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The Differences between Money Laundering and Terrorist Financing

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Abstract

For most countries, money laundering and terrorist financing raise significant issues with regard to prevention, detection and prosecution. Sophisticated techniques used to launder money and finance terrorism add to the complexity of these issues. Money laundering is a fundamentally simple concept. It is the process by which proceeds from a criminal activity are disguised to conceal their illicit origins. Basically, money laundering involves the proceeds of criminally derived property rather than the property itself. The financing of terrorism is also a fundamentally simple concept. It is the financial support, in any form, of terrorism or of those who encourage, plan, or engage in terrorism. Therefore, this paper will present: what are the common elements of money laundering and terrorist financing, what are the differences between money laundering and terrorist financing, and how international conventions provide for money laundering and terrorist financing.

Key words: money laundering, terrorist financing

Introduction

Funds for financing terrorism are derived from illegal sources; such funds may already be covered by a country's AML framework, depending upon the scope of the predicate offenses for money laundering. However, the addition of CFT to AML efforts means that the processes used to capture money launderers after the fact are now used to capture the terrorist before the act of terrorism has taken place. It is essential to target terrorist finance as it inhibits their activities, enables their actions to be monitored and helps to identify supporters. Another advantage of targeting terrorist financing is that enhanced regulation and better regulation of transactions provide more data for analysis.

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1. Definitions of Terrorist Financing

The term “financing of terrorism” is defined broadly by the World Bank and International Monetary Fund (IMF) as “the financial support, in any form, of terrorism or of those who encourage, plan or engage in it.”²

Terrorism financing (TF) is the provision or collection of funds with the intention that they should be used (or in the knowledge that they are to be used), in full or in part, in order to carry out acts that are associated with the support of terrorists or terrorist organisations, whether to further their causes or to commit acts of terrorism.³

Terrorist financing refers to the processing of funds to sponsor or facilitate terrorist activity.⁴

The term "terrorist financing" includes the financing of terrorist acts, and of terrorists and terrorist organizations. It extends to any funds, whether from a legitimate or illegitimate source.⁵

According to Article-2(1) of the International Convention for the Suppression of the Financing of Terrorism (1999), offences of the financing of terrorism refers to any person commits an offense within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willingly, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

- a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or
- b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking any active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act.⁶

Therefore terrorist financing includes the financing derived from committing the terrorist acts and other financial rising of legal and illegal resources.

² Paul Allan Shoot, Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism, 2nd edition, The International Bank for Reconstruction and Development/The World Bank/The International Monetary Fund, 2006, p- I-2.

³ Module-3, Advanced Certification in Anti Money Laundering and Counter Financing of Terrorism, p-96.

⁴ <http://www.fidis.net/resources/deliverables/identity-of-identity/int-d2200/doc/27/>.

⁵ http://erules.sfc.hk/en/display/display_main.html?rbid=3527&element_id=2909.

⁶ Article-2(1), International Convention for the Suppression of the Financing of Terrorism (1999).

1.1 Sources of Terrorist Financing

Money is important for a terrorist organization to survive and especially to operate.⁷ The financing of terrorism reflects the size of the operation that requires financing. In addition, there are different types of terrorist who operate in different ways, The professional terrorist earns a livelihood from terrorism, while there are also individuals who carry out acts of terrorism on their own initiative, usually motivated by revenge or in protest against an issue.⁸

Terrorism is funded from various sources and in many different ways. The methods and sources used vary from country to country or region to region as well as terrorist groups to terrorist groups. Especially in the past, one way of funding terrorism was the support provided by States.⁹ Government-provided financing used to be the principal source of income for terrorist organizations.¹⁰ For instance, during the Cold War the Soviet Union was argued to support Palestinian terrorist organizations (e.g. Palestinian Liberation Organization (PLO)) so as to weaken the position of Israel and the US in the Middle East.¹¹ A few terrorist organizations enjoy state sponsorship in the traditional sense.¹² However, as a result of the constant response of the international community, especially of United Nations Security Council (UNSC) Resolution authorizing economic sanctions used to persuade state sponsors, such as Libya and Sudan, to stop their support for terrorism, state sponsorship of terrorism has diminished significantly.

With the decline of the state sponsorship, terrorist turned towards and relied increasingly on private financing into two categories on the basis of their origin; illegal fund and legitimate funds.¹³

As illegal funds, criminal activities are today an increasingly more important part of the terrorist economy, and these activities vary according to the terrorist organizations concerned. Illegal drugs are the single largest source of funding for terrorism. The importance of illegal drugs to the financing of terrorism raises an

⁷ Steve Kiser, *Financing Terror An Analysis and Simulation for Affecting Al Qaeda's Financial Infrastructure*, the Rand Corporation, 2005,p-4 .

⁸ http://en.wikipedia.org/wiki/Terrorism_financing.

⁹ Sener Dalyan, *Defence Against Terrorism Review* vol1, NO.1 Spring 2008, p-139.

¹⁰ Jean-François Thony, *Money Laundering And Terrorism Finance; An Overview*, p-4.

¹¹ Tim Krieger and Daniel Meierrieks, *Terrorist Financing and Money Laundering*, University of Paderborn, Germany, 2011, p-9.

¹² Sean Paul Ashley, *The Future of Terrorist Financing: Fighting Terrorist Financing in the Digital Age*, Princeton University, 2012, p-10.

¹³ Sener Dalyan, *Defence Against Terrorism Review* vol1, NO.1 Spring 2008, p139.

obvious question. In return, these terrorist groups receive enormous amounts of money, more so than in “traditional” fund-raising operations such as kidnapping and bank robbery- operations that are far riskier than supporting narcotics trafficking. So the criminal activity that provides by far the largest funding for terrorism is drug trafficking.¹⁴ However, other activities also provide significant sources of funding, and include: racketeering, sometimes discreetly called a “revolutionary tax” (IRA), abductions with ransom demands (Colombian paramilitary groups, groups active in the republics of the former Soviet Union), trafficking in precious stones (Khmer Rouge, rebel groups in Sierra Leone and in Angola), as well as procuring and trafficking in human beings. Arms’ trafficking is a separate case in that it is both the source of financing and involves the use of these resources and also combines with other types of trafficking.¹⁵ Terrorist have also profited from smuggling, almost all kinds of fraud, theft, stolen cars, robbery, extortion, petty crimes, money laundering, and smuggling of money.¹⁶

Then, income may result from legitimate business activities. For instance, some terrorist groups in the Middle East own shops to self-finance. And then, financing through legitimate activities often refers to the voluntary sponsorship of terrorism by private persons (e.g., through donations to charities).¹⁷ The abuse of some charities constitutes another legitimate terrorist funding source. Collecting funds has become a significant source of financing. Charitable organizations play a big part in this mode of financing.¹⁸ Usually, these forms of financial support for terrorism by private persons are masked in order to avoid legal repercussions.¹⁹ They are particularly targeted in current strategies because charitable organizations could mingle legitimate proceeds from individuals and private enterprises (whether voluntary or not), and governments with the proceeds from criminal activities, all behind a charitable façade, that makes potential investigations unseemly and makes it difficult to distinguish dirty money from clean money.²⁰

¹⁴ Michael E Gray, *Tracking Terrorist Financing*, PP-3-4.

¹⁵ Jean-François Thony, *Money Laundering and Terrorism Finance; An Overview*, 2000,p-4.

¹⁶ Sener Dalyan, *Defence Against Terrorism Review Vol-1, NO.1 Spring 2008*, p140.

¹⁷ Tim Krieger and Daniel Meierrieks, *Terrorist Financing and Money Laundering*, University of Paderborn, Germany, p-9.

¹⁸ Jean-François Thony, *Money Laundering And Terrorism Finance; An Overview*, 2000,P-4.

¹⁹ Tim Krieger and Daniel Meierrieks, *Terrorist Financing and Money Laundering*, University of Paderborn, Germany,2011, p-9.

²⁰ Jean-François Thony, *Money Laundering And Terrorism Finance; An Overview*, 2000, P-4.

It can be found the various forms of terrorist financing. Terrorist groups gain financial resources primarily from (i) state-financing (i.e., state sponsorship of terrorism), (ii) financing by legitimate means (e.g., from legitimate business, charities), and (iii) financing by unlawful means (e.g. drug trafficking, kidnapping extortion). Therefore, to understand and enable to successfully disrupt the funding of terrorist and terrorist organizations, their source of funding must also be traced.

1.2 The Needs of Terrorist Financing

Money is important for a terrorist organization to survive and especially to operate.²¹ Each terrorist group spends money varies, but typically organizations need money for recruitment, salaries, retirement pensions, guns, explosives, bribes, communication equipment, transportation, forged documents, and more. Without money, terrorists can neither function as organizations nor conduct attacks.²² Colin Powell, former United States Secretary of State, said that 'Money is the oxygen of terrorism'.²³

After the unsuccessful World Trade Center attack of 1993, one of the conspirators, Ramzi Yousef, claimed that if he had had more money, he would have been able to purchase more explosives. With a bigger bomb, he might have been successful in toppling the tower into other buildings. But because of cash-problems, the attack failed, killing six people and injuring over 1,000. This anecdote highlights the importance of money for terrorism.²⁴

Similarly, the terrorists who used two pressure cooker bombs during the Boston Marathon on April 15, 2013, also planned to travel to New York City to bomb Times Square. Running out of funds, the two brothers turned to other crime—they carjacked a Mercedes-Benz SUV and stole \$800 in cash from the carjacking victim, which eventually led to their demise. These are examples of money's importance in perpetrating terrorist attacks that injure or kill massive amounts of people.²⁵

After all, terrorist organizations have a broad organizational infrastructure that

²¹ Steve Kiser, *Financing Terror An Analysis and Simulation for Affecting Al Qaeda's Financial Infrastructure*, the Rand Corporation, 2005, p-4, <http://www.rand.org/>.

²² Michael Freeman, *Financing terrorism: case studies*, p-3.

²³ Sean Paul Ashley, *The Future of Terrorist Financing: Fighting Terrorist Financing in the Digital Age*, Princeton University, p-10.

²⁴ Michael Freeman, *Financing terrorism: case studies*, Ashgate Pub Co, 2012, p-3

²⁵ Karolina Lula, *Terrorized Into compliance: Why Countries submit To financial Counterterrorism*, 2013, p-3.

requires funds to buy arms, launch attacks, pay bribes, maintain extensive international networks, and to recruit, train, and indoctrinate new members (Levitt 2010). Additionally, modern organised terrorism requires support and administrative structures, as numerous people and activities have to be housed, fed, trained, paid for and supplied with resources. The costs associated with such activities can be high, requiring infrastructure and funding.²⁶

Conventional wisdom suggests that a deprivation of funds will bring some corresponding decrease in a given terrorist group's ability to operate, and, specifically its latitude to carry out attacks. Less money means fewer weapons, reduced recruiting, training and reconnoitering capabilities, less capacity, and a diminished ability to purchase technology or pay specialists to provide needed expertise. All these inputs are needed to conduct terrorist attacks; should a group have less money to acquire them, conventional wisdom suggests it will be able to mount fewer attacks.²⁷

The work to track and shut down the financial network of terror is one of the most critical efforts facing of today.²⁸ The campaign against terrorist financing born - in part from the lessons of the war against international organized crime and money laundering - has become a centerpiece of the global effort to address the short- and long-term challenges posed by terrorism. In the simplest terms, this targeted approach focuses on attacking terrorist networks by using intelligence, law enforcement, and economic powers to identify and disrupt the financial substructure of terrorist groups. These efforts have proven revolutionary in the preventive and proactive international financial system against abuse by terrorist groups and their supporters.²⁹

The case for monitoring terrorist finance, there are four reasons why it is important to conduct the activities. These include the fact that the impact of terrorist activities can be reduced, preventive actions are enabled and those involved in terrorist attacks can be found and prosecuted. The latter reason makes a strong case for publicizing the investigation of financial affairs: the mere announcement of combating the financing of terrorism investigation ensures that terrorist or militant groups have to change their activities which allow intelligence services to gather new or additional information. By limiting the resources available to terrorist groups by

²⁶ http://en.wikipedia.org/wiki/Terrorism_financing.

²⁷ Steve Kiser, *Financing Terror An Analysis and Simulation for Affecting Al Qaeda's Financial Infrastructure*, the Rand Corporation, 2005, p-4, <http://www.rand.org/>.

²⁸ John Snow, *The Global War On Terrorist Finance*, USA Journal, p-1.

²⁹ Juan Carlos Zarate, *Bankruptcy Terrorists*, USA Journal, p-4.

effective financial control may prevent some attacks from taking place; stopping the transfer of even small amounts of money may save lives, or at least can reduce the possible impact of attacks which cannot be prevented.³⁰

Although funding individual act of terrorism is inexpensive, organizational level needs substantial amount of money to sustain. Without funding flows, they will not be to exist and achieve their mission. Therefore after 9/11 attack in US, it become the new strategy to combat the financing of terrorism recognized by international community.

2. Definitions of Money Laundering

Money laundering can be defined in a number of ways. Most countries subscribe to the definition adopted by the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) (*Vienna Convention*) and the United Nations Convention Against Transnational Organized Crime (2000) (*Palermo Convention*):³¹

Under Article 6(i) of the Palermo Convention, and Article 3(b) and Article 3 (c) (i) of the Vienna Convention,

- The conversion or transfer of property, knowing that such property is derived from any [drug trafficking] offense or offenses or from an act of participation in such offense or offenses, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his actions;
- The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offense or offenses or from an act of participation in such an offense or offenses, and;
- The acquisition, possession or use of property, knowing at the time of receipt that such property was derived from an offense or offenses or from an act of participation in such offense...or offenses.³²

³⁰ Sener Dalyan, Defence Against Terrorism Review vol1, NO.1 Spring 2008, p-138 .

³¹ Paul Allan Shoot ,Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism, 2nd edition , The International Bank for Reconstruction and Development/The World Bank/ The International Monetary Fund, 2006, p- I-2.

³² Article 6 (i) of the Palermo Convention, and Article 3 (b) and Article 3 (c) (i) of the Vienna Convention.

The Financial Action Task Force on Money Laundering (FATF), which is recognized as the international standard setter for anti-money laundering (AML) efforts defines the term “money laundering” succinctly as “the processing of...criminal proceeds to disguise their illegal origin” in order to “legitimize” the ill-gotten gains of crime.³³

Money laundering usually refers to a process through which criminals attempt to conceal the true origin and ownership of the proceeds of criminal activities. Successful money laundering implies that the ill-gotten money loses its criminal identity and appears legitimate.³⁴

3. The Differences between Terrorist Financing and Money Laundering

There are different stages involved in money laundering and terrorist financing. Money laundering is the process by which criminals attempt to conceal the true origin and ownership of the proceeds of criminal activities.³⁵ The typical money laundering stages are (1) place money in the financial system, without arousing suspicion; (2) move the money around, often in a series of complex transactions crossing multiple jurisdictions, so it becomes difficult to identify its original source; and (3) then move the money back into the financial and business system, so that it appears as legitimate funds or assets.³⁶ The purpose of money laundering is to accumulate wealth in such a manner that it appears legitimate.

The typical stages involved in terrorist financing are the collection of funds, the dissemination of funds to the terrorist cells and the use of funds. The purpose of terrorist financing is not to accumulate wealth, but to fund actions designed to make a statement of importance, such as drawing attention to a political viewpoint.

The laundering of criminal funds aims at giving a legal appearance to dirty money, whereas funds used to support terrorism may originate from legitimate sources, criminal activities, or both. Such legitimate sources may include donations or gifts of cash or other assets to organizations such as foundations or charities that in turn are utilized to support terrorist activities or terrorist organizations.³⁷

³³ Paul Allan Shoot, Reference Guide to Anti-Money Laundering and Combating the Financing of Terrorism, 2nd edition, The International Bank for Reconstruction and Development/The World Bank/ The International Monetary Fund, 2006, p- 1-2.

³⁴ Tim Krieger and Daniel Meierrieiks, Terrorist Financing and Money Laundering, University of Paderborn, Germany, 2011, p-12.

³⁵ http://en.wikipedia.org/wiki/Terrorism_financing.

³⁶ <http://www.fsc.gov.im/aml>.

³⁷ http://en.wikipedia.org/wiki/Terrorism_financing.

However, criminal assets and terrorist assets represent the same threats to financial systems and public institutions, and it is clear that the strategies designed to fight criminals when they channel their funds through financial systems may apply with the same success in combating terrorist financing cases.³⁸

Although the use of funding and the sources of funding differ between money laundering and terrorist financing, there are some similarities in the detection of possible illicit activity.³⁹ Efforts to combat the financing of terrorism also require countries to consider expanding the scope of their AML framework to include non-profit organizations, particularly charities, to make sure such organizations are not used, directly or indirectly, to finance or support terrorism. Combating the financing of terrorism (CFT) efforts also require examination of alternative money transmission or remittance systems. This effort includes consideration of what measures should be taken to preclude the use of such entities by money launderers and terrorists.

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Conclusion

Therefore, money flowing to support terrorist organizations is typically “clean” to begin with, and did not need to be laundered. Criminalizes a wide range of activities intended to financially support terrorist activities, regardless of whether an act of terror was ultimately committed, regardless of whether the funds in question were acquired legally or illegal. Therefore, the strategy for anti- money laundering cannot work well to combat the financing of terrorism for there is fundamental distinction between money laundering and terrorist financing.

³⁸ Jean-François Thony, Money Laundering And Terrorism Financing: An Overview, 2000, p-4.

³⁹ http://en.wikipedia.org/wiki/Terrorism_financing.

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