneven. As of 2015, while a “large number” of countries had criminalized terrorist financing, some had not yet criminalized the “financing of a terrorist organization or that of an individual terrorist, for any purpose”. The UN Counter-Terrorism Committee Executive Directorate views this as a significant shortcoming, as terrorists use funds to carry out terrorist acts, “but also to pay for preparatory acts and fund their ongoing operations.”⁴⁴

In October 2001, the FATF, a body dedicated to establishing international norms to stop money laundering, expanded its mandate to deal with the “issue of the funding of terrorist acts and terrorist organizations,” creating eight (later nine) special recommendations on terrorist financing.⁴⁵ These recommendations were first published in October 2001,⁴⁶ and were revised in 2012 into the current 40 recommendations, encompassing terrorist financing within them.⁴⁷ The FATF recommendations are meant to provide specific guidance to states on how to implement the requirement to criminalize terrorist financing, help them establish mechanisms to prevent and detect terrorist financing, and assist in the prosecution of those offences, addressing all aspects of prevention of terrorist financing. The criminalization of terrorist financing continued beyond the immediate impact of the 9/11 attacks, with the Council of Europe adapting its Convention 141 of 1990⁴⁸ to address terrorist financing in 2005.⁴⁹

According to analysis from the FATF, there are only a handful of countries that have yet to criminalize terrorist financing: Bhutan, Botswana, and Uganda. Others are partially compliant with the requirement to criminalize terrorist financing including: Bahrain, Costa Rica, Fiji, Guatemala, Hungary, Madagascar, Mauritania, Mauritius, Nicaragua, Samoa, Seychelles, Slovenia, Vanuatu, and Ukraine.⁵⁰ This means that these states have taken some, but not all, steps to criminalize the aspects of terrorist financing laid out in relevant international resolutions and conventions.

The UN conventions and individual actions by member states are meant to create a wide net to criminalize terrorist financing. This has a number of preventive effects. The criminalization of terrorist financing has upstream prevention implications in that it helps to prevent the formation of a terrorist group or cell by restricting their ability to raise funds, certainly in an overt manner. It also enables law enforcement to take action on the financing of such activities, who do not have to wait until further in the process when more kinetic activities are taking place, such as bomb-making. In practice, however, many states are reluctant to proceed with terrorist financing charges in the absence of material activity. Upstream prevention is also present in the criminalization of these acts, as it helps to prevent the formation of terrorist groups or cells by restricting their funding, forcing them to spend considerable time obtaining that funding and obscuring it from law enforcement or security services. This prevention is also enabled by law enforcement’s ability to take action on the financing of these activities.

In terms of midstream prevention, the criminalization of terrorist financing helps to prevent terrorists from acquiring the capabilities to prepare terrorist campaigns, at the organizational, cell, and individual level. As the UN notes, “one of the most effective ways to combat terrorism is to prevent terrorists and terrorist entities from accessing the funds necessary for recruitment, training, and the planning and commission of terrorist acts.”⁵¹

Downstream prevention is also enabled through this criminalization and enhanced focus on information sharing, as it allows states to use financial intelligence and analysis of terrorist financing activity to foil and deter terrorist operations. This sharing of information (specifically financial intelligence) has been significantly enhanced since 9/11, and is increasing with the prevalence of public-private partnerships, one of the most recent measures in countering the financing of terrorism.

International Counterterrorism Financing Bodies

Over the course of the almost two decades since the terrorist attacks of 11 September 2001, a wide variety of international counterterrorism financing bodies have emerged, or altered their pre-existing mandates in order to contribute to the fight against terrorist financing. Understanding how these bodies work, establish international norms and regulations, interact with each other and with states, is not a simple matter. Going further, assessing whether or not they are effective at preventing terrorist financing would involve complex analysis with many different variables, and jurisdiction-specific analysis. While not the main point of this chapter, outlining their roles and responsibilities and drawing linkages to how terrorist financing happens, can be useful in ultimately paving the way for a discussion on effectiveness, particularly as it relates to prevention of terrorist financing.

FATF is a multilateral organization established in 1989. The organization originated with a declaration from the G7 at the July 1989 meeting in Paris that established an organization to combat money laundering. In 2001, the mandate of FATF was expanded to include terrorist financing. The purpose of the FATF is to set standards for, and promote the effective implementation of, legal, regulatory and operational measures to combat money laundering and terrorist financing and other related threats to the “integrity of the international financial system”⁵² which has recently come to include counter-proliferation financing.⁵³ Functionally, the FATF is a policy-making body.⁵⁴

The FATF has four main functions or outputs that guide the international community in the countering of terrorist financing:

1. Recommendations designed to guide countries in combating money laundering and terrorist financing;
2. Three principal typology reporting detailing trends and issues in terrorist financing;
3. Mutual evaluations of member countries’ anti-money laundering and terrorist financing regimes;
4. “Blacklist” and “greylist” of members found deficient according to FATF standards.

The FATF’s recommendations are meant to be implemented by members in order to ensure that their financial sector is able to detect and deter money laundering and terrorist financing. There are two specific recommendations that deal with terrorist financing (recommendations 5 and 6). However, references are made throughout the other recommendations to terrorists and terrorists financing, integrating the FATF’s guidance on terrorist financing into the broader recommendations.⁵⁵ Recommendation 5 calls on states to criminalize terrorist financing on the basis of the UN’s Terrorist Financing Convention. The recommendation articulates that the criminalization of financing should extend to financing terrorist acts, as well as the financing of terrorist organizations and individual terrorists, “even in the absence of a link to a specific terrorist act or acts”, and that countries should ensure that these offences are “designated as money laundering predicate offences.”⁵⁶ In Recommendation 6, the FATF calls on states to “implement targeted financial sanctions” in order to freeze funds and assets of persons designated by the UNSC,⁵⁷ reinforcing calls from the UN to do the same. While Recommendation 8 is not exclusively about terrorist financing, it focuses on non-profit organizations and points out that they are subject to abuse by terrorist organizations, calling on countries to “apply focused and proportionate measures, in line with the risk-based approach, to such non-profit organizations to protect them from terrorist financing abuse.”⁵⁸ Ultimately, all the recommendations are meant to provide a legal framework to be implemented by states to create a robust anti-money laundering and counterterrorist financing regime.

In addition to providing the legal framework to be implemented by states, the FATF also creates reports to guide members in the implementation of the recommendations and in proactive identification of terrorist financing. The typologies are meant to inform members of

emerging risks or threats relating to terrorist financing. The FATF's mutual evaluations determine members' progress in implementing the recommendations, and their effectiveness in terms of countering terrorist financing.

The FATF's main tool of coercion are its "blacklist" and its "greylist" - colloquial terms for formal statements issued by the organization. The FATF "blacklist" is actually the FATF Public Statement⁵⁹ that names members who have "strategic deficiencies" in their Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) regimes that "pose a risk to the international financial system." The FATF has called on its members and other jurisdictions to apply counter-measures to protect the international financial system from the risks these jurisdictions pose. As of February 2019, two countries were on that list: Iran and North Korea (DPRK).⁶⁰ The FATF "greylist" is derived from the FATF statement "Improving Global AML/CFT Compliance: On-going process"⁶¹ and identifies countries with strategic deficiencies that are subject to an action plan. As of 22 February 2019, that list included The Bahamas, Botswana, Cambodia, Ethiopia, Ghana, Pakistan, Serbia, Sri Lanka, Syria, Trinidad and Tobago, Tunisia, and Yemen.⁶² Presence on either of these lists can have implications for countries in terms of financial inclusion, correspondent banking relationships, and loans from the International Monetary Fund (IMF).⁶³ These measures are intended to incentivize the adoption of the FATF recommendations, but the mutual evaluation process has been criticized for being politicized.⁶⁴

As part of the review process, the FATF has also mandated that member countries undertake a risk assessment, requiring that each country "identify, assess and understand terrorist financing risks it faces in order to mitigate them and effectively dismantle and disrupt terrorist networks."⁶⁵

The FATF's Strategy on Combating Terrorist Financing outlines a variety of activities that the organization undertakes to ensure that countries have the tools available to combat terrorist financing. The strategy seeks to:

- "Improve and update the understanding of terrorist financing risks;
- Ensure that the FATF Standards provide the framework for countries to be able to identify and disrupt terrorist financing;
- Ensure countries are appropriately and effectively implementing the FATF Standards;
- Identify and take measures in relation to any countries with strategic deficiencies for terrorist financing;
- Promote more effective domestic coordination and international cooperation to combat the financing of terrorism."⁶⁶

The FATF's recommendations with regards to terrorist financing are extremely broad. As such, the activities that the organization undertakes to raise awareness about current issues in terrorist financing are critical. Specifically, in 2015, the FATF published the "Emerging Terrorist Financing Risks" report, highlighting the challenges posed by lone actors and small terrorist cells, and also covering relatively new methods of fundraising for terrorist activities through the exploitation of natural resources, as well as identifying new payment products and services, and methods of fundraising through social media.⁶⁷ While these awareness-raising efforts are critical to understanding the ways that terrorists' financing has evolved, given that some FATF member countries have yet to criminalize terrorist financing, or have yet to implement an effective regime, these more advanced methods and techniques may fall on deaf ears in all but the most competent jurisdictions.

There are a number of FATF-style regional bodies exist that function as a global network, such as:

- Asia/Pacific Group on Money Laundering (APG), based in Sydney, Australia;

- Caribbean Financial Action Task Force (CFATF), based in Port of Spain, Trinidad and Tobago;
- Eurasian Group (EAG), based in Moscow, Russia;
- Eastern & Southern Africa Anti-Money Laundering Group (ESAAMLG), based in Dar es Salaam, Tanzania;
- Groupe d'Action contre le blanchiment d'Argent en Afrique Centrale [The Task Force on Money Laundering in Central Africa] (GABAC), based in Libreville, Gabon;
- Latin America Anti-Money Laundering Group (GAFILAT), based in Buenos Aires, Argentina;
- Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), based in Dakar, Senegal;
- Middle East and North Africa Financial Action Task Force (MENAFATF), based in Manama, Bahrain;
- Council of Europe Anti-Money Laundering Group (MONEYVAL), based in Strasbourg, France (Council of Europe).⁶⁸

Of course, all of these bodies have secretariats and staff associated with them, and are part of the veritable counterterrorist financing/anti-money laundering network, holding and attending conferences, workshops, and meetings.

The FATF and its regional bodies take a hybrid approach to prevention, in that some of it may be considered upstream prevention, with other activities falling into the category of midstream and downstream prevention. In terms of upstream prevention, the FATF's recommendations and information could be conceived as working to prevent terrorist groups or cells from forming by denying them financial resources. Other work undertaken by the FATF could be considered midstream terrorism prevention, working to prevent terrorist operational activity (attacks) from being undertaken by preventing the movement of funds to operational actors. Finally, the FATF's recommendation to criminalize terrorist financing forms part of the downstream prevention efforts advocated by the organization.

If the FATF is the strategic-level, norm and regulation-setting body, then the Egmont Group should be conceived of as its operational corollary. The Egmont Group, established in 1995,⁶⁹ is a multilateral body of 159 financial intelligence units (FIUs) that provides a platform for the "secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing."⁷⁰ The Egmont Group is self-described as the "operational arm of the international AML/CFT apparatus."⁷¹

The main function of the Egmont Group is to facilitate the exchange of operational, investigative, and financial intelligence. Functionally, the Egmont Group provides access to the Egmont Secure Web, an information transfer network that ensures "security, reliability and effectiveness"⁷² for the transmission of financial intelligence. Access to the Egmont Secure Web is reserved for authorized personnel. The Egmont group members use the system to send requests for information to each other and share the results of those queries, according to what each financial intelligence unit is mandated to collect, and what their respective legislations permit them to share. This is a critical distinction because the threshold for sharing information relating to money laundering and terrorist financing via the Egmont Secure Web varies for each country. These relationships are managed on the basis of bilateral memoranda of understanding.⁷³

The Egmont Group also facilitates technical assistance such as mentoring and coaching, specialized training courses, analysis and research products, and staff exchanges.⁷⁴ The Egmont Group also conducts research and analysis and releases reports to its members on terrorism-related topics such as enhancing information exchange between FIUs on terrorist financing issues, the "ISIL (Islamic State) Project", information sharing challenges involving FIUs, and "Financing of Lone Actors/Small Cell Terrorism."⁷⁵ Phase I of the ISIL Project

“focused on developing financial profiles, indicators, and typologies” of suspected foreign terrorist fighters affiliated with ISIL, Al-Qaeda, and affiliates, while Phase II looked at foreign terrorist fighters and their facilitation networks.⁷⁶ The majority of the Egmont Group’s work consists of facilitating the exchange of information relating to money laundering and terrorist financing investigations; as such their contribution to preventing terrorist financing can be largely understood as a midstream or downstream contribution effort, with their work on typologies and trends constituting their contribution to upstream efforts to counter terrorist financing.

Not all multilateral bodies dealing with terrorist financing are (inter-)governmental organizations; the private sector also has a multilateral body that has a role to play in preventing terrorist financing. The Wolfsberg Group is a conglomeration of thirteen global banks that work to develop frameworks and guidance on financial crime risks, including money laundering and terrorist financing. The group provides an industry perspective to these issues, and issues guidance and recommendations to its members.⁷⁷ In 2002, the organization issued a statement on the suppression of terrorism financing⁷⁸ that supported (inter-)governmental efforts to counter terrorist financing. The Wolfsberg Group’s contribution to efforts to counter and prevent terrorist financing are modest, but have laid the foundation for future public-private partnerships.

The IMF and World Bank are also part of the international counterterrorist financing regime, and work with members of the Egmont Group to provide technical assistance to developing countries, particularly those prone to “generating terrorism finance” or “with histories of money laundering.” This work is undertaken to help establish and strengthen the capabilities of their respective FIUs.⁷⁹ As such, much of this work is meant to support the sharing of financial intelligence and the assessment of reports that may be related to terrorist financing, largely downstream prevention efforts to counterterrorist financing, as much of this information will only be shared after the movement of funds has taken place, or after the operational terrorist activity has occurred. The IMF also has a significant role in assessing countries’ compliance with international standards.⁸⁰ The IMF conducts its own assessments of countries’ compliance as part of its Financial Sector Assessment Program and its Offshore Financial Centers Assessment Program.⁸¹ The World Bank’s role in combating terrorist financing has included technical assistance, as well as research, to identify areas vulnerable to financial abuse.⁸² The World Bank has also administered a database to coordinate the identification of technical assistance needs and facilitate collaboration with partners and member countries.⁸³ Between 2010 and 2014, technical assistance was provided through the Topical Trust Fund.⁸⁴

The Role of the United Nations in Countering Terrorist Financing

The UN has a number of offices and activities that support the prevention and suppression of terrorist financing. Chief among these are the UNODC in Vienna, the United Nations Counter Terrorism Executive Directorate (CTED), and the UN sanctions monitoring teams, in New York.

The UNODC has several units involved in countering the financing of terrorism. The UNODC’s Terrorism Prevention Branch (TPB) provides training on the legal aspects of countering terrorist financing, “including promoting the ratification of the relevant universal legal instruments, in particular the International Convention for the Suppression of the Financing of Terrorism (1999), and the implementation of these international standards.”^[85] TPB works closely to deliver training and technical assistance on these issues with another unit within UNODC, the Law Enforcement, Organized Crime and Anti-Money-Laundering Unit, which is responsible for the “Global Programme against Money Laundering, Proceeds of

Crime and the Financing of Terrorism” (GPML). The GPML was established in 1997 and provides technical assistance and training on countering the financing of terrorism.⁸⁶

In addition to these two bodies that provide technical assistance and training, field offices of the UNODC also undertake counterterrorism financing activities, initiatives, and training. For instance, in recent years, the Pakistan office has undertaken a workshop on countering the financing of terrorism for law enforcement agencies and private banks,⁸⁷ a workshop on public-private partnership in countering the financing of terrorism,⁸⁸ and training for prosecutors in countering terrorism financing.⁸⁹ All these initiatives are made possible through donor funds, and are generally funded through broader projects, such as “Pakistan’s Action to Counter Terrorism” (PACT).⁹⁰ At any given time, not all field offices deliver programming on counterterrorism financing; instead, it is delivered periodically and as-needed within countries.

For its part, the United Nations Security Council’s Counter Terrorism Executive Directorate (CTED) also has a role in countering terrorist financing. The directorate operates under the counterterrorism committee and is composed of a body of experts. One of their main roles is to assess member state implementation of Security Council resolutions, including their implementation of UN Resolution 1373 (2001) and the establishment of FIUs.⁹¹

The UN can also impose sanctions against countries in support of a variety of security goals. These measures have ranged from economic and trade sanctions to arms embargoes, travel bans, and financial or commodity restrictions. Sanctions regimes are administered by sanctions committees, and monitoring groups are established to support the work of the sanctions committees. Some of the sanctions are implemented to deter or “constrain” terrorism. However, monitoring groups are not always established to monitor sanctions implementation.⁹² The United Nations Sanctions Monitoring Committee frequently deals with elements of terrorist financing, particularly in terms of information relating to the financing of terrorism (or non-state armed groups) through its investigative work. Monitoring teams have reported on the financing of terrorist activity, particularly with regards to ISIL, Al-Qaeda, Al-Shabaab, the Taliban, as well as the financing of other irregular armed groups in other conflicts, such as those in Sudan and South Sudan.⁹³ These monitoring teams work cooperatively with the FATF and regional-style bodies.⁹⁴

Domestic Financial Intelligence Units (FIUs)

One of the main recommendations from the FATF is for countries to establish domestic FIUs to serve as the center for the receipt and analysis of suspicious transaction reports as reported by the financial sector, as well as other information that would be relevant to money laundering and terrorism financing investigations and prosecutions. The FATF’s recommendations also include the requirement for FIUs to disseminate the results of their analysis.⁹⁵

At their root, FIUs receive reports from reporting entities (defined in domestic legislation or regulations) that often include banks, but may also include money services businesses and other types of financial entities. These reports almost always include suspicious transaction reports, or an equivalent, aimed at providing a reporting mechanism for institutions to provide information on activities that they suspect may relate to money laundering or terrorist financing. In practice, the vast majority of these reports relate to fraud, financial crime, and money laundering activities, with only a very small proportion relating to terrorism and terrorist financing.

Indeed, the international regime has been plagued by the difficulties in identifying terrorist financing amongst all types of financial activities (both legitimate and illicit). In many cases, terrorist financing transactions have little that separate them from other transactions. Emphasis has been placed on the international movement of funds, but this is neither exclusive to terrorist financing, nor an activity that can help narrow down the focus to identify terrorist financing.

Fundamentally, terrorist financing and the proactive identification of terrorist financing in financial data suffers from a small data problem. Money laundering and other financial crimes are plentiful, meaning that there is significant data from which to construct rules that can be used to train algorithms for proactive detection. Conversely, true cases of terrorist financing using the official banking systems are rare, and methods of financing terrorism are often jurisdictionally specific, meaning that any indicators or rules identified in one jurisdiction do not easily translate across countries. Further, terrorist financing activity is often highly dependent on the type of terrorist entity doing the financing; as the terrorism landscape shifts quickly, these trends and typologies can quickly become outdated, making any successful “rules” implemented to sift through transactional data quickly obsolete.

To overcome this small data problem, public-private partnerships have been increasingly established between the private sector and public sector entities,⁹⁶ specifically law enforcement and security services, and in some cases, FIUs. Indeed, some financial intelligence units, like the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), consult with the private sector,⁹⁷ but these partnerships take the relationship further. Some have argued that partnerships between the public and private sector represent an important means to “detect, deter, disrupt and deny terrorist and other criminal organizations illicit profits and material support required to fuel their evil acts.”⁹⁸

These partnerships represent a blurring between public and private authority.⁹⁹ Of course, as with any relationship between the public and private sector, concerns exist about privacy - how information (and what type of information) can be shared, and the implications for human beings (e.g. those people in conflict zones dependent on remittances from refugee family members in developed countries). Little work has been done examining these issues, making this an area ripe for scholarly research.

FIUs are often seen as the “backbone” of domestic anti-money laundering and counterterrorist financing initiatives. In fact, FIUs play a role to varying degrees in these initiatives. In some cases, FIUs play a significant and investigative role, and have broad independence in terms of analysis, investigation, and, potentially, even prosecution. In other cases, the FIUs have a very limited role and are constrained, largely acting (according to some critics) merely as a “mailbox” for suspicious transaction reports.

There are three main models for FIUs, but each country implements the recommendation to establish FIUs differently. Further, every country has varying levels of competency within these FIUs. Some are well-resourced and receive good information from their reporting entities, while others are under-resourced, poorly trained, and receive little if any useful information.

The judicial model of an FIU establishes the unit in the judicial branch of government. In this model, information from the financial sector is passed directly to an agency located in the judiciary for analysis and processing; the judiciary has authority over investigative bodies, meaning that they can direct and supervise criminal investigations.¹⁰⁰ The judiciary can seize funds, freeze accounts, conduct interrogations, detain people, conduct searches, etc.¹⁰¹ Both Cyprus and Luxembourg have such judicial (or prosecutorial) FIUs.¹⁰²

The law enforcement model of financial intelligence units establishes the FIU as a law enforcement agency.¹⁰³ In this model, the FIU implements the country’s AML/CFT requirements alongside the existing law enforcement system.¹⁰⁴ Examples of countries with law enforcement FIUs include Austria, Germany, and the UK.¹⁰⁵

The administrative model of FIUs is very common, and involves a centralized, independent, administrative authority that receives and processes information, and then discloses it to judicial or law enforcement authorities. This type of FIU is commonly housed as part of a structure of an existing administration or agency other than law enforcement or judicial agencies, such as ministries.¹⁰⁶ The FIU acts as a buffer between the financial and law enforcement communities.¹⁰⁷ The role of the administrative FIU is to substantiate the suspicion

of the reporting entity prior to passing the information to investigative agencies; this allows the FIU to act as an independent validator of a given suspicion, relieving the financial institution of the burden of ensuring that it only passes on information that it is “certain” relates to a financial crime.¹⁰⁸

Administrative FIUs generally have limited powers, and focus on the receipt, analysis, and dissemination of suspicious transaction reports and other reports, and do not have investigative or prosecutorial powers.¹⁰⁹ Countries with administrative FIUs include Canada, Australia, France, and Israel.¹¹⁰ A hybrid model of FIU also exists in which the FIU combines elements of at least two types of FIUs.¹¹¹ Some combine administrative and law enforcement FIU functions, while others combine powers of, for instance, customs with police, and may be the result of combining separate agencies that had both been tasked with financial crime investigations or analysis. Countries with hybrid FIUs include Denmark, Guernsey (UK), and Norway.¹¹²

While there are clear advantages and disadvantages to each model of FIUs, the structures and their responsibilities are often established based on domestic considerations, such as privacy laws, banking secrecy laws, etc. Comparing each model must take into consideration that domestic context, although it is by no means the only measure of effectiveness.

While measures of effectiveness often include the prosecution of terrorist financing offences, this is by no means the only measure of effectiveness of FIUs and the prevention of terrorist financing. To effectively prevent a jurisdiction from being used for terrorist financing, law enforcement, security services, FIUs, and the private sector must work together to proactively identify terrorist cells and individuals that may be seeking to finance a terrorist plot. This is easier said than done because of the small data problem, but anomalous patterns of financial activity, combined with information that suggests that the individual may have radicalized and be interested in undertaking terrorist activity, can provide useful information to the financial sector to spot changes in behavior.

Indeed, information sharing with the private sector, either in the form of trends or typologies of terrorist financing, or in the sharing of more tactical, operational-level information, can provide valuable insight that can inform their understanding of suspicious activity. Much of this information is developed by FIUs, or is shared directly by law enforcement (including law enforcement style FIUs). Other measures of effectiveness include prosecutions of terrorist financing activities, which can include both operational and organizational financing by individuals within a specific jurisdiction, or the prevention of the establishment of entities for the purposes of terrorist financing. In some cases, prosecution may not be possible, but disruption of terrorist financing activities should still be considered a measure of success.

In some jurisdictions, the FIU has a very small role in the detection and prosecution of terrorist financing offences, and instead, law enforcement units take the lead on this activity.

Preventing and Countering Terrorist Financing (CTF)

In terms of prevention, counterterrorist financing legislation, frameworks, and regulations fit within all three levels of prevention. In some cases, countering terrorist financing initiatives are aimed at upstream prevention, i.e., preventing the formation of a terrorist group or cell. Generally speaking, CTF initiatives do not prevent the formation of a terrorist group, but they can restrict the financing of the group, preventing the organization from expanding and being able to execute attacks. CTF initiatives may prevent the creation of terrorist cells (i.e., operational attack actors) by preventing the financing of the cell from the terrorist organization, but in reality, most cells (and indeed, individual attackers) self-fund a good portion of their attack plans (which often cost very little), meaning that stopping the financing of these cells and individuals falls squarely on domestic/local law enforcement or security services, with

little space for international CTF actors. What these initiatives do succeed at is forcing much of the financing of terrorist activity “underground,” potentially restricting the amount of funds that become available for operational activity, or at least making the transmission of those funds more challenging for terrorist actors.

Countering the financing of terrorism initiatives go some way towards providing some midstream prevention, such that restricting the financing of a terrorist group reduces the risk from the group or organization being able to prepare a terrorist campaign. Terrorist group actions are restricted by a lack of funds, or by a lack of ability to move, store, manage, or obscure those funds. As such, CTF can have an impact on midstream prevention. However, in practice, most terrorist groups, regardless of CTF activities aimed at them, have sufficient means to launch terrorist acts if not whole campaigns. Part of this challenge lies in the fact that many sources of terrorist funds are impervious to counterterrorism financing initiatives. For instance, many terrorist groups exploit the economic activity in the area where they are operating through taxation or extortion of funds from the local population. Restricting international financial flows or sanctioning those groups will have little impact on their ability to raise funds. Further, many terrorist groups employ money movement mechanisms outside of well-regulated sectors, using cash couriers or trade-based money laundering to move money for operational activities. As such, while counterterrorist financing initiatives may make it more challenging for terrorist actors to engage in their activities, for the most part, terrorist groups can adapt to CTF initiatives and launch their terrorist attacks or operational activity.

In terms of downstream or tertiary prevention, counterterrorist financing initiatives do little to help prevent operations or foil them in the traditional sense. Very few (if any) plots or attacks have been detected solely through financial intelligence and terrorist financing activities.¹¹³ However, the use of financial intelligence in investigations, including those that are not motivated by financial gain, is increasing. This financial intelligence can help investigators determine the level of planning and preparation of a terrorist cell or individual intent on undertaking terrorist activity, and correspondingly, help them to time their interventions or understand the capabilities of the terrorist actors. Financial intelligence, originally provided by FIUs, but now also obtained directly from banks and other financial institutions through warrants or other judicial applications, or in some cases, by established relationships with banks, is an increasingly significant source of information that can assist in terrorism investigations, beyond just financing.

Conclusion

There are many international bodies involved in preventing terrorist financing internationally. They focus on criminalizing terrorist financing, setting international norms for countering terrorist financing, and providing technical assistance for countries to implement these recommendations. At the national level, most countries have a FIU, and these domestic units interact through the Egmont group, and at multilateral meetings, and conferences hosted by many of the international counterterrorist financing bodies. This conglomeration of entities tackles upstream, midstream, and downstream prevention of terrorist financing with varying levels of success. Measuring that success, however, is not straightforward. While some measures insist on the number of prosecutions within a jurisdiction as a measure of countering terrorist financing effectiveness, in reality, these bodies make more subtle contributions that also need to be taken into consideration, including through the coordination and sharing of information. Ultimately, this sharing of information and any constraint in a terrorist group, cell, or individuals’ ability to finance their activity, be it at the organizational or operational levels, needs to be counted amongst the successes of the global counterterrorist financing regime. Without money, groups cannot operate, and even small cell or lone actor attacks can be constrained by a lack of funds. Countering the financing of terrorism may be one of the single

most effective ways to prevent significant terrorist attacks and activity: determining how best to do that, and how to measure those successes, remains an ongoing issue of concern.

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