Responding to Foreign Terrorist Fighters
A Risk-Based Playbook for States and the International Community

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UN Security Council Resolution 2178, adopted unanimously on 24 September 2014 in a session opened by Secretary-General Ban Ki-moon, chaired by U.S. President Barack Obama, and addressed by 25 heads of state or government, is a watershed in the global civilian effort to reduce the threat from foreign terrorist fighters (FTFs) in Syria, Iraq, and elsewhere.

The resolution requires all countries to have laws that enable the prosecution of travel or attempted travel for terrorism purposes, willful provision or collection of funds to finance travel of FTFs, and willful organization or facilitation of such travel. It also requires states to prevent and suppress recruiting, organizing, transporting, and equipping of FTFs and the financing of FTF travel and activities. Finally, the resolution requires countries to prevent the entry or transit of individuals believed to be traveling for terrorism-related purposes. In addition to placing these legal obligations on members, the resolution addresses international cooperation, countering violent extremism (CVE) issues, and UN engagement with regard to FTFs.\(^2\)
The resolution is significant because it places travel with intent to join a terrorist group on the same plane as terrorism financing as a global threat requiring strong national laws and robust international cooperation. Moreover, by targeting activities associated with such travel, it attempts to close a gap in counterterrorism legal regimes in a number of countries.

Yet, as strong as the resolution is, it is not self-enforcing. Responsibility falls to UN member states individually, bilaterally, and multilaterally to develop ways of meeting the resolution’s obligations. This policy brief outlines a targeted and risk-based approach for states to follow in implementing the legal obligations of Resolution 2178 using civilian counterterrorism tools, including law enforcement and border security, and relevant practices from outside standard counterterrorism operations, such as community engagement. In doing so, this brief builds on a growing body of work on FTFs, especially the Hague-Marrakech memorandum adopted by the Global Counterterrorism Forum (GCTF) on 23 September 2014. It concludes by outlining a program management approach to strengthening international cooperation on FTF issues that takes advantage of recently established elements of the global counterterrorism architecture, notably the GCTF and the institutions it has inspired.

**Daunting Numbers, Differentiated Threat**

Some 15,000 foreign fighters from more than 80 countries have traveled to Syria in recent years, many joining terrorist organizations such as the Islamic State in Iraq and the Levant (ISIL) and al-Nusra Front (ANF). In Somalia, members of the Somali diaspora from the United States and Europe have trained and fought with the al-Qaeda affiliate al-Shabaab. In Nigeria, fighters from neighboring Cameroon, Chad, and Niger have joined the ranks of the UN-designated terrorist group Boko Haram. FTFs tend to prolong conflicts and increase the risk to local populations, and many states are deeply concerned that FTFs will return to their countries of origin to organize and carry out terrorist attacks.

FTFs returning to their countries of origin or third countries present a complex set of challenges. FTFs who do not attempt terrorist attacks in their home countries or third countries—about 90 percent, according to a widely cited academic analysis of Western foreign fighters covering the period 1990–2010—may increase the likelihood of homegrown terrorism by others, possibly by dispelling doubts about the legality under religious law of domestic attacks. A small number of FTFs may return to carry out self-directed attacks. For instance, a French national who authorities said spent a year in Syria before returning to France in March 2014 is alleged to have killed three and critically injured one in an attack on the Jewish Museum of Belgium on 24 May 2014. An even smaller number of FTFs may attempt to return after having been recruited by terrorist organizations to carry out attacks in their home countries or other countries to which they are supposed to have relatively easy access, especially European countries in the Schengen Area or countries that have been selected to participate in the U.S. Visa Waiver Program. The Khorosan Group, a small cell of al-Qaeda veterans targeted by
U.S. and allied airstrikes on 22 September 2014, appears to have recruited Western FTFs for such missions, according to senior U.S. officials.\(^\text{12}\)

**Gathering Momentum for Decisive Action**

Even before ISIL released a video depicting the execution of U.S. journalist James Foley on 19 August 2014, the threat from FTFs was high on the international security agenda. Interpol, the GCTF, European Union, Organization for Security and Co-operation in Europe, and Council of Europe are among the organizations that have undertaken or are contemplating initiatives relating to FTFs.\(^\text{13}\) The UN Security Council unanimously adopted Resolution 2170 on 15 August 2014, calling on all member states to suppress the flow of FTFs to Iraq and Syria and listing six FTF recruiters under the Security Council’s long-standing al-Qaida sanctions regime.\(^\text{14}\)

Thus, Resolution 2178 builds on and expands previous efforts against FTFs. Resolution 2170 addressed only FTFs joining or attempting to join ISIL, the ANF, and other al-Qaida affiliates and splinter groups. Resolution 2178’s obligations on states pertain to travel, travel financing, and travel facilitation in support of terrorist acts and terrorist training without regard to ties to al-Qaida. Moreover, Resolution 2178 provides the first definition of FTFs at the international level,\(^\text{15}\) although it leaves the underlying definition of terrorism to member states, prompting warnings that Resolution 2178 could lead to abuses, for example, by giving states justification to curtail fundraising and travel in support of political dissidents.\(^\text{16}\)

**Strong Laws and Timely Designation**

Resolution 2178 requires all member states to have laws enabling criminal prosecution of travel or attempted travel for terrorism purposes. Some, such as Canada, have laws specifically proscribing overseas travel to join or train with a terrorist group.\(^\text{17}\) The Royal Canadian Mounted Police brought the first charge under this law in July 2014, although the man accused was alleged to have left Canada already, reportedly by evading detection using a false passport.\(^\text{18}\) Other states use general criminal and antiterrorism laws for the same purpose. France has prosecuted aspiring FTFs under normal criminal laws or under terrorism-specific laws handled by special judges.\(^\text{19}\) The first case against a suspected FTF in the Netherlands was prosecuted under regular criminal provisions in October 2013 when a court in Rotterdam convicted two men of preparatory crimes.\(^\text{20}\) The United States uses a variety of prosecutorial measures against aspiring FTFs, including charging suspects with material support of terrorist organizations and other preparatory offenses.\(^\text{21}\)

Even strong laws against FTF travel, such as Canada’s, rely on a thorough and responsive system of designating terrorist organizations. This system needs to become more nimble and responsive at the international level and more widespread and robust at the national level. For laws criminalizing FTF travel to have the greatest deterrent effect, member states must be able to identify and designate emerging terrorist
organizations, especially in theaters of conflict, before these organizations begin attracting large numbers of FTFs.

**Robust Criminal Investigation and Prosecution**

Foundational capacity building in criminal justice and the rule of law is more important than ever. Laws regarding FTFs will not make a significant difference in states that already lack sufficient investigative, prosecutorial, and judicial capacity to deal with terrorism in general. UN member states and implementing partners can avail themselves of a growing body of good practices, notably the GCTF’s Rabat memorandum and the associated sets of good practices and recommendations adopted at the GCTF’s most recent high-level meeting in New York in September 2014.22 Even as so-called soft law, these nonbinding good practices have gotten traction with non-GCTF states, a number of which have participated in capacity-building workshops based on them.23 Moreover, the recently established International Institute for Justice and the Rule of Law (IIJ) should be able to complement and extend existing capacity building in this area for interested states regardless of whether they are GCTF members.

**Aggressive Measures to Curb FTF Travel**

Strong criminal provisions against FTF facilitation and travel, supported by credible and responsive designation regimes, will enable states to adopt even more aggressive unilateral, bilateral, and multilateral measures to detect, disrupt, and interdict FTF travel.

The discovery of would-be FTFs does not necessarily require intrusive surveillance or the opening of a criminal investigation. Community-based policing and social service outreach, especially in communities vulnerable to extremist messages, provide authorities with ways to identify aspiring FTFs who do not seek to hide their intentions and build the resilience of such communities to extremist messaging.24 Monitoring open Internet forums and social media platforms used by extremists is another way a number of states have identified would-be FTFs.25 States can use a range of unilateral measures to disrupt FTF travel, varying their intensity depending on the level of risk. German security services use “hazard talks” to remind those thought to be preparing to join terrorist groups abroad of the implications of their actions.26 A number of states can lawfully confiscate or withdraw passports, although some states have experienced challenges in implementing this measure. One German whose passport was confiscated used his national ID card to travel through the Schengen Area to Turkey and then to Syria.27 A Canadian whose passport was confiscated because authorities deemed him to be a high-risk traveler later killed one Canadian soldier and injured another by striking them with an automobile in what Canadian officials have called an act of terrorism.28 In the United States, the U.S. Federal Bureau of Investigation works closely with border and aviation security, intelligence, and other federal and state law enforcement agencies to investigate and prosecute U.S. citizens who intend to travel to foreign countries to support designated terrorist groups.29
At the bilateral and multilateral levels, states have numerous means for interdicting FTFs en route to or from theaters of conflict. Interpol offers a number a ways to share information, including by use of its system of notices and diffusions and its database of lost and stolen passports. Some countries have disseminated missing persons notices for suspected FTFs through Interpol channels in an attempt to alert authorities along transit routes to Syria. The second-generation Schengen Information System, used to facilitate visa-free travel within the Schengen Area, is another way for European states to share information about FTFs.

Resolution 2178 calls on member states to require that airlines share advanced passenger information about designated individuals and to cooperate to prevent travel of FTFs through increased information sharing. The United States, Canada, and several EU members are among the states that already mandate that airlines share Passenger Name Record (PNR) information with law enforcement for flights into their territory, although European parliamentarians have resisted on civil liberties grounds a European Commission proposal that would extend such a mandate to all EU states for flights originating outside the EU. An even more robust version of the envisioned European PNR directive, backed by the United Kingdom and others, would require sharing of PNR information for flights within the EU.

Experts on terrorism and border security issues have identified additional ways to interdict FTF travel. States could conduct interviews and debriefings of all known FTF returnees, regardless of risk level, and share data and analysis with other states through criminal or intelligence channels as appropriate. Third countries through which FTFs travel on their way to or from conflict zones could share information about deportations of suspected FTFs in order to help states of origin detect previously unidentified FTFs and begin to develop appropriate responses, including prosecution if warranted. Given the challenge of gathering evidence from conflict zones for use in postreturn prosecution, states should continue to develop lawful ways to transform intelligence into evidence and to share information based on intelligence as quickly and as widely as possible.

**Risk-Based Interdiction and Diversion of Returnees**

States may not be able to prevent or interdict all outbound FTF travel and, as a result, must continue developing and refining ways of detecting and dealing with returnees.

Detection begins long before an FTF returnee arrives at a port of entry. FTFs in Syria have been known to discuss their planned return home in open social media platforms and make advanced arrangements for the mundane aspects of their postconflict lives, including airport pickups, medical appointments, and jobs. Therefore, states should lawfully use a wide range of information sources, including social media; family, friends, and acquaintances; social services providers; and private sector employers, to anticipate and detect returns.
The response to the return of FTFs begins with a rigorous, evidence-based risk assessment to facilitate the application of the optimal intervention for each returnee. A differentiated approach is important not only for making effective use of state resources, but also for minimizing the risk of alienating members of the ethnic and religious communities from which FTFs may have been recruited. The Netherlands and the United Kingdom offer models for building comprehensive case histories of returnees and using “risk banding” to determine the optimal state response, be it prosecution, lawful surveillance and monitoring, or rehabilitation and reintegration. In the Danish city of Aarhus, a counseling and assistance program for returning FTFs conducts a screening interview to determine a returnee’s activities abroad, assess the risk to society from the returnee, and determine his or her physical or psychological treatment needs. Returnees deemed immediate security risks are passed to security services, while others enter the program.

Evidence-based risk assessment enables states to develop and use effective diversion programs. Such programs provide a returnee with an opportunity to disengage from the influences that led to his decision to fight abroad and allow law enforcement and intelligence services to focus on the most serious threats. They also give authorities an extended window of opportunity to validate the initial risk assessment of a returnee without having to commit significant law enforcement or intelligence resources to monitoring him. Saudi Arabia has enrolled at least 300 returning foreign fighters in its “counseling and care” program since the issuance of a royal decree on 3 February 2014 that stipulated punishment for participating in hostilities in other countries. The European Commission’s Radicalization Awareness Network, which links front-line counter-radicalization practitioners across Europe, has sought to develop and disseminate good practices on the reintegration of returning foreign fighters. The GCTF’s Rome memorandum on rehabilitating and reintegrating violent extremist offenders does not address FTFs specifically, but its guidance on risk assessment and individually tailored rehabilitation programs is relevant for returning FTFs, even those who are not incarcerated.

Preparation for Sophisticated Attacks

In general, returnees from theaters of conflict such as Syria and Iraq will have had more opportunity than homegrown extremists to acquire proficiency in the use of improvised explosive devices, man-portable air defense systems (MANPADS), and high-capacity automatic firearms. Depriving terrorists of these weapons is a particular challenge in regions where intrastate conflict and instability have led to the dispersal of governmental arsenals. For example, the flow of firearms and MANPADS from Libya is a particular concern for other North African states. Thus, planning for and exercising against sophisticated terrorist attacks using these weapons and building societal resilience to such attacks are important elements of dealing comprehensively with the FTF challenge.
**Toward a Program Management Approach to International Cooperation**

Resolution 2178 calls on member states to improve cooperation in dealing with the FTF phenomenon, including through capacity building. Yet, numerous mechanisms for cooperation already exist at various levels, and there is extensive capacity-building programming available in the relevant counterterrorism disciplines to address the FTF issue. The international community must agree on an approach to coordinate ongoing civilian-led initiatives on FTFs and to mobilize and direct highly targeted capacity-building programs in a manner that optimizes outcomes on the regional and ultimately global levels.

Such a program management approach to implementation of Resolution 2178 would have a few key features. There would be a mechanism for developing and maintaining a clear, detailed, and up-to-date picture of the major international, regional, and bilateral initiatives underway. Experts would have a platform for developing recommendations on aligning ongoing initiatives and, if necessary, proposing new ones, and there would be a vehicle for mobilizing political support for these expert recommendations. With regard to targeted capacity building, there would be a mechanism for developing and maintaining a shared understanding of the recruitment, facilitation, and travel patterns of FTFs; a process of assessing and comparing the benefits of various capacity-building initiatives; and a vehicle for mobilizing resources and political will for the initiatives with the greatest net benefit in terms of curbing FTF recruitment, facilitation, and travel.

Implementation of a program management approach along these lines would not require new institutions. Within the United Nations, the Counter-Terrorism Implementation Task Force already has a mandate to enhance the coordination and coherence of the UN system’s counterterrorism efforts. The Al-Qaida Analytic Support and Sanctions Monitoring Team has a mandate under Resolution 2178 to conduct a comprehensive assessment of the FTF threat and to make recommendations for action. Likewise, the resolution calls on the Counter-Terrorism Committee Executive Directorate to identify gaps in states’ capacity to hinder the flow of FTFs and to facilitate technical assistance to close such gaps.

Outside the UN system, the GCTF is well positioned to play a focal role because of its broad-based but manageable membership and strong relationships with the UN system and other international and regional organizations. The newly established GCTF working group on FTFs could convene a standing committee of experts to develop technical recommendations for aligning ongoing initiatives to implement Resolution 2178. GCTF members would promote these expert recommendations following their adoption by the GCTF Coordinating Committee. This expert committee also could collaborate with regional GCTF working groups to develop a shared understanding of FTF patterns of recruitment, facilitation, and travel. With the support of a small but dedicated staff of program analysts, the expert committee could assess and compare the benefits of capacity-building initiatives, recommending for GCTF Coordinating Committee endorsement those with the greatest potential to curtail global FTF
recruitment, facilitation, and travel. Although the experts’ recommendations would be nonbinding, they could help worthwhile programs attract funding and would give capacity-building providers an additional way to prioritize programs.

Additional elements of a program management architecture include three institutions the GCTF inspired: Hedayah, the international center of excellence for CVE issues, based in Abu Dhabi; in Malta, the IIJ; and in Geneva, the Global Community Engagement and Resilience Fund (GCERF). Hedayah and the IIJ are ideally placed to develop and host training courses and other capacity-building interventions in their respective areas of competence. The establishment of a comparable institution for border security, focused on lawful information sharing, the compilation of watchlists, and the securing of remote or rugged land borders, would enhance the global capacity-building architecture for preventing and disrupting FTF travel. In the absence of such an institution, the IIJ could broaden its scope to include training on law enforcement practices directly relevant to border security. The GCERF, which mobilizes funding for and provides grants to local CVE programs, could reserve some of its grants for programming with a high potential to reduce FTF recruitment and rehabilitate low-risk returning FTFs.

Taking Advantage of a Strengthened International Counterterrorism and CVE Architecture

Resolution 2178 has set a clear agenda for the next stage in the international, civilian-led effort against the FTF phenomenon. Building on an already substantial body of work, the resolution reinforces the law enforcement paradigm for preventing the recruitment, facilitation, and travel of FTFs; highlights the crucial role of border security in stopping FTF travel; and stresses the importance of civilian-led CVE efforts in stemming the flow of FTFs. Some UN member states will find this agenda challenging to implement. However, the strengthening of the international counterterrorism and CVE architecture in the last several years, including the emergence of GCTF-inspired institutions, provides states with greater resources to obtain help in developing the laws and practices necessary to implement Resolution 2178 and thereby reduce the threat to people everywhere from FTFs.

Endnotes


8 President Obama’s UN remarks on FTFs.

9 Thomas Hegghammer, “should I stay or should I go? Explaining variation in Western Jihadists’ choice between domestic and foreign fighting,” American Political Science Review 107, no. 1 (February 2013): 10.

10 Ibid., p. 12.


15 Resolution 2178 defines FTFs as “individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict.” UN Security Council, S/RES/2178, p. 2.


20 Ibid., p. 12.


24 See GCTF Hague-Marrakech memorandum (Good Practices 6 and 7).
26 Vidino, “Foreign Fighters,” p. 11.
35 See GCTF working group recommendations for using and protecting intelligence information.
37 See GCTF Hague-Marrakech memorandum.
38 Ibid.
45 See GCTF Hague-Marrakech memorandum (Good Practice 18).
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