Terrorist Financing:
Counter-Terrorism Action Group — Finance

Commitment

“We will develop a diplomatic strategy to urge speedy consideration of ratification of the TOC [Transnational Organized Crime] Convention and coordinate with others, including donors to the UN Office on Drugs and Crime, to provide technical assistance to promote implementation of the Convention.”

Fighting Corruption and Improving Transparency

Background

On September 29, 2003, the United Nations Transnational Organized Crime (TOC) Convention entered into force, having received the minimum 40 ratifications required as of July 2003. The TOC Convention represents a significant achievement between states in the fight against organized crime and terrorism. Specifically, it presents a number of measures that enable states to cooperate against activities such as money laundering, corruption, and the obstruction of investigations. The Convention was first officially adopted by the UN General Assembly at the Millennium Assembly in November 2000.

At the 2004 Sea Island Summit, members of the G8 placed a strong emphasis on countering terrorism. This was motivated by not only the memories of 9–11, the war in Iraq, and the security malaise in Afghanistan, but the terrorist attacks in Madrid, Spain just prior to the Sea Island Summit as well. One of the main pledges made by the G8 under the banner of counter terrorism was to ratify the TOC Convention so that states would be better equipped to deal with terrorism, particularly its funding, in a more efficient and collaborative manner. The pledge also called on all members of the G8 to actively help non-members ratify the Convention.

Assessment

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<thead>
<tr>
<th>Score</th>
<th>Lack of Compliance</th>
<th>Work in Progress</th>
<th>Full Compliance</th>
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<td>Germany</td>
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<tr>
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<td>European Union</td>
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Overall


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460 Fighting Corruption and Improving Transparency, 2004 Sea Island Summit Official Website (Sea Island) 10 June 2004. Date of Access: 3 January 2005 www.g8usa.gov/d_061004e.htm
Individual Country Compliance Breakdown

1. Canada: 0

Canada has registered an acceptable level of compliance with respect to its terrorist funding commitment. Canada has accomplished this mainly through ratifying the United Nations Transnational Organized Crime (TOC) Convention. With regard to coordinating with others in providing technical assistance to promote implementation of the Convention, the second part of its terrorist funding commitment, Canada’s performance thus far has been inadequate. That being said, however, Canada continues to support important pre-Sea Island initiatives that serve this end.

On May 13, 2002, Canada ratified the UN TOC Convention (also known as the Palermo Convention), “…which entered into force on September 29, 2003.” The TOC Convention is truly a landmark in the fight against terrorism, particularly its financing. The specifics of the Convention call for, inter alia, facilitating information sharing, law enforcement cooperation, removing impediments to international extradition, and technical assistance and training. In addition, Canada has also ratified the two accompanying protocols on smuggling migrants and trafficking persons for which it should be commended.

Though Canada still has yet to show evidence of post-Sea Island programs that focus on coordinating with others in providing technical assistance to promote the implementation of the Convention, Canada continues its pre-Sea Island programming with fervour. Most notably, Canada has been working with China through a program entitled the “Canada-China Procuratorate Reform Cooperation Project.” The program, began in 2002, aims to further develop China’s judicial capacities. One of the main outcomes of the program, Canada hopes, will be a more efficient, proper and consistent implementation of new legal codes and laws in China, thereby better enabling China to implement the Convention. The program will be seen through until 2007 under the auspices of the Canadian International Development Agency (CIDA). According to Reid Cooper, an official with the International Crime and Terrorism Division in Canada’s Department of Foreign Affairs and Trade (DFAIT), Canada has also been engaging in ongoing counter-terrorism legislative drafting workshops with the United Nations Office on Drugs and Crime (UNODC), the Inter-American Committee Against Terrorism (CICTE), and Mexico.

2. France: +1

France has shown an outstanding level compliance with respect to its terrorist funding commitment. France ratified the Transnational Organized Crime (TOC) Convention on October

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463 RE: Terrorist Financing and the G8/UN TOC Convention, Email Correspondence between Reid Cooper and Stefan Kahandaliyage (Toronto) 6 January 2005
29, 2002, one of the first states to do so.\textsuperscript{464} With regard to helping others implement the Convention, the second part of its commitment, France plans with Spain “to establish a joint, cross-border police and judicial corps against terrorism and [terrorist] financing…”\textsuperscript{465} The plan is specifically designed to target the Basque militant group ETA and Islamic extremists operating in Europe.\textsuperscript{466} There is still speculation, however, as to how French and Spanish law enforcement will cooperate especially with respect to details such as extradition, and how much domestic law may have to be harmonized in order to accommodate the plan.\textsuperscript{467}

France has also participated in the inaugural Ministerial Meeting of the Middle East and North Africa Financial Action Task Force (MENAFATF) held in Manama, Bahrain on November 30, 2004.\textsuperscript{468} France applauded the decision of the governments of Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates and Yemen to establish the Middle East and North Africa Financial Action Task Force. This organization will act like a “regional FATF” with the main objective of fighting terrorist funding by adhering to the treaties and resolutions of the United Nations.\textsuperscript{469}

Furthermore, in Africa, France and the UK have begun a coordinated effort on transnational crime prevention through the “Action Plan for Organised Crime in Africa.”\textsuperscript{470} The Action Plan focuses on capacity building between France, Britain, and African states vis-à-vis terrorist financing and other criminal activities that hinder development.\textsuperscript{471} With respect to the UN TOC Convention in particular, the Action Plan calls for “…the signing, ratification and effective implementation by African States of the United Nations Convention against Transnational Organized Crime (2000), in accordance with the modalities defined at the first session of the Conference of the Parties in Vienna in July 2004.” In addition, France and the UK will continue to support the programs developed in Africa by the United Nations Office on Drugs and Crime (UNODC).\textsuperscript{472}

\textsuperscript{464} United Nations Convention Against Transnational Organized Crime, United Nations Office on Drugs and Crime Website (Vienna) Date of Access: 29 December 2004
\textsuperscript{466} Ibid.
\textsuperscript{467} Ibid.
\textsuperscript{469} Ibid.
\textsuperscript{471} Ibid.
\textsuperscript{472} Ibid.
3. Germany: –1

Germany has not complied with its terrorist funding commitment, for it has still yet to ratify the UN Convention on Transnational Organized Crime (TOC).\(^{473}\) The UN TOC Convention is a legally binding instrument committing states that ratify it to taking a series of measures against transnational organized crime. These include the creation of domestic criminal offences to combat the problem, and the adoption of new, sweeping frameworks for mutual legal assistance, international extradition, law-enforcement cooperation and technical assistance and training.

Although Germany has not ratified the Convention, it has shown a concern for the spirit of the Convention. Since June 2004, the German Bundesnachrichtendienst (Federal Intelligence Service or BND) has been one of the key components of the German effort in the fight against terrorist financing.\(^{474}\) The BND coordinates with other states as well as Interpol and Europol on overseeing inter-European financial structures. The BND also cooperates with national and international information agencies on information gathering on known terrorist organisations.\(^{475}\) In terms of fostering bilateral efforts, Germany’s cooperation with Russia against organized crime and terrorism has led to the successful establishment of the Russo-German Working Group on counter-organized crime initiatives.\(^{476}\) Through the Working Group, Germany and Russia share information and experience on organized crime that occurs between their respective borders. Germany has also participated in the Joint European Project to Counter Organized Crime also known as the Falcone Programme of the European Union.\(^{477}\) Among the Project’s main goals is the improving of professional skills and know-how in countering organized crime across the EU.\(^{478}\) The specific focus of the project is law related to organized crime and how it can and should be harmonized across the EU.

4. Italy: –1

Italy has been unsuccessful in meeting its commitment regarding the ratification of the UN Transnational Organized Crime (TOC) Convention, a convention which aims to consolidate international anti-terrorism efforts by facilitating information sharing, law enforcement, international extradition, and technical assistance and training.\(^{479}\) As a consequence, Italy has

\(^{473}\) United Nations Convention Against Transnational Organized Crime, United Nations Office on Drugs and Crime Website (Vienna) Date of Access: 29 December 2004

\(^{474}\) Terrorfinanzierung, Bundesnachrichtendienst Website (Pullach) Date of Access: 29 December 2004
www.bundesnachrichtendienst.de/aufrag/terrorfinanzierung.htm

\(^{475}\) Ibid.

www.bka.de/pressenmitteilungen/2004/pm210704.html

\(^{477}\) Joint European Project to Counter Organized Crime, Max Planck Institute for Foreign and International Criminal Law (Freiburg) 23 June 2004. Date of Access: 7 January 2005
www.iuscrim.mpg.de/forsch/beide/falcone1.html

\(^{478}\) Ibid.

\(^{479}\) United Nations Convention Against Transnational Organized Crime, United Nations Office on Drugs and Crime Website (Vienna) Date of Access: 29 December 2004
registered a low level of compliance. This seems unusual given that Italy hosted the Convention’s signing ceremony in 2000.

That being said, Italy has shown a concern for the spirit of the UN TOC Convention. The most obvious example is Rome’s participation in the Joint European Project to Counter Organized Crime, also known as the Falcone Programme of the European Union. Among the Project’s main goals is the improving of professional skills and know-how in countering organized crime which may be seen as an important foundational step in the battle against transnational crime across the EU. The specific focus of the project is law related to organized crime and how it can and should be harmonized across the EU.

5. Japan: 0

Japan has registered a moderate level of compliance with respect to its terrorist funding commitment. Japan is in the process of ratifying the UN Transnational Organized Crime (TOC) Convention; however, still has yet to show evidence of helping others implement the Convention in the post-Sea Island period.

Japan signed the UN TOC Convention in Palermo, Italy on December 12, 2000, and the Japanese Diet approved it in 2003. Japan will be able to conclude its ratification of the Convention as soon as the Diet approves the corresponding national legislation. A draft of the legislation was submitted by the Cabinet in February 2004, but has yet to be ratified. A close examination of this legislation is being undertaken with the aim of achieving the Diet’s ratification in the next ordinary Diet session.

Japan has also held meetings promoting the ratification of the TOC Convention in 2002. With regard to post-Sea Island initiatives that help implement the TOC Convention, leaders of the 10-member Association of Southeast Asian Nations (ASEAN) and Japan adopted an anti-terrorism plan, the ASEAN-Japan Joint Declaration for Cooperation to Combat International Terrorism, at

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480 Joint European Project to Counter Organized Crime, Max Planck Institute for Foreign and International Criminal Law (Freiburg) 23 June 2004. Date of Access: 7 January 2005  
481 Ibid.  
483 Statement by Michiaki Ozaki, Public Prosecutor, Supreme Public Prosecutors Office On the Occasion of the 13th Session of the Commission on Crime Prevention and Criminal Justice, Permanent Masson of Japan to the International Organizations in Vienna Website (Vienna) Date of Access: 8 January 2005  
485 Human Trafficking for Sexual Exploitation in Japan, International Labour Organization Website (Geneva) Date of Access: 5 January 2005  
486 Organized Crime, United Nations Office on Drugs and Crime Website (Vienna) Date of Access: 29 December 2004
a summit held in Vientiane, Laos in November 2004. Among the aims of the Declaration is full cooperation with UN conventions and protocols related to combating international terrorism, including of course its financing: “…[ASEAN and Japan reaffirm] their determination to prevent, suppress and eliminate all forms of international terrorism in accordance with the Charter of the United Nations, international law and all the relevant United Nations resolutions or declarations on international terrorism…the United Nations should play a major role in combating terrorism….”

6. Russia: +1

Russia has registered an acceptable level of compliance with regards to its terrorist funding commitment. Russia ratified the UN Transnational Organized Crime (TOC) Convention prior to the Sea Island Summit, thereby fulfilling the main part of its commitment. With regards to helping others implement the TOC Convention, the second part of its terrorist funding commitment, Russia’s performance thus far has also been adequate.

Russia continues to cooperate with the United States on the financing of terrorism through the U.S.-Russia Working Group on Counterterrorism. This group aims to combat the financing of terrorism through effective information exchange, “support for the anti-money laundering work of the Financial Action Task Force (FATF), United Nations sanctions against individuals and groups associated with al Qaida….”

On December 14–15, the Russia held the sixth meeting of the Memorandum of Understanding on Subregional Drug Control Cooperation. At this meeting, Russia and the Central Asian republics pronounced their support for “the creation of the Central Asian Regional Information Coordination Centre.” The participants recognized that “illicit drug trafficking is closely linked with the financing of terrorism and organized crime,” and agreed to enhance their efforts at strengthening “anti-drug security belts” around Afghanistan.

Russia has also collaborated with Association of Southeast Asian Nations (ASEAN) by signing the ASEAN-Russia Joint Declaration to Combat International Terrorism, which aims to “designate an agency to coordinate with law enforcement agencies, authorities dealing with countering terrorism financing and other concerned government agencies [and to] improve intelligence and terrorist financing information sharing on counter-terrorism measures, including the development of more effective counter-terrorism policies and legal, regulatory and

488 Ibid.
administrative counter-terrorism regimes.”

The Declaration calls on Russia and ASEAN to comply with all relevant UN conventions, resolutions, and protocols related to terrorism.

7. United Kingdom: –1

The United Kingdom has not complied with its terrorist funding commitment, for it has still yet to ratify the UN Convention on Transnational Organized Crime (TOC). The Convention is a legally binding instrument committing states that ratify it to taking a series of measures against transnational organized crime. These include the creation of domestic criminal offences to combat the problem, and the adoption of new, sweeping frameworks for mutual legal assistance, international extradition, law-enforcement cooperation and technical assistance and training.

Though the UK has only signed the Convention, its activities with regard to the spirit of the Convention are noteworthy. The Sirene UK and the Schengen Information System are key developments over the past six months, which facilitate information sharing and capacity building abilities to combat terrorist financing, among other criminal activity, across Europe. Furthermore, the UK and France have begun a coordinated effort on transnational crime prevention in Africa through the “Action Plan for Organised Crime in Africa.” This plan focuses on capacity building between France, Britain, and African states vis-à-vis terrorist financing. It also calls for “the signing, ratification and effective implementation by African States of the United Nations Convention against Transnational Organized Crime (2000), in accordance with the modalities defined at the first session of the Conference of the Parties in Vienna in July 2004.” In addition, the UK and France will continue to support the programs developed in Africa by the United Nations Office on Drugs and Crime (UNODC). The UK has also participated in the inaugural Ministerial Meeting of the Middle East and North Africa Financial Action Task Force (MENAFATF) held in Manama, Bahrain on November 30, 2004. The UK applauded the decision of Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates and Yemen to establish the MENAFATF. This organization will act like a “regional FATF” with the main

492 ASEAN-Russia Joint Declaration for Cooperation to Combat International Terrorism, www.aseansec.org/16225.htm
496 Ibid.
497 Ibid.
498 Ibid.
objective of fighting terrorist funding by adhering to the treaties and resolutions of the UN.  

8. United States: 0

The United States has registered a moderate level of compliance with respect to its terrorist funding commitment. Though the United States has still yet to ratify the UN Transnational Organized Crime (TOC) Convention, a convention which aims to concretize international anti-terrorism efforts by facilitating information sharing, law enforcement, international extradition, and technical assistance and training, the President has made a noteworthy effort thus far by pushing the Senate for ratification.

In a letter to the Senate dated February 23, 2004, President Bush stated: “I recommend that the Senate give early and favourable consideration to the [UN TOC] Convention and Protocols, and that it give its advice and consent to ratification…..” Presently, the UN TOC Convention is pending Senate approval. According to the Chairman of the Senate’s Foreign Relations Committee, the Senate committee in charge of scrutinizing the TOC Convention, “[ratification would] enhance the United States' ability to render and receive assistance on a global basis in the common struggle to prevent, investigate, and prosecute transnational organized crime.” Thus, given the encouraging actions and remarks of officials within the US Administration and the Senate, ratification at this point seems imminent.

With regard to helping others implement the Convention, the US has also participated in the inaugural Ministerial Meeting of the Middle East and North Africa Financial Action Task Force (MENAFATF) held in Manama, Bahrain on the November 30, 2004. The US applauded the decision of the governments of Algeria, Bahrain, Egypt, Jordan, Kuwait, Lebanon, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates and Yemen to establish the MENAFATF. This organization will act like a “regional FATF” with the main objective of fighting terrorist funding by adhering to the treaties and resolutions of the United Nations.

In addition, the US continues to cooperate with Russia on the financing of terrorism through the U.S.-Russia Working Group on Counterterrorism. This group aims to combat the financing of terrorism through effective information exchange, “support for the anti-money laundering work of the Financial Action Task Force (FATF), United Nations sanctions against individuals and

500 Ibid.
504 Ibid.
groups associated with al Qaida...."  

9. European Union: 0

The EU has registered a moderate level of compliance with respect to its terrorist funding commitment: the EU has ratified the UN Transnational Organized Crime (TOC) Convention, but still has yet to show evidence of helping others implement it post-Sea Island.

The EU signed the UN Transnational Organized Crime (TOC) Convention on December 12, 2000, and ratified it and its protocols on smuggling of migrants, trafficking in human beings, and trafficking in firearms on May 21, 2004. With this the EU has fulfilled the main part of its terrorist funding commitment.

A strategy for combating organized crime has been defined by the EU in several instruments, namely the 1997 and 1998 Action Plans to combat organized crime. The conclusions of the special European Council held in Tampere, Finland on 15 and 16 October 1999 concerning the creation of an area of freedom, security, and justice in the EU and the EU strategy of 27 March 2000 for the beginning of the new millennium on the prevention and control of organized crime exemplify some concrete steps that have already been taken by the EU Council to fight transnational organized crime.

Despite past EU support and participation in the counter-terrorism activities carried out by the Council of Europe, the OSCE, and various UN bodies, including the UN Office on Drugs and Crime, there have been no post-Sea Island programs executed thus far that are geared to helping others implement the UN TOC Convention.

Compiled by Stefan Kahandaliyanage, Kevin Jarus, Silvester Komlodi, Tamar Meshel, Nima Nakhaei