

International Narcotics Control Strategy Report -2003

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Introduction

“Follow the money” became an increasingly important and effective thrust of law enforcement and other international efforts in the fight against transnational crime and terrorism in 2003. Against the backdrop of terrorist attacks in Saudi Arabia, Malaysia, the Philippines, Thailand, Turkey, Indonesia, Israel and Russia last year, the international community intensified its efforts to develop coordinated, targeted actions to thwart money laundering and terrorist financing. By the end of the year, important gains had been made across all fronts that mattered most, setting the stage for further progress in 2004 and beyond. International anti-money laundering and antiterrorist financing standards were stronger and increasingly in effect in more countries. The countries most vulnerable to terrorist financing were well on their way to receiving technical assistance packages to develop comprehensive anti-money laundering regimes to eliminate these vulnerabilities. Assets belonging to criminals and terrorists continued to be identified, frozen, and seized. Intelligence developed by following the money led to the identification and subsequent investigation of key criminals and terrorists or terrorist supporters. And scarce assistance assets also were used more efficiently: burden sharing among our allies in the donor community expanded and reliance on regionally focused training programs grew.

One important positive measure of these developments is that crime and terrorism-related funds are now harder than ever to move clandestinely through formal domestic and international financial channels. But this achievement hardly means that we have put the money laundering and terrorist financing challenge behind us. The stakes remain too high for our adversaries to think they need not counter our efforts: transnational crime continues to pay big, and the terrorists are fighting for their survival. Money will continue to motivate, lubricate, and sustain their ambitions. And if they cannot now move or acquire funds as easily as they did before through formal channels, they will seek alternative laundering and financing methods to undermine our international efforts and overcome the obstacles we have thrown in their way. Evidence of this can be seen as investigation after investigation reveals the increasingly important role of “alternative remittance systems”—Hawalas, the black market peso exchange, and other forms of trade-based money laundering—in facilitating transnational crime and terrorism. Often based simply on trust of family and ethnic cohorts, these systems of “recordless” transactions are shaping the next generation of anti-money laundering and antiterrorist financing challenges. The challenges presented by the use of these systems are also influencing the responses of authorities worldwide with regard to setting of standards, training, institution building, data collection, and investigations.

On the standard-setting front, the Financial Action Task Force (FATF) continued to provide critical guidance as to how best to attack the full range of financial crime. FATF welcomed South Africa and Russia as its 32nd and 33rd members, and it completed the second revision of its Forty Recommendations since its formation in 1989. The revisions address a number of deficiencies in earlier versions, such as the need to prohibit shell banks and to cover “gatekeepers” like lawyers, accountants, and notaries who work outside the financial sector but can nevertheless help with arranging and structuring accounts. FATF also elaborated on its eight Special Recommendations on Terrorist Financing, which it promulgated in 2001 by publishing guidance and best practices notes to help regulators, enforcers, financial institutions and others better understand and implement the most technical recommendations. The FATF-style regional bodies worked throughout the year to adopt these recommendations in line with their particular regional requirements. The IMF and World Bank have also incorporated FATF’s recommendations into the financial sector reviews they undertake.

FATF sustained the behavior-changing pressure of its Non-cooperative Countries and Territories (NCCT) process. Out of the 23 jurisdictions FATF has designated as NCCTs over the past five years, nine still remain on the list, and of those, FATF member states are imposing additional countermeasures on Nauru and Burma for their persistent inability to adequately comply with FATF’s recommendations. As a rule, however, the threat of countermeasures has motivated countries to improve their compliance, to wit: Ukraine passed new anti-money laundering laws in early 2003 just in time to have FATF lift countermeasures for Ukraine at its February plenary, and the Philippines, after receiving assistance from the United States, Australia, and Japan, passed revised anti-money laundering laws in time for countermeasures that were to go into effect in March to be withdrawn.

The United States remains particularly concerned about terrorist financing activity in a core set of approximately two-dozen countries around the world. Accordingly, the bulk of U.S. anti-money laundering technical assistance is focused on making these countries less vulnerable to the terrorist financing threat and on making terrorists and

their assets more vulnerable to counter attacks. The U.S. State Department is funding most of this inter-agency effort and is coordinating and leading the entire undertaking of technical assistance. So far, the Department has led comprehensive vulnerability and needs assessments of, and produced training and technical assistance implementation plans for, 17 of these priority countries. The remaining assessments are planned for 2004, security and political conditions permitting. Assistance, pegged to the implementation plans, is being provided to all of the assessed countries. The program takes a systemic and comprehensive approach, with assistance—targeted at five core objectives—delivered in both sequential and parallel stages:

- Countries must first have adequate anti-money laundering/antiterrorist financing laws. They must comply with FATF's anti-money laundering and antiterrorist financing recommendations including the criminalization of money laundering and terrorist financing and the establishment of effective measures to block and freeze assets.
- With appropriate laws in place, training and technical assistance can be focused to simultaneously develop the three core entities responsible for implementing laws. Training is provided for criminal investigators in customs and other law enforcement services to assist them in detecting and tracking money laundering and terrorist financing and in developing the evidence to support indictments and prosecutions against criminals and terrorists; for regulators that supervise the financial sector so that they can ensure that all relevant banking and nonbanking financial institutions know and follow "know your customer," suspicious transaction reporting, and other record keeping and good practices procedures; and for the prosecutors and judges who will be key to the criminal prosecution of cases against criminals, terrorists and their supporters.
- Typically, the capstone to this effort is the development of Financial Intelligence Units (FIUs), which are often tasked with developing the regulations that banking and nonbanking financial organizations must follow and where suspicious transaction reports and other intelligence is collected, analyzed and disseminated both to help develop cases domestically and sharing internationally through FIUs in other countries as part of transnational investigations.

The U.S. Government, however, is not the sole provider of such assistance. The United States supports a number of regional training programs around the world in which officials from neighboring countries are brought together for specialized anti-money laundering and antiterrorist financing training. The global network of International Law Enforcement Academies (ILEAs), funded and managed by the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL), has enhanced its anti-money laundering curricula, including the incorporation of new segments on terrorist financing. The State Department's Anti-terrorist Assistance (ATA) Program similarly includes terrorist financing segments in the curricula it delivers at various antiterrorism training centers around the world such as the Malaysian-run Southeast Asia Regional Center for Counter-terrorism. These and other broad-based training initiatives allowed the U.S. to provide some form of anti-money laundering or antiterrorist financing assistance to nearly 100 countries in 2003.

International efforts to identify, block, and freeze terrorist assets persevered in 2003; however, the task is growing more challenging as the most vulnerable targets have been successfully attacked and as terrorists employ countermeasures to further protect their funds. The U.S. Treasury reports that at the end of 2003, some \$140 million worth of terrorist assets worldwide have remained blocked since the crackdown began shortly after September 11, 2001. This represents approximately a 12 percent increase from the \$125 million total at the end of 2002.

A number of factors help explain the slower pace in 2003. Most notably, assets were less concealed and thus more vulnerable to detection and blocking when measures were suddenly implemented in the immediate aftermath of 9/11; in short, the low hanging fruit has been picked. Meanwhile, to avoid the successful targeting of the formal financial sector, terrorist organizations appear to be placing more emphasis on traditional, ethnic-based alternative remittance systems, including trade-based money laundering, and on nongovernmental organizations such as charities. Identifying and tracking funds through these alternative networks—a tough enough assignment even for countries with sophisticated anti-money laundering regimes—is a staggering challenge for many of the key terrorist financing countries who are only now beginning to develop competent anti-money laundering institutions. The FATF has sought to help overcome this challenge by issuing various interpretative notes and best practices guidelines on its Special Recommendations dealing with charities and the blocking and freezing of assets. Indeed, at its 2003 annual typologies meeting, which addressed such issues as money laundering trends and enforcement and regulation best practices, FATF focused on the charities problem,

particularly the challenge of tracking and monitoring funds raised by charities when they are distributed in areas that have no formal banking, accounting, or record keeping infrastructure and depend on cash economies.

Finally, important substantive strides were made with regard to burden sharing in 2003. The proliferation of terrorist attacks around the world brought the threat home to more and more countries and underscored the fact that no one country has the sole obligation or wherewithal to meet the entire challenge. Sharing the burden of anti-money laundering and antiterrorist financing training and technical assistance is especially important because it is so labor intensive. U.S. experts are particularly stretched because of their frequent need to undertake, nearly simultaneously, assessment, training, and investigative missions. Efforts to identify priorities and coordinate assistance by the major donor countries took an important step forward at the June 2003 G-8 Summit in Evian. There the heads of state agreed to establish the Counter-terrorism Action Group (CTAG) for these priority-setting and coordination purposes. CTAG consists of the G-8 members (U.S., UK, France, Germany, Italy, Canada, Japan, and Russia), the European Union, and representatives of the UN Counter-terrorism Center, as well as other representatives, invited on a case-by-case basis, who have demonstrated a willingness and ability to provide counterterrorism assistance. CTAG—recognizing the importance of the issue and the potential for burden sharing—focused its first mission on terrorist financing. It has partnered with FATF, providing that organization with a list of countries CTAG members are interested in providing assistance to so that FATF can assess their antiterrorist financing technical assistance needs. FATF will deliver these assessments to the CTAG in early 2004 enabling the donors for the first time to follow through with coordinated, cost-saving and gap-closing counterterrorism technical assistance programs.

As we look beyond the accomplishments of 2003 and into the future, we see that much still remains to be done to combat money laundering and terrorist financing. There remain significant challenges in the adoption and implementation of anti-money laundering and antiterrorist financing standards worldwide. However, two new FATF-style regional bodies may be established in 2004, bringing more rigorous anti-money laundering disciplines to two regions especially critical in the war against terrorism: the Middle East and Central Asia. The U.S. will significantly enhance its anti-money laundering programs in East Africa as part of the President's counterterrorism initiative for this region. Operationally, the biggest challenge will be countering moves by criminals and terrorists to conduct their transactions through alternative, often underground, remittance systems. This will press intelligence collection and criminal investigation skills to their limits as they struggle to be effective in very closed, often hostile foreign environments. One of the means being considered to attack this challenge is the creation of an international network of Trade Transparency Units (TTUs). Patterned after the international network of Financial Intelligence Units (84 worldwide) that, among other missions, collect, analyze and disseminate information on suspicious transactions, the TTUs would similarly focus on detecting anomalies in trade data—such as deliberate over and under-invoicing—that can be a powerful predictor of trade-based money laundering. By focusing on commodities that often serve as stores-of-value, such as gold and precious gems, and are used to settle accounts without involving the formal financial sector, the TTUs would get to the heart of much of the alternative remittance challenge and help expose the criminals, terrorists, and their associates and assets to punitive and deterrent enforcement action.

These initiatives will be essential to achieving further progress against money laundering and terrorist financing. Progress will continue to require strong, imaginative and well-resourced leadership from the United States. But we need not go it alone. The gains the United States made in 2003 through its diplomatic and technical assistance efforts show an increasing willingness of the international community to cooperate in this fight—to comply with the measures needed to block, deter, and expose money laundering and terrorist financing, and to provide the assistance needed to turn the political will to comply into the operational ability to enforce the laws and regulations that lead to the confiscation of crime and terrorist-related assets and the prosecution and conviction of money launderers and terrorist financiers.