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## THE GLOBAL EFFORT TO STOP TERRORIST FINANCING

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*The ultimate success in the fight against those who would commit acts of terrorism requires the active support of all nations, says Jimmy Gurulé, Professor at Notre Dame Law School and former Under Secretary of the Treasury during the first two years of the Bush administration. Gurulé says that international alliances against terrorism are crucial since the overwhelming bulk of terrorist assets and cash lie outside the United States: “Terrorist financing networks are global, and consequently, efforts to identify and deny terrorists access to funds must also be global.”*

Following the terrorist attacks of September 11, 2001, an essential component of the United States government’s counter-terrorism strategy has been to identify, disrupt, and dismantle the financial networks of terrorist organizations. The global effort to stop terrorist financing is fundamentally a preventive strategy. Simply stated, if the United States, with the support of the global community, is able to impede the transfer of funds needed to finance acts of terror, it can prevent the commission of future acts of terrorism, and, in the process, prevent the killing of thousands of innocent people.

In a speech delivered on September 24, 2001, President George W. Bush unequivocally declared that the war on terrorism would be waged on the financial front:

*Today, we have launched the first strike on the financial foundation of the global terror network . . . We will direct every resource at our command to win the war against terrorists; every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence. We will starve terrorists of funding, turn them against each other, rout them out of their safe hiding places, and bring them to justice.*

### **THE LEGAL UNDERPINNING TO U.S. ANTI-TERRORIST ACTION**

On September 23, 2001, the President directed the first strike against the financiers of terror by issuing Executive Order 13224. That order, issued under the authority of the International Emergency Economic Powers Act (IEEPA), declared a national emergency with respect to acts and threats of terrorism committed by foreign terrorists against the United States. The order allows the United States to freeze assets subject to U.S. jurisdiction and prohibits transactions by U.S. persons with any designated person or entity based on their association with terrorists or terrorist organizations. Specifically, the order authorizes blocking all U.S. assets and transactions of foreign individuals, groups, and entities designated by the President, the Secretary of State, or Secretary of the Treasury as committing or posing a significant risk of committing acts of terrorism threatening the U.S. national security, foreign policy or economy. The order also permits blocking the property of persons found to provide support to, or to be otherwise associated with, any of these designated foreign persons, and forbids U.S. persons from doing business with those individuals. Executive Order 13224 includes an annex that lists 27 organizations and individuals whose assets are blocked because of their ties to terrorism.

## **RESULTS**

Under Executive Order 13224, \$138 million in assets have been blocked against 281 individuals and entities. This includes the assets of organizational leaders such as Usama bin Laden, his key lieutenants and terrorist operatives, financiers, and intermediaries around the globe. Moreover, the Executive Order applies to all global terrorists and includes al-Qaeda as well as other terrorist organizations such as the Real IRA, Shining Path, ETA, the East Turkistan Islamic Movement, Hamas, and Hizballah, among others. Of the \$138 million in assets blocked, \$36.4 million have been blocked in the United States through July 2003. The international community is responsible for blocking \$101.6 million.

However, progress in the war against terrorist financing should not be measured solely in the millions of dollars of assets blocked. As the result of the public designation process, the international banking system is no longer safe for terrorists to use. Thus, terrorists must resort to nonconventional, less reliable, and more easily detectable methods of transferring money globally.

These anti-terrorist financing efforts have further had a deterrent effect. Many who formerly provided financial support for terrorism have backed away for fear of being designated a terrorist and having their bank accounts frozen. Additionally, entire terrorist funding networks have been dismantled, making it more difficult for terrorist organizations to raise money to finance terrorist operations. For example, in November 2001, the U.S. blocked the assets of the Benevolence International Foundation, a corrupt Islamic charity which for years funneled money to al-Qaeda.

## **INTERNATIONAL EFFORTS**

Terrorist financing networks are global, and consequently, efforts to identify and deny terrorists access to funds must also be global. Moreover, because the overwhelming bulk of terrorist assets, cash flows, and evidence lie outside the United

States, international alliances against terrorism are crucial. Recognizing the importance of international cooperation, the United States has worked not only through the United Nations on blocking assets, but also through multilateral organizations and on a bilateral basis to promote international standards and establish protocols for combating terrorist financing. It should further be noted that currently 172 countries and jurisdictions have issued blocking orders against some or all of the names on the Treasury list of terrorist financiers.

## **UNITED NATIONS**

The United Nations has played a key role in the global strategy to starve the terrorists of funds. On September 28, 2001, the United Nations Security Council unanimously adopted Resolution (UNSCR) 1373, requiring all member states to “[f]reeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts.”

On January 16, 2002, the Security Council adopted Resolution 1390, which modifies and continues the international sanctions against the Taliban, Usama bin Laden, and al-Qaeda as set forth by UNSCRs 1267 (1999) and 1333 (2000). Resolution 1267 was adopted on October 15, 1999, and targeted the Taliban by freezing its funds and other financial resources and those of any entity owned or controlled by it. On December 19, 2000, the Security Council adopted Resolution 1333 requiring member states to freeze “without delay” the funds and other financial assets of Usama bin Laden and al-Qaeda associates.

Resolution 1267 further established a U.N. Sanctions Committee, consisting of all members of the Security Council, which has proven to be a very useful mechanism for internationalizing asset freezes against the Taliban, Usama bin Laden, al-Qaeda and those linked or associated with them. The names of targeted individuals and entities are submitted to the 1267 Sanctions Committee for inclusion in the committee’s list of terrorists and terrorist financiers. Once a name is placed on the U.N. list, member states are obligated to freeze the funds and assets located within their respective countries.

The U.S. has worked closely with the 1267 Sanctions Committee. For example, prior to being publicly designated under Executive Order 13224, the names of individuals and entities are submitted to the 1267 Sanctions Committee through the U.S. Mission to the U.N. If no member of the Sanctions Committee objects, the U.S. government names are added to the U.N. list, and the assets of the suspected terrorist financiers are blocked worldwide.

#### **EUROPEAN UNION**

The European Union and the United States have worked closely together to ensure that terrorist financiers designated by one party are also designated by the other. For example, in August 2002, Italy joined the United States in submitting to the U.N. Sanctions Committee the names of 25 individuals and entities linked to al-Qaeda so that their assets could be frozen worldwide. Furthermore, in February 2002, the United States joined Spain in designating 21 individuals linked to ETA, the Basque terrorist group.

#### **G7/G8**

The Group of Seven (G7) Finance Ministers and Central Bank Governors (the United States, Japan, Germany, France, United Kingdom, Italy, and Canada) have played an important role in combating the financing of terrorism. The G7 issued an Action Plan on October 6, 2001. In April 2002, it submitted a list of 10 names to the U.N. so that the assets of those individuals would be frozen worldwide, and in September 2002 it released a one-year report on terrorist financing.

In June 2002, G8 (the G7 countries plus Russia) Foreign Ministers endorsed a revised set of recommendations on counterterrorism, which included a commitment to full implementation of UNSCR 1373 and the Financial Action Task Force (FATF) eight special recommendations on terrorist financing.

#### **FATF**

Another good example of international cooperation in the war against terrorist financing involves the Financial Action Task Force (FATF). FATF is the premier international body dedicated to the establishment of legal and regulatory standards and policies to combat money laundering. Established by the G7 in 1989, FATF has grown to 31 member states covering five continents. The fundamental FATF document is the FATF 40 Recommendations, which represent a set of international standards for countries to establish an effective anti-money laundering regime.

Following the terrorist attacks of September 11, 2001, the FATF expanded its mandate to include terrorist financing. Specifically, the FATF articulated eight special recommendations which, when combined with the FATF 40 Recommendations, establish the basic framework to detect, prevent and suppress the financing of terrorism. One of the eight special recommendations encourages countries to implement legislation to authorize the forfeiture of funds intended to be used to finance terrorism. FATF is monitoring compliance with its recommendations. It has invited members as well as non-members to respond to a questionnaire on compliance with these recommendations, and is assessing these countries' needs for technical assistance.

Most recently, FATF has established a Terrorist Financing Working Group to oversee FATF's counter-terrorist financing activities. The Working Group is currently chaired by the United States and Spain.

#### **BILATERAL EFFORTS**

The United States has worked bilaterally with a number of other countries in the fight against terrorist financing. For example, collaborative efforts with Middle East countries have resulted in the United Arab Emirates, Bahrain, Egypt, and Qatar enacting anti-money laundering legislation. Kuwait and Saudi Arabia have established government

entities to oversee charities and prevent abuse of financial donations. Additionally, in September 2002, Saudi Arabia joined the United States in submitting to the 1267 Sanctions Committee the name of a Saudi supporter of al-Qaeda so that his assets could be frozen worldwide.

#### **CHALLENGES AHEAD**

As we approach the second year anniversary of the heinous attacks of September 11, 2001, the challenge is to strengthen successful anti-terrorist financing

initiatives and develop new and creative strategies to starve the terrorists of funds. The international community must continue to play a central role in these efforts. Finally, Islamic donor countries must assume a leadership role in developing policies, procedures and regulations to govern Islamic charities and prevent them from being used to underwrite acts of terror. ●

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