SFI Securing the Future Initiative

Recalibrating Counterterrorism in the Security Council Two Decades after 9/11

POLICY BRIEF

Countering the Financing of Terrorism: The UN Security Council, Financial Action Task Force, and a More Optimal Division of Labor

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KEY FINDINGS

- More than 20 years after the counterterrorism financing (CTF) regime was established in the wake of 9/11, a need remains to reconfigure the relationship between the UN Security Council (UNSC) and the Financial Action Task Force (FATF) to optimize the global response to terrorism financing (TF).
- Because CTF is a bifurcated global policy campaign, advances have primarily been a function of the priorities of states and leaders who temporarily lead those bodies. As such, short-term focuses on new threats and policy milestones have come at the cost of a long-term strategic agenda that focuses on risk identification, a major shortcoming of the status quo.
- The CTF regime has attracted unwanted negative attention for unintended consequences and adverse effects on humanitarian aid delivery, civil society, and human rights. The status quo is further incapable of responding robustly to these challenges.
- The 1267 Committee's Sanctions Implementation and Monitoring Team and the FATF's network of regional bodies have comparative advantages in researching and identifying TF risks, which have been underused to date.
- Commonalities and potential duplication of efforts between the FATF's system of mutual evaluations and the country visits of the UNSC's Counter Terrorism Committee's Executive Directorate (CTED) should be deconflicted. FATF's mutual evaluations should be leveraged for their ability to induce behavioral change among states. CTED country visit reports containing rich threat analysis should be made more widely accessible.

- The Office of the Ombudsperson of the 1267 Committee offers to FATF a model for countering unintended consequences, which combined with the mutual evaluation system, could substantively reduce the frequency and severity of these delegitimizing and harmful adverse effects.

Introduction

On September 27, 2001, U.S. Ambassador to the UN John Negroponte addressed the media stakeout at UN headquarters in New York, a city still reeling from a monumental act of terror. He informed journalists of the introduction of a new UN Security Council resolution (UNSCR) intended to "address the question of financial [...] support for international terrorism."[1] That resolution, UNSCR 1373 (2001), established the UNSC's Counter Terrorism Committee and its Executive Directorate, placed targeted financial sanctions on al-Qaeda and the Taliban, and became the first in a long series of subsequent resolutions outlining the role of the UNSC in the global effort to counter the financing of transnational jihadism.[2] Just a month later, at an emergency meeting of the FATF, then the global standards setter for anti-money laundering (AML), U.S. Treasury Secretary Paul O'Neil addressed the plenary: "FATF is uniquely positioned to take up the challenges of terrorist financing. Our goal must be nothing less than the disruption and elimination of the financial frameworks that support terrorism and its abhorrent acts."[3] By the end of that meeting, the FATF had adopted its IX Special Recommendations[4] on countering the financing of terrorism, requiring its members to deploy existing AML tools against this new type of financial crime or "illicit finance."

Within weeks following 9/11, a new global framework to detect, prevent, and suppress the financing of terrorism had been crafted, and this same framework continues to be used today. However, facing understandable pressures to act quickly at the time, the somewhat hastily established framework failed to clearly delineate responsibilities between the UNSC and FATF to lead this global campaign. Both bodies have proceeded to carry out their CTF work mostly independently of one another, without a thought-out strategy or unified vision of success. This has yielded a sub-optimal partnership between the dual stewards of the CTF regime.

To be sure, there has been cooperation and sustained reciprocal endorsement throughout the more than two-decade lifetime of the modern CTF regime. For example, UNSCR 2462 (2019), which aims to suppress TF, reinforces the FATF's "essential role…in setting global standards for preventing and combatting…terrorist financing," and urges states to implement its standards.[5] Similarly, the FATF's 40 Recommendations outline international obligations to implement targeted financial sanctions against entities on UN sanctions lists.[6] But aside from these references, there is nothing to suggest how these bodies might transcend mere *cooperation* to achieve a considered *collaboration*. UNSCR 2462 urges states to do many things they are already obliged to do under the

1 "Remarks by Ambassador John D. Negroponte, U.S. Permanent Representative to the United Nations, at the Security Council Stake-Out, September 27, 2001," USUN Press Release #129 (01), https://avalon.law.yale.edu/sept11/un_002.asp.

2 UNSCR 1267 passed in 1999 and focused specifically on curbing the capabilities of the Taliban in Afghanistan. See UN Security Council Resolution 1267, S/RES/1267, 15 October 1999. The 1999 Convention for the Suppression of the Financing of Terrorism was the sole international instrument directing the global response to financing terrorism generally, although it had been ratified by only four states prior to 9/11.

3 "FATF Pledges to Combat the Financing of Terrorists," OECD, 30 October 2001, https://www.oecd.org/newsroom/fatfpledgestocombatthefinancingofterrorists.htm.

4 "IX Special Recommendations," FATF, https://www.fatf-gafi.org/publications/fatfrecommendations/documents/ixspecialrecommendations.html.

5 See UN Security Council Resolution 2462, S/RES/2462, 28 March 2019.

6 See "International Standards on Combatting Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations," FATF, as amended March 2022, https://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html.

FATF system.[7] The FATF Recommendations, last updated in March 2022, neither reference UNSCR 2462, which was seen as an update to the global CTF project in the face of new TF threats,[8] nor any other UNSC committee with CTF responsibilities, such as the 1267 Committee or the Counter Terrorism Committee and CTED.

The relationship, though supposedly strong, lacks a clear division of labor reflecting each body's comparative advantage in addressing TF risk and cultivating effective and globally applicable CTF responses. Although this has yielded some duplicate efforts—themselves a drain on scarce resources and political will—this is less concerning than the regime's sub-optimal CTF effectiveness. Given the distinct tools at its disposal, the UNSC ought to reconsider its relationship with the FATF when it comes to adding value to the CTF project, prioritizing a sharper focus on understanding current and potential future TF risks as a means of right-sizing its role.

When Two Heads Aren't Better Than One

Since the flurry of activity immediately after 9/11, many advances in the global CTF regime by either the UNSC or the FATF have been steered by the national priorities of states occupying time-bound leadership positions within those organizations. The result: profuse mutual reinforcement of each other's work, but little common vision on how to take the CTF regime forward.

The FATF Secretariat's role in identifying and analyzing emerging TF risks, trends, and methods is directed by the chosen priorities of its rotating presidency. For example, under the German Presidency of 2020–2022, clarifying risks related to ethnically or racially motivated terrorism (otherwise known as "far-right" terrorism) were prioritized,[9] with this culminating in a new typologies report on the subject.[10] Given a swathe of far-right terrorist attacks in Germany and elsewhere in northern Europe preceding its presidency, we can see how a national priority for Germany (with questionable relevance for states outside North America, Europe, and Oceania that have not been largely affected by far-right violence) came to become a global one.[11]

Similarly, UNSCR 2462 was largely seen as the pet project of French President Emmanuel Macron during his country's Security Council presidency and as a complement to Paris hosting the first "No Money for Terror" conference in April 2018.[12] Although France was eager to put CTF back on the crowded global security agenda, the issue has largely fallen off again, at least in Europe, where attention has been usurped by the re-emergence of state threats as signaled by the Russian invasion of Ukraine in February 2022. The resolution *was* successful in updating existing related resolutions on TF in response to new forms of financing and new threat actors. However, those involved in negotiating UNSCR 2462 will tell you that some states believed a new resolution would suggest that all calls to action in existing resolutions had been fulfilled, which could not be further from the truth.

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7 For example, paragraph 5 requires states to make TF a criminal offense (FATF Recommendation 5); paragraphs 10 through 13 stress the need for promptly freezing terrorist assets (FATF Recommendation 6); and paragraph 14 urges states to specifically assess the TF risks they face (FATF Recommendation 1).

8 See "Combatting Financing of Terrorism Open Debate," Security Council Report, 27 March 2019, https://www.securitycouncilreport.org/whatsinblue/2019/03/combatting-financing-of-terrorism-open-debate.php.

9 "Priorities for the Financial Action Task Force (FATF) Under the German Presidency: Objectives for 2020–2022," FATF, https://www.fatf-gafi.org/media/fatf/documents/German-Presidency-Priorities.pdf.

10 "Ethnically or Racially Motivated Terrorism Financing," FATF, June 2021, https://www.fatf-gafi.org/media/fatf/documents/reports/Ethnically-or-racially-motivated-terrorism-financing.pdf.

11 Others have argued how the far-right threat is of limited concern to most states and likely yields a lesser sense of urgency to counter far-right financing as an international priority. See Colin P. Clarke, "Deterrence and Denial: The Impact of Sanctions and Designations on Violent Far-Right Groups: Lessons Learned from the 1267 Sanctions Regime Against Al-Qaeda and Islamic State in Iraq and Syria," July 2022, https://thesoufancenter.org/wp-content/uploads/2022/07/TSC-IssueBrief-Colin-Clarke-July-2022.pdf.

12 Terrorism financing became an urgent priority for France at this time, given that several ISIS-inspired attacks had been carried out in the country, including the attacks in Paris on 13 November 2015, after which the Council adopted UNSCR 2249 (2015) on ISIS-related terrorism at France's initiative. See, "Combatting Financing of Terrorism Open Debate," Security Council Report, 27 March 2019, https://www.securitycouncilreport.org/whatsinblue/2019/03/combatting-financing-of-terrorism-open-debate.php; "Terrorism: France's International Action," Ministère de l'Europe et des Affaires Étrangères, https://www.diplomatie.gouv.fr/en/french-foreign-policy/security-disarmament-and-non-proliferation/terrorism-france-s-international-action/#sommaire_2.

In 2020, the CTED and 1267 Analytical Support and Sanctions Monitoring Team (1267 Monitoring Team), as per paragraph 37 of UNSCR 2462, prepared a report on actions taken by member states to disrupt TF. This report found that although most states have laws and mechanisms in place to fulfil international obligations to prevent TF, "those laws and mechanisms are not used consistently or fully, and terrorism financiers continue to identify new ways to support terrorist actors or sustain terrorist activity."[13] Put another way, just like terrorist threats and counterterrorism responses generally, TF risk and typologies are continuously evolving and adapting to CTF responses.[14]

Between the work of both the UNSC and FATF, the CTF regime still suffers from insufficient risk understanding when it comes to appreciating TF threats and vulnerabilities. The CTED and 1267 Monitoring Team have found that by 2020, only 20 percent of member states had conducted a dedicated TF risk assessment.[15] This is mirrored by the FATF, which in its report on the state of effectiveness and compliance with the FATF standards indicates that "a number of countries have difficulty understanding the nature of the terrorist financing risks they face."[16] Without clear risk understanding, effective responses to undefined problems may just as well be put down to good luck. Short of proactively identifying terrorist financial flows (a necessary prerequisite for interdicting those flows), the CTF regime runs the risk of devolving further into a mere box-ticking exercise, whereby countries passively participate by dutifully implementing the UNSC's terrorism sanctions regimes and pursue CTF reforms and TF convictions for the purpose of appeasing FATF assessors. This has been described by the head of one European financial intelligence unit as "sleepwalking" when it comes to CTF,[17] whereby matching responses to risks is more a function of luck than considered risk awareness.

Unintended Consequences

At the same time, the negative impacts of the CTF regime on humanitarian assistance, civil society, and human rights have propelled introspection on the part of the FATF into the unintended consequences of the regime, which increasingly demand to be addressed. Paragraph 24 of UNSCR 2462 explicitly urges states to consider adverse impacts of CTF measures on exclusively humanitarian activities, carried out by humanitarian actors and in accordance with international humanitarian law.[18] Yet, this is easier said than done. The humanitarian crisis that arose after an earthquake struck south-eastern Afghanistan in July 2022 demonstrated once again how sanctions intended to inhibit financing the Taliban encumber prompt disaster responses.[19] Often, aid flows are stymied because extensive donor-compliance requirements contained in funding agreements pass risk along to humanitarian actors themselves, tying them up in compliance knots and impeding aid delivery.[20] Donors may be conservative in their risk calculations, and banks may refuse to complete transfers to high-risk jurisdictions

13 See United Nations Security Council, "Letter Dated 3 June 2020 from the Chair of the Security Council Committee Established Pursuant to Resolution 1373 (2001) Concerning Counter-Terrorism and the Chair of the Security Council Committee Pursuant to Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) Concerning Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and Associated Individuals, Groups, Undertakings and Entities Addressed to the President of the Security Council," S/2020/493 (3 June 2020), para. 88.

14 Stephen Reimer, "Remarks Delivered to the Joint Special Meeting of the UN Counter-Terrorism Committee and the ISIL (Da'esh) and Al-Qaida Sanctions Committee on Latest Terrorism Financing Trends and Threats, as Well as the Implementation of Security Council Resolution 2462 (2019)," 18 November 2021, https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/royal_united_services_institute.pdf.

15 60 percent of member states have considered TF risks in their national risk assessment process, however. See S/2020/493, para. 39.

16 "Report on the State of Effectiveness and Compliance with the FATF Standards," FATF, April 2022, https://www.fatf-gafi.org/media/fatf/documents/recommendations/Report-on-the-State-of-Effectiveness-Compliance-with-FATF-Standards.pdf.

17 Tom Keatinge and Florence Keen, "A Sharper Image: Advancing a Risk-Based Response to Terrorist Financing," March 2020, RUSI Occasional Paper.

18 See S/Res/2462 (2019).

19 Shruti Menon, "Afghanistan Earthquake: What Foreign Aid Is Getting In?," BBC News, 8 July 2022, https://www.bbc.co.uk/news/world-asia-59518628.

20 Emanuela-Chiara Gillard, "IHL and the Humanitarian Impact of Counterterrorism Measures and Sanctions," September 2021, https://www.chathamhouse.org/sites/default/files/2021-09/2021-09-03-ihl-impact-counterterrorism-measures-gillard_0.pdf.

for fear of falling foul of CTF controls,[21] sometimes even when official humanitarian exemptions to sanctions regimes are established.[22]

UNSCR 2462 also recognizes how, in an effort to mitigate TF abuse of the non-profit organization (NPO) sector, well-intentioned CTF measures have disrupted or otherwise discouraged entirely legitimate charitable activities, and signposts to FATF's guidance on the issue in the form of its Recommendation 8.[23] In its interpretive note to Recommendation 8, FATF underscores how measures must respond to identified risks and comply with the UN Charter and international human rights law[24]—yet many countries have justified unduly restrictive measures on NPOs in the name of complying with the FATF standards.[25] Similarly, NPOs have long wrangled with the issue of bank de-risking, whereby financial institutions may terminate or restrict business relationships with NPOs to avoid, rather than manage, risk.[26] Although Recommendation 8 was revised in 2016 to clarify the intention of related measures,[27] only a small handful of countries are compliant with the Recommendation, and CTF measures have continued to beleaguer civil society. More recently, authoritarian-minded states have gone beyond restricting civic space generally and are deliberately misusing AML/CTF laws and powers to suppress political opponents, protest movements, and other perceived threats to their supremacy and influence.[28]

Although UNSCR 2462 has recognized these and other adverse impacts of the CTF regime on humanitarian activity and civil society, solutions to these problems go no further than to recite the hackneyed dictum that countering the financing of terrorism should not contravene international humanitarian law and human rights law. At the moment, the FATF is similarly short on solutions, having yet to explain how it plans to act on the findings of its Stocktake Report, which examined unintended consequences arising from the incorrect implementation of its standards.[29]

Auditing the Toolbox

As outlined above, after a marriage of more than 20 years, there is legitimate cause for reconfiguring the relationship between the UNSC and FATF to drive a CTF regime that has a sharper focus on understanding risks and reduces mere box-ticking of standards and meeting minimum expectations. To do this, each should invest in their specializations to optimize their effectiveness and, perhaps, address some of their unintended consequences. That starts with auditing the toolbox available to each partner.

21 Stephen Reimer and Olivia Kearney, "Suspicious Transaction Report Podcasts. Unintended Consequences: Humanitarianism and CTF Compliance," 12 April 2021, https://rusi.org/podcasts/suspicious-transaction-report/episode-10-unintended-consequences-humanitarianism-and-ctf-compliance.

22 "Afghanistan: Vote on 1988 Sanctions Resolution," Security Council Report, 21 December 2021, https://www.securitycouncilreport.org/whatsinblue/2021/12/afghanistan-vote-on-1988-sanctions-exemption-resolution.php.

23 See S/Res/2462 (2019).

24 FATF, "Best Practices: Combatting the Abuse of Non-Profit Organisations (Recommendation 8)," June 2015, https://www.fatf-gafi.org/media/fatf/documents/reports/BPP-combating-abuse-non-profit-organisations.pdf.

25 FATF, "High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards," 27 October 2021, https://www.fatf-gafi.org/media/fatf/documents/Unintended-Consequences.pdf.

26 FATF, "FATF Clarifies Risk-Based Approach: Case-by-Case, Not Wholesale De-Risking," 23 October 2014, http://www.fatf-gafi.org/documents/documents/rba-and-de-risking.html.

27 "NPOs Applaud Important Changes in Financial Action Task Force (FATF) Policy—NPOs No Longer Considered 'Particularly' Vulnerable," Global NPO Coalition on FATF, Press Release, 29 June 2016, https://fatfplatform.org/assets/Press-Release.pdf.

28 "The FATF Standards and Unintended Consequences Part 3: Looking to the Future," https://rusi.org/events/open-to-all/fatf-standards-and-unintended-consequences-part-3-looking-future.

29 FATF's project on mitigating the unintended consequences of the incorrect implementation of its standards was launched in February 2021. A non-public Stocktake Report was presented to the Plenary later that year, and in March 2022 it was decided that the next phase on identifying mitigating measures would be referred to the relevant FATF working groups, with responses potentially encompassing "additional guidance, best practices, training, and possible revisions to the FATF's Methodology, Procedures and Standards." See FATF, High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards," 27 October 2021, https://www.fatf-gafi.org/media/fatf/documents/Unintended-Consequences.pdf.

UNSC

Several arms of the UNSC hold relevant CTF functions. The UNSC's 1267 Monitoring Team is tasked with supporting the ISIL (Da'esh) and al-Qaeda Sanctions Committee (1267 Committee) with designations and the implementation of the committee's targeted financial sanctions and other prohibitive measures. The 1267 Monitoring Team has access and a mandate to "collat[e] information from…member states" and "report to the Committee on the changing nature of the threat from Al-Qaida and ISIL and the best measures to confront them." The monitoring team enjoys support from UN missions to carry out its work, including through "logistical support, security assistance[,] and the exchange of information."[30] Biannual reports provide, arguably, the most detailed and up-to-date assessment of the financial activities of the Islamic State, al-Qaeda, and its affiliates. Being publicly available, these reports are a singular resource for sketching out up-to-date TF threats and risks related to transnational jihadism, all thanks to the 1267 Monitoring Team's unique position within the UNSC's CTF architecture, which gives it access to privileged sources of intelligence on TF risks.

CTED publications on emerging TF trends—similar to 1267 Monitoring Team reports—are another valuable resource for informing risk understanding. CTED's country assessment visits to member states are aimed at monitoring, promoting, and facilitating the implementation of various counterterrorism-related UNSCRs, including UNSCR 1373 and UNSCR 2462. These assessment visits are officially technical in nature, whereby the CTED team will assess a county's CTF regime in relation to—among other things—national risk assessments, freezing terrorist assets, supervision, protecting NPOs from TF abuse, and potential TF involving new and emerging technologies such as cryptocurrencies and links with transnational organized crime.[31] Unlike the seemingly analogous process of mutual evaluations carried out by the FATF and FATF-style regional bodies (FSRBs), the reports of CTED's country assessments are not publicly available, although they are accessible within the UN system through the Global Counter-Terrorism Coordination Platform.[32]

The Office of the Ombudsperson of the 1267 Committee offers an impartial voice for those who feel they have been wrongfully targeted by the Committee's sanctions regime. After gathering evidence and interacting with the petitioner and relevant states involved in the de-listing request, the Ombudsperson will report its recommendations to the Committee for consideration,[33] constituting an opportunity for redress by self-perceived victims of unintended consequences, a process that is unique among the UNSC's other sanctions regimes.

FATF and FSRBs

As mentioned previously, the FATF Secretariat pursues a mandate of clarifying global TF risks through its thematic typology reports, with subject areas determined by the chosen priorities of the rotating presidency. Recent reports on, for example, ethnically or racially motivated terrorism and money laundering and terrorist financing risks arising from migrant smuggling, compile and analyze inputs provided by FATF and FSRB member states, including questionnaire responses and case studies.[34] FSRB typology reports aim to elucidate region-specific TF typologies and risks, benefitting from a more hands-on methodological approach than similar FATF reports. For example, the methodology of a recent typologies report by the FSRB in West Africa on money laundering and terrorist financing risks and goods smuggling supplemented questionnaires with field visits and interviews with relevant national

30 See "Work and Mandate," United Nations Security Council, https://www.un.org/securitycouncil/sanctions/1267/monitoring-team/work-and-mandate. The Monitoring team's mandate is contained in paragraphs 98–105 and the annex of UNSCR 2610. See UN Security Council Resolution 2610, S/RES/2610, 17 December 2021.

31 See UN Security Council, "Letter Dated 21 July 2020 from the Chair of the Security Council Committee Established Pursuant to Resolution 1373 (2001) Concerning Counter-Terrorism Addressed to the President of the Security Council," S/2020/731 (21 July 2020).

32 "The Human Rights and Rule of Law Implications of Countering the Financing of Terrorism Measures," United Nations Human Rights Special Procedures, June 2022, p. 27, fn. 176.

33 See "Ombudsperson to the ISIL (Da'esh) and Al-Qaida Sanctions Committee," UN Security Council, https://www.un.org/securitycouncil/ombudsperson.

34 See FATF, "Money Laundering and Terrorist Financing Risks Arising from Migrant Smuggling," March 2022, http://www.fatf-gafi.org/media/fatf/documents/ML-TF-Risks-Arising-from-Migrant-Smuggling.pdf, p. 8 (Methodology); FATF, "Ethnically or Racially Motivated Terrorism Financing," June 2021, https://www.fatf-gafi.org/media/fatf/documents/reports/Ethnically-or-racially-motivated-terrorism-financing.pdf, pp. 6–7 (Methodology).

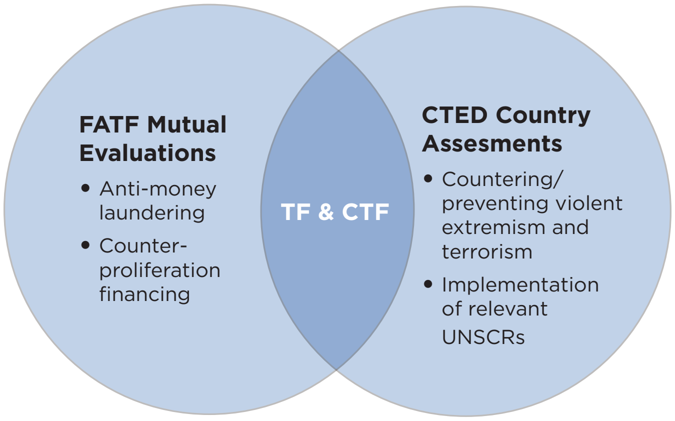
agencies, including financial intelligence units, customs, immigration, border control, and revenue.[35]

FATF's process of mutual evaluations are a powerful inducement for behavioral change among member states because of the negative consequences a poor grade can have for a country's economy.[36] However, the FATF system—particularly the high costs associated with receiving low scores—can in fact dissuade countries from prioritizing the determination of their TF risks, instead engendering a process of box-ticking indicators of CTF excellence to assure a favorable mark from the FATF evaluators.[37] In this way, the FATF "ends up *dictating* risk, as opposed to *encouraging* the risk-based approach," all the while grading countries on their response (i.e., CTF controls and measures) to under- or ill-defined TF risks.[38] For example, you might consider the FATF's Recommendation 8, which singles out and implicitly emphasizes TF risk in the NPO sector, reflecting the FATF's preoccupation with the jihadist terrorist risk that, historically, has abused NPOs for financing purposes to some extent.

Conclusion: Toward Specialization

The relationship between the UNSC and FATF could be optimized toward cultivating a risk-focused CTF regime by reconfiguring each body's role to align with their area of specialization.

The UNSC brings significant research and risk-identification capabilities to the CTF partnership, with reports of the 1267 Monitoring Team complementing FATF and FSRB typology reports with context-rich understanding of the financing of Islamic State and al-Qaeda globally. FATF should do more to communicate this threat awareness to individual states and provide corresponding CTF guidance. FSRBs, which enjoy the benefits of scanning a restricted regional horizon for emerging threats, are also well-positioned to lead on threat awareness and should be supported in this area.



In the Venn diagram between the FATF process of mutual evaluations on AML/CTF and CTED country assessments on implementing relevant UNSCRs, notable duplication exists were these two overlap on TF and CTF. One publicly available CTED country assessment report, based on a CTED visit to Finland in April 2019, offers some insight. The report reads like a FATF mutual evaluation report, with sections on the current terrorist threat, indications of where Finnish laws or measures fall short of principles and rules found in relevant UNSCRs, and recommendations on areas for improvement.[39] The report's consideration of TF risks for Finland goes far beyond what is included in the country's 2019 FATF mutual evaluation,[40] describing in detail TF risks associated

35 Inter-Governmental Action Group Against Money Laundering in West Africa (GIABA), "Money Laundering/Terrorist Financing and the Smuggling of Goods in West Africa," August 2020, https://www.giaba.org/media/f/1138_ENG-ML-TF%20and%20The%20Smugging%20of%20Goods.pdf, pp. 13–14 (Methodology).

36 Poor performing states are included on the FATF's list of Jurisdictions Under Increased Monitoring, which is used as a proxy list of high-risk jurisdictions by many financial institutions. The material consequences of being listed include strained correspondent banking relationships due to requirements for enhanced due diligence, as well as knock-on effects on trade, foreign investment, and the wider economy. See Comply Advantage, "What Is FATF Grey Lists and Blacklists?" https://complyadvantage.com/insights/fatf-blacklists-greylists/.

37 Tom Keatinge and Florence Keen, "A Sharper Image: Advancing a Rick-Based Response to Terrorist Financing," RUSI Occasional Papers, March 2020, https://static.rusi.org/20202001_ctf_final_web_copy_2.pdf, pp. 64–65.

38 Ibid.

39 CTED, "Report of the Counter-Terrorism Committee on Its Follow-Up Visit to the Republic of Finland (9–11 April 2019)," https://intermin.fi/documents/1410869/3723676/YKn+terrorismin+vastaisen+komitean+Suomea+koskeva+arviointiraportti+1.11.2019.pdf/6f290683-3f0d-47cf-6121-965807776b43/YKn+terrorismin+vastaisen+komitean+Suomea+koskeva+arviointiraportti+1.11.2019.pdf?t=1604567925974.

40 FATF, "Anti-Money Laundering and Counter-Terrorist Financing Measures: Finland Mutual Evaluation Report," April 2019, https://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Finland-2019.pdf, pp. 18–20.

with Islamic State and al-Qaeda-inspired sympathizers, the scale of subjects of interest related to lone-actor terrorism, returning foreign terrorist fighters and their dependents, and new technologies including encrypted communications and virtual assets.[41] That such reports are not automatically available to FATF assessors represents an obvious area where duplication could be avoided.

Whereas FATF mutual evaluations are useful vectors for achieving behavioral change among states, it is unclear what, if any, penalty can be levied through the process of CTED country assessments against states found to be lagging in implementing relevant UNSCRs, particularly as those results are only shared with the state itself. Through its mutual evaluation process, FATF should further prompt states to prioritize risk identification alongside meeting CTF technical standards. This should at least mirror the scale of consideration lent to risk understanding in CTED country assessments.

Concerning the unintended consequences of the CTF regime, the Office of the Ombudsperson of the 1267 Committee offers a model for the FATF to consider. A FATF Ombudsperson would similarly offer a needed impartial voice for those who have been affected by the overapplication or misuse of the FATF standards, investigating and reporting trends and making recommendations to the FATF plenary for how to curb such consequences.[42] With the mutual evaluation process as a powerful inducement, including overapplication and deliberate misuse of the standards to criteria for being listed, some of the worrying trends that threaten to delegitimize the FATF and the CTF regime overall could be addressed.

These and other reconfigurations of the relationship could be achieved by adhering to the following seven recommendations:

Recommendation 1. In its deliberations, engagements, and resolutions concerning CTF, the UNSC should go beyond mere recitation and reinforcement of the FATF's verbiage and principles, instead interpreting the FATF standards to offer useful understanding of TF risks. Reiterating aspects of the FATF standards in its resolutions serves to blur the demarcation of responsibilities between the two bodies. The UNSC should prioritize risk understanding and the FATF should lead on the design and implementation of CTF standards.

Recommendation 2. As dual stewards of the CTF regime, the UNSC and FATF should jointly establish an agenda for advancing the regime that is based on a common vision of risk. Relying on individual states to dictate the trajectory of the regime while occupying rotating presidential positions runs the risk of priorities becoming unbalanced in favor of the interests of the day of certain states.

Recommendation 3. To advance countries' identification of risks, the FATF should regularly engage with the findings of the 1267 Monitoring Team's biannual reports and produce risk indicators and CTF guidance based on trends identified in these reports. States should also use reports as valuable sources of intelligence on TF threats, from which to devise risk-responsive CTF measures.

Recommendation 4. Recognizing the FATF's priority for 2022–2024 under the Singaporean presidency to reinforce partnerships with FSRBs,[43] FATF should invest in FSRBs' capabilities and capacities to carry out risk-identification projects, including TF typology reports, which can offer enhanced region-specific understanding of relevant TF risks to member states.

Recommendation 5. With its rich detail on relevant TF risks and trends, the UNSC should make CTED country assessment reports available to FATF assessors to aid in their assessments of countries' awareness of TF risk and implementation of CTF measurers. CTED should consider whether value exists in re-evaluating countries

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41 CTED, "Report of the Counter-Terrorism Committee on its Follow-Up Visit to the Republic of Finland (9-11 April 2019)," https://intermin.fi/documents/1410869/3723676/YKn+terrorismin+vastaisen+komitean+Suomea+koskeva+arviointiraportti+1.11.2019.pdf/6f290683-3f0d-47cf-6121-965807776b43/YKn+terrorismin+vastaisen+komitean+Suomea+koskeva+arviointiraportti+1.11.2019.pdf?t=1604567925974, pp. 4–6.

42 Tom Keatinge, Stephen Reimer and Isabella Chase, "Good Intentions: The FATF Races Its Own Unintended Consequences," 5 August 2021, https://rusi.org/explore-our-research/publications/commentary/good-intentions-fatf-faces-its-own-unintended-consequences.

43 FATF, "Priorities for the Financial Action Task Force Under Singapore Presidency," https://www.fatf-gafi.org/media/fatf/documents/Singapore-Presidency-Priorities.pdf.

on their implementation of those elements of relevant UNSCRs that duplicate FATF's CTF standards.

Recommendation 6. The FATF should better deploy its system of mutual evaluations, a unique mechanism capable of achieving behavioral change in relation to CTF effectiveness, to encourage states to more proactively identify their specific TF risks beyond the current standards set out in FATF's Recommendation 1, which prioritizes the completion of risk assessments and lacks metrics for assessing their quality or inputs.

Recommendation 7. The FATF should consider adopting an office similar to that of the Ombudsperson of the 1267 Committee to address unintended consequences and adverse effects of the CTF regime.

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