

BUILDING A COUNTERTERRORIST FINANCE REGIME

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The U.S. government helps foreign allies build their capacity to prevent terrorists from using the international financial system to further their plots. The interagency Terrorist Finance Working Group identifies those countries most needing such U.S. training and technical assistance. To fight terrorism successfully each country must develop the necessary legal framework, banking regulation, financial intelligence unit, law enforcement, and judicial process. The United States has provided capacity-building help to countries in Africa, Asia, Europe, Latin America, and the Middle East and has cooperated with regional organizations and international financial institutions.



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In response to the 9/11 attacks, the U.S. government launched a global war on terrorism on five fronts: military, intelligence, law enforcement, financial, and diplomatic. The United States developed a counterterrorism finance strategy based on three pillars to detect, dismantle, and deter terrorist financing networks. First, we conduct law enforcement and intelligence operations that bring terrorist financiers to justice. Second, we use public designations measures to name, shame, and block the assets of terrorist groups and their supporters. Third, we have developed capacity-building programs to reinforce the institutions of our foreign allies to proactively combat terrorist financing. While the first two pillars are retrospective, investigating known funding operations after the fact, the third pillar of capacity building focuses on enhancing countries' capabilities to safeguard international financial systems from abuse by terrorist financiers.

COORDINATING TRAINING AND TECHNICAL ASSISTANCE

In the wake of the 9/11 attacks, the State Department spearheaded the creation of the Terrorist Finance Working Group (TFWG) to coordinate, develop, and provide training and technical assistance to our foreign partners deemed most vulnerable to terrorist financing. The TFWG, co-chaired by the State Department's Office of the Coordinator for Counterterrorism (S/CT) and the Bureau for International Narcotics and Law Enforcement Affairs (INL), includes various U.S. government agencies from the departments of State, Treasury, Justice, and Homeland Security and meets biweekly to receive intelligence briefings, schedule assessment trips, review country reports, and discuss the development and implementation of technical assistance and training programs. This interagency group leveraged the U.S. government's existing expertise in its efforts to combat

money laundering and organized crime and was aimed at addressing terrorist financing.

TARGETING ASSISTANCE

Inundated with requests for assistance from our foreign allies, the TFWG developed the following process to prioritize the use of our limited financial and human resources to build comprehensive anti-money laundering and counterterrorist finance (AML/CTF) regimes through U.S. foreign assistance:

- Identify and prioritize countries needing the most assistance to deal with terrorist financing with input from the intelligence and law enforcement communities.
- Evaluate priority countries' CTF regimes with a Financial Systems Assessment Team (FSAT) comprising legal, financial, and law enforcement experts. The FSAT team usually spends one week in country to meet with host government authorities from the ministries of justice, interior, and finance; law-enforcement authorities; the central bank, and the private sector to see how they address money laundering and terrorist financing crimes.
- Prepare a formal assessment report on vulnerabilities to terrorist financing and make recommendations for training and technical assistance to address these weaknesses. The team delivers its report in about a month. The formal report is shared with the host government to gauge its receptivity to and coordinate U.S. offers of assistance.
- Develop a training implementation plan based on these recommendations. Assistance programs from U.S. government experts may include legal drafting assistance to ensure that the host nation's legal regime meets international standards, financial regulatory training, financial intelligence unit development, investigative training to "follow the money," and judicial and prosecutorial training.
- Provide training and technical assistance to priority countries on establishing the legal framework to criminalize money laundering and terrorist finance and then train law-enforcement agents and prosecutors to apply the law. This assistance can be provided in the country, in the region, or in the United States.

- Encourage burden sharing in capacity building with our allies, international financial institutions (International Monetary Fund or IMF, World Bank, regional development banks), and through international organizations such as the U.N. Committee, Financial Action Task Force (FATF) on money laundering, and G8.

BASIC TENETS OF AN EFFECTIVE REGIME

After the 9/11 attacks, the United States and its allies quickly recognized the urgent need to detect, dismantle, and deter terrorist financing networks around the world. To this end, each country must develop the legal, financial regulatory, financial intelligence, law-enforcement, and prosecutorial capabilities and institutions to effectively combat terrorist financing and money laundering. The TFWG has organized and developed U.S. training programs around these five basic tenets of an effective counterterrorist finance regime.

I. Legal Framework to Criminalize Terrorist

Financing. To comply with the U.N. Security Council Resolution 1373 and the FATF eight Special Recommendations on Terrorist Financing, each state is required to criminalize terrorist financing and money laundering. Legislation should establish effective measures to block and seize assets of terrorist financiers and their supporters. Each country should provide its law enforcement agents and judicial branch with ample authority to pursue and prosecute terrorist financing cases. Every country should ratify the U.N. instruments related to terrorism at the earliest opportunity. Robust counterterrorist financing and anti-money laundering legislation provides a country with the requisite legal foundation to combat money laundering and terrorist financing.

The United States may provide technical assistance on drafting legislation that criminalizes terrorism and terrorist financing to countries that request such assistance through the Department of Justice and U.S. Agency for International Development. In certain cases, the United States can arrange for resident legal advisors to provide assistance to judicial officials in their home country.

II. Financial Regulatory Supervision to Protect

Integrity of the Banking System. Protecting the financial sector from terrorist financing and criminal

abuse is a key element in our CT Finance Training and Technical Assistance strategy. Under international standards, each country must determine which regulatory agency will be responsible for banks' and non-bank financial institutions' compliance with measures to combat terrorist financing. Governments should develop strict regulatory and anti-money laundering compliance measures and create a formal system for financial institutions to report suspicious activities to the regulatory agencies. Each country should establish penalties such as monetary fines to ensure the effectiveness of the compliance regime. The central bank, investment regulators, and other supervisory agencies need to educate the private sector as to possible abuse by terrorists.

The United States may provide assistance to strengthen the financial regulatory regimes of countries that request such assistance through our regulators including the Federal Reserve, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency. Training includes courses for bank examiners on reporting suspicious activity reports and detecting terrorist financing and money laundering schemes.

III. Financial Intelligence Unit as the Link Between the Private and Public Sectors. Each country should establish a financial intelligence unit (FIU) to collect, analyze, and disseminate financial intelligence and pass legislation to authorize such data collection. The FIU should develop an efficient system for financial institutions and government regulatory agencies to report suspicious activities related to terrorist financing and money laundering to the FIU. The FIU should be responsible for analyzing these suspicious activities reports and refer cases to law-enforcement agencies for investigation. The FIU should establish appropriate channels to share financial intelligence with its foreign counterparts to assist with financial crime investigations.

The United States, through the Treasury Department Financial Crimes Enforcement Network, provides training and technical assistance to foreign FIUs. Such assistance includes provision of equipment, information technology assessments, and specialized analytical software and analyst training for fledgling FIUs. The United States is an active member of the Egmont Group of FIUs and regularly sponsors aspiring members.

IV. Law Enforcement Investigations to Track Down Terrorist Financiers. Law enforcement agencies must be granted adequate legal authority to pursue financial crimes including terrorist financing cases. Such authority may include the power to conduct undercover operations and electronic surveillance to investigate financial crimes. Governments should establish specialized units and interagency task forces to pursue terrorist financing cases. Law enforcement agencies should coordinate investigations and prosecutions of terrorist financing cases with the judiciary branch.

The United States provides assistance programs in the form of financial investigative training to foreign law-enforcement agents who request such assistance. U.S. agencies — including the FBI, State Department's Diplomatic Security Anti-Terrorism Assistance Programs, Internal Revenue Service Criminal Investigations Division, and Bureau of Immigration and Customs Enforcement — conduct training courses for their foreign counterparts to develop the skills necessary to investigate financial crimes including terrorist financing.

V. Judicial/Prosecutorial Process to Bring Terrorist Financiers to Justice. Each government must determine which judicial unit will be responsible for prosecuting terrorist financing cases. Due to the complex technical nature of terrorist financing cases, a well-trained team of prosecutors familiar with financial crimes should be assembled to pursue these investigations. Judges and magistrates need to familiarize themselves with terrorist financing cases because they may not have tried such cases in the past.

The United States may provide technical assistance through the Department of Justice to foreign allies' judicial authorities using case studies to demonstrate how new counterterrorism finance legislation can be applied and cases prosecuted successfully.

INTERNATIONAL EFFORTS

Because globalization has facilitated the cross-border movement of people, products, and capital, the problem of terrorist financing must be addressed on a worldwide scale. The U.S. government sought early on to promote international cooperation on the counterterrorism capacity building front as a component of the global war

on terrorism. Accordingly, the Terrorist Financing Working Group recognized the financial and human resource constraints on counterterrorism finance efforts and encouraged international burden sharing to deliver training and technical assistance.

The United States has provided counterterrorism finance assistance to several countries in Africa, Asia, Europe, Latin America, and the Middle East on a bilateral and multilateral basis. We have worked closely with the U.N. Counterterrorism Committee and U.N. Office of Drug Control Policy to coordinate requests and offers of technical assistance. The United States has supported key initiatives by FATF to strengthen anti-money laundering and counterterrorist finance regimes. Through the G8 Counterterrorism Action Group, the United States is coordinating its assistance to frontline states in various counterterrorism areas. The United States has also worked with regional organizations such as the Organization of American States, Asia Pacific Economic Cooperation (APEC), and Organization for Security and Cooperation in Europe to raise awareness of possible abuses by terrorist financiers. We are also cooperating with the international financial institutions, including the IMF, World Bank, and Asian Development Bank, on counterterrorist finance projects that contribute to the

economic development and integrity of international markets. For example, at the Bangkok Leaders meeting in October 2003, APEC launched a counterterrorism capacity-building initiative to secure the safe movement of people, goods, and money. The Regional Trade and Financial Security Initiative was established under the auspices of the Asian Development Bank to provide capacity building in the areas of anti-money laundering and counterterrorist financing and aviation, port, and maritime security.

CONCLUSION

To stem the flow of funds to terrorists, countries must address the threat of terrorist financing domestically and internationally to deny terrorist networks financing and safe haven. Through capacity building, a country can reinforce its legal, financial regulatory, financial intelligence, law enforcement, and judicial capabilities to combat terrorist financing. By leveraging its resources to assist countries with meeting the challenges posed by terrorist financing, the international community can better safeguard financial systems against abuse by terrorist financiers around the world. ■