



REPORT ON STANDARDS AND BEST PRACTICES FOR
IMPROVING STATES' IMPLEMENTATION
OF UN SECURITY COUNCIL
COUNTER-TERRORISM MANDATES



Center on Global Counter-Terrorism Cooperation

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Scope of Study and Definition of Terms

This study is an analysis of standards and best practices of international functional organizations with missions related to the mandates established in Security Council Resolution 1373. The report draws upon interviews with current and former representatives of key functional and regional organizations and documents published by those organizations. The report presents an initial survey of existing standards in select technical areas that are directly relevant to UN counter-terrorism requirements. It provides recommendations on standards and best practices that could be approved by the Security Council and promulgated internationally to enhance implementation of global counter-terrorism obligations.

For the purposes of this study the definition of the term “best practices” is: a finite number of achievable benchmarks and procedures proven to be valuable in enabling counter-terrorism-related entities to learn from each other and adopt policies and practices that are successful in improving the implementation of international counter-terrorism obligations. This definition conforms to the Counter-Terrorism Executive Directorate’s description of a best practice “as a technique, an activity, a strategy, a methodology or approach that has been shown, through application and evaluation, to be effective/and or efficient in achieving a desired result.”¹

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Acronyms

AML	anti-money laundering
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
BCBS	Basel Committee on Banking Supervision
CFT	combating the financing of terrorism
CTAG	Counter-Terrorism Action Group
CTC	Counter-Terrorism Committee
CTED	Counter-Terrorism Executive Directorate
EPWG	Education and Promotion Working Group
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSRB	FATF-Style Regional Bodies
GPML	United Nations Global Programme against Money Laundering
IAIS	International Association of Insurance Supervisors
ICAO	International Civil Aviation Organization
ILO	International Labour Organization
IMF	International Monetary Fund
IMO	International Maritime Organization
Interpol	International Criminal Police Organization
IOSCO	International Organization of Securities Commissions
ISPS Code	International Ship and Port Facility Security Code
MANPADS	Man-Portable Air Defense Systems
MRTD	machine-readable travel document
NCCT	Non-Cooperative Countries and Territories
OGBS	Offshore Group of Banking Supervisors
OHCHR	Office of the High Commissioner for Human Rights
OSCE	Organization for Security and Co-operation in Europe
SAFE	Framework of Standards to Secure and Facilitate Global Trade
SAFTI	Secure and Facilitated Travel Initiative
SALW	Small Arms and Light Weapons
SARPs	Standards and Recommended Practices
SIS	Schengen Information System
SOLAS	International Convention for the Safety of Life at Sea
TAG	Technical Advisory Group
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
WCO	World Customs Organization

Report Summary

This report provides an assessment of core standards and best practices for implementing relevant UN Security Council counter-terrorism resolutions. It draws from the Counter-Terrorism Executive Directorate's "Framework for the Collection, Analysis and Dissemination of Best Practices" and builds upon that work by examining the standards of international functional bodies. As CTED Executive Director Javier Rupérez pointed out, bodies such as the Financial Action Task Force (FATF), Interpol, The International Civil Aviation Organization (ICAO), and the International Maritime Organization (IMO) have already "invented the wheel" and have devised an array of relevant standards and best practices. This report is intended to assist the CTC in evaluating and where appropriate adopting these standards.

To assist policymakers and practitioners in understanding and implementing the multiple requirements of Resolution 1373, the report identifies three broad areas of counter-terrorism implementation: combating terrorist financing, improving legal practice and law enforcement, and enhancing territorial control. It also identifies three cross-cutting categories that apply to all implementation requirements: international cooperation, the provision of technical assistance, and compliance with human rights standards.

Resolution 1373 gives priority to measures against the financing of terrorism. FATF is the principal standard-setting body in the area of anti-money laundering and combating the financing of terrorism (AML/CFT). A number of member states and the CTED have recommended that the CTC endorse the FATF standards. Resolution 1617, which strengthened Security Council sanctions against Al Qaeda and the Taliban, "strongly urges all Member States to implement the comprehensive international standards embodied in the FATF Forty Recommendations on Money Laundering and the FATF Nine Special Recommendations on Terrorist Financing." The FATF guidelines are widely viewed as the clearest, most readily available standards for adoption.

The FATF and other international financial institutions have developed systems for assessing implementation that may be of relevance to the CTC. In the "mutual evaluations" process, each member country is assessed by a team of experts from the legal, financial, and law enforcement fields of other FATF members during an on-site visit. The team issues a confidential report which provides an assessment of the extent to which the country in question has moved forward in implementing effective AML/CFT measures and highlights those areas in which further progress may still be required.

One of the central objectives of Resolution 1373 and of the entire United Nations counter-terrorism program is to strengthen cooperative law enforcement efforts. The largest and most important international agency with standards and practices that are relevant to counter-terrorism law enforcement is Interpol. One of Interpol's most valuable tools to assist member countries is its new I-24/7 secure police communications system. The Security Council has recommended that priority attention be devoted to improving the access of states to the I-24/7 communications system and other mechanisms of law enforcement information exchange.

Mutual legal assistance and extradition treaties are also crucial to the success of international counter-terrorism efforts. They form the basis for cooperation between legal, judicial, and law enforcement authorities in different countries in conducting joint investigations and transferring criminal suspects. The European Union and other regional organizations are upgrading efforts to improve mutual legal assistance and the extradition of suspects.

Resolution 1373 calls on states to strengthen control of their borders by denying safe haven and the movement of terrorists across and within their borders; increasing border, aviation, and maritime security; improving customs enforcement; and tightening the security of travel and identity documents.

Principal organizations engaged in these efforts include the International Civil Aviation Organization, which sets standards and develops recommendations in aviation security and has spearheaded international efforts to standardize travel documents; the UN High Commissioner for Refugees, which is the primary agency responsible for refugee status determination; the World Customs Organization, which develops standards and best practices among national customs agencies; the Organization for Security and Co-operation in Europe (OSCE) and the Wassenaar Arrangement, which establish standards for small arms and light weapons control; and the International Maritime Organization, which develops and disseminates standards and best practices relating to ship and port security. CTC endorsement of the relevant best practices developed by these agencies would advance the goal of establishing counter-terrorism implementation standards.

The *Handbook on Best Practices on Small Arms and Light Weapons* produced by OSCE could serve as a model for similar handbooks developed for other counter-terrorism implementation categories. In his recommendations for a global counter-terrorism strategy in April 2006, the UN Secretary-General pledged to disseminate United Nations counter-terrorism resources through an online handbook that should “make clear where to look for relevant resources, including best practices available in key areas and frequently asked questions.”

The current CTED practice of utilizing functional agency standards informally is not sufficient for maximizing implementation of UN counter-terrorism mandates. To achieve necessary assurances of universality, transparency, and objectivity, the CTC or the Security Council should formally endorse the relevant standards and best practices of the functional organizations. Where necessary the CTC should adapt and refine the standards for UN purposes, working with the relevant functional organizations to identify and fill gaps that may exist between those standards and best practices and the specific requirements of UN Security Council mandates.

As the CTC moves forward with identifying and endorsing relevant standards and best practices, certain general recommendations should guide the process:

Endorse or adopt agreed standards and best practices that are characterized by universality, transparency, and objectivity. Adopting and endorsing standards and best practices will improve the transparency and objectivity of the CTC’s work. The process

by which they are adopted should include the input of all interested parties including functional organizations, as well as states, regional, and subregional organizations.

Prioritize a succinct set of standards and best practices. Select a finite set of manageable best practices and ensure that in their final form they are both technically and politically useful. Disseminate the standards in user-friendly handbooks.

Limit the list of thematic implementation categories to make the scope of the standards definition process more manageable and accessible. Consider adopting a simplified set of three categories of counter-terrorism implementation: terrorist financing, legal practice and law enforcement, and territorial control. Include cross-cutting issues within each category: international cooperation, the provision of technical assistance, and compliance with human rights standards.

Strengthen coordination with relevant functional organizations. Cooperate with international functional organizations to develop the proposed finite set of standards and best practices relevant to the implementation of Resolution 1373.

Enhance information exchange among all relevant actors. Strengthen coordination with relevant functional organizations, regional organizations, and assistance providers by ensuring a maximum level of information exchange. In instances where confidentiality agreements or other procedural obstacles prevent the exchange of assessment information, seek the approval of states to disseminate all or some of such information to relevant stakeholders.

Coordinate with the other elements of the UN, particularly the other Security Council counter-terrorism-related subsidiary bodies and UNODC. Continue to improve coordination with the other counter-terrorism related bodies, including the UNODC and its Terrorism Prevention Branch, the Al Qaeda/Taliban Sanctions Committee, and the 1540 Committee addressing issues related to weapons of mass destruction.

Encourage partnerships with stakeholders, including private enterprise, to identify common interests and get “buy in” in the development and implementation of the standards and best practices. The most effective implementation of counter-terrorism standards and best practices has occurred in sectors and regions where the common regional interests and those of the private sector have been taken into account.

Employ innovative assessment and evaluation mechanisms. Peer evaluation and mutual assessment processes such as those devised by the IMF, the World Bank, and the FATF on AML/CFT, and the EU on counter-terrorism measures, provide alternatives to more coercive measures such as “naming and shaming” or referring noncomplying states to the Security Council. Recommended standards and best practices should form the basis for providing concrete incentives through the facilitation of capacity building and technical assistance.

Improve dissemination and implementation of best practices at the regional level. Improving dissemination and implementation of best practices by regional organizations is essential to the success of international counter-terrorism efforts. The CTC should help to convene regional workshops that bring together local practitioners to develop best practice standards that are consistent with international standards but that are tailored to specific regional practices.

1. Introduction

Immediately after the September 11, 2001 attacks, the UN Security Council adopted Resolution 1373 to mobilize states in a campaign of nonmilitary cooperative measures to combat global terrorism. The resolution required every UN member state, among other things, to freeze the financial assets of terrorists and their supporters, deny terrorists travel or safe haven, prevent terrorist recruitment and weapons supply, and enhance information sharing and criminal prosecution against terrorists. (For the full text of Resolution 1373, see Appendix A).

To monitor and facilitate implementation of those obligations, the Security Council, under Resolution 1373, created a subsidiary body, the Counter-Terrorism Committee (CTC). Subsequently, the Security Council endowed the CTC with a larger, more permanent expert staff in the form of the Counter-Terrorism Executive Directorate (CTED). At present the essential functions of the CTC and its Executive Directorate are to determine states' capacities to comply with their obligations under Resolution 1373 and to ensure that potential donors have sufficient information to provide counter-terrorism capacity-building assistance in a timely and sustainable manner.

The development of a succinct set of standards and best practices related to the obligations imposed by Resolution 1373 will improve the ability of the CTC to:

- 1) monitor and identify gaps in implementation of states' counter-terrorism obligations;
- 2) provide a basis for improving the coordination of assistance to states lacking the capacity to implement those obligations;
- 3) strengthen the role of key functional and regional organizations in implementation efforts; and
- 4) ensure transparency and objectivity of assessments.

As a delegate to the CTC observed, "CTC best practices would go a long way to helping states get a better understanding of what steps should be taken to implement the various provisions of resolution 1373."² When the G8 heads of states reaffirmed their commitment to combating terrorism in July 2006 in St. Petersburg Russia, they also declared: "[i]n order to help States meet their obligations under UNSC counter-terrorism resolutions, we encourage the Council, including through its CTC, 1267 and 1540 committees, to endorse on an expedited basis the counter-terrorism-related recommendations developed by international bodies such as IAEA, ICAO, IMO, and WCO, as well as the FATF, and, most importantly, we support the development of best practices in areas in which none currently exist."³ For the Security Council, the existence of uniform

standards would permit more objective evaluations of states' implementation of their counter-terrorism-related obligations and could form the basis for decisions that may be necessary to elicit further implementation.

Overview

This report provides an assessment of core standards and best practices for implementing relevant UN Security Council resolutions and furthering the council's effort in that regard. It draws from the "Counter-Terrorism Executive Directorate's Framework for the Collection, Analysis and Dissemination of Best Practices," but attempts to answer and go beyond many of the central questions raised there. The report builds upon the work accomplished to date by examining key publicly available standards among existing international functional agencies. It identifies "best practices on the development of best practices," offering recommendations that are the most broadly applicable and useful to the implementation of Security Council Resolution 1373.

The report begins with a discussion of the progress to date within the CTC, examining the mandates for the CTC's consideration of standards and best practices, the effort by the committee to adopt best practices in the area of terrorist financing, and the CTC's plan for moving forward. The core of the report divides the requirements of Resolution 1373 into three broad categories and analyzes existing standards and best practices of international functional organizations relevant to each category. The report examines the suitability of these standards for adoption by the CTC and concludes with a series of recommendations for the CTC as it moves forward with identifying and developing best practices. The report includes a snapshot of implementation efforts in the Asia-Pacific region.

2. Progress To Date In Developing Best Practices

The CTED has developed a "recommended methodology" for the "collection, analysis, development and dissemination of best practices."⁴ The methodology consists of six steps: identifying required best practices, identifying relevant organizations/institutions, analysis and validation, addressing needs/gaps, documentation and linking to the CTC website, and promotion.⁵ The CTED framework identifies the important role that representatives of international functional organizations can play in identifying best practices and builds upon ongoing cooperation and analysis spearheaded by the CTC since 2001.⁶

The consideration of standards and best practices was on the agenda at the CTC's first special meeting, held in New York in March 2003. At that meeting it was agreed that "[a]ll international, regional and subregional organizations would communicate to each other and the Counter-Terrorism Committee international best practices codes and standards relevant to the implementation of resolution 1373 (2001)."⁷ Similar commitments to develop best practices were voiced at subsequent special CTC meetings in Washington D.C. in

conjunction with the Organization of American States in October 2003; in Vienna in March 2004 with the United Nations Office on Drugs and Crime (UNODC) and the Organization for Security and Co-operation in Europe (OSCE); and in Almaty, Kazakhstan in January 2005 hosted by the Commonwealth of Independent States.

The CTED is now working to create methodologies that could lead to more formalized evaluation criteria and performance standards. In its December 2005 review of the CTED, the CTC noted that it “attaches importance to the issue of best practices”⁸ and called for updated information to be posted on the committee website regarding international best practices. To date (July 2006), the website lists best practices and standards developed by the International Monetary Fund (IMF), the Basel Committee for Banking Supervision (BCBS), the United Nations Office on Drugs and Crime (UNODC), the Organization for Security and Co-operation in Europe (OSCE), and the World Customs Organization (WCO).

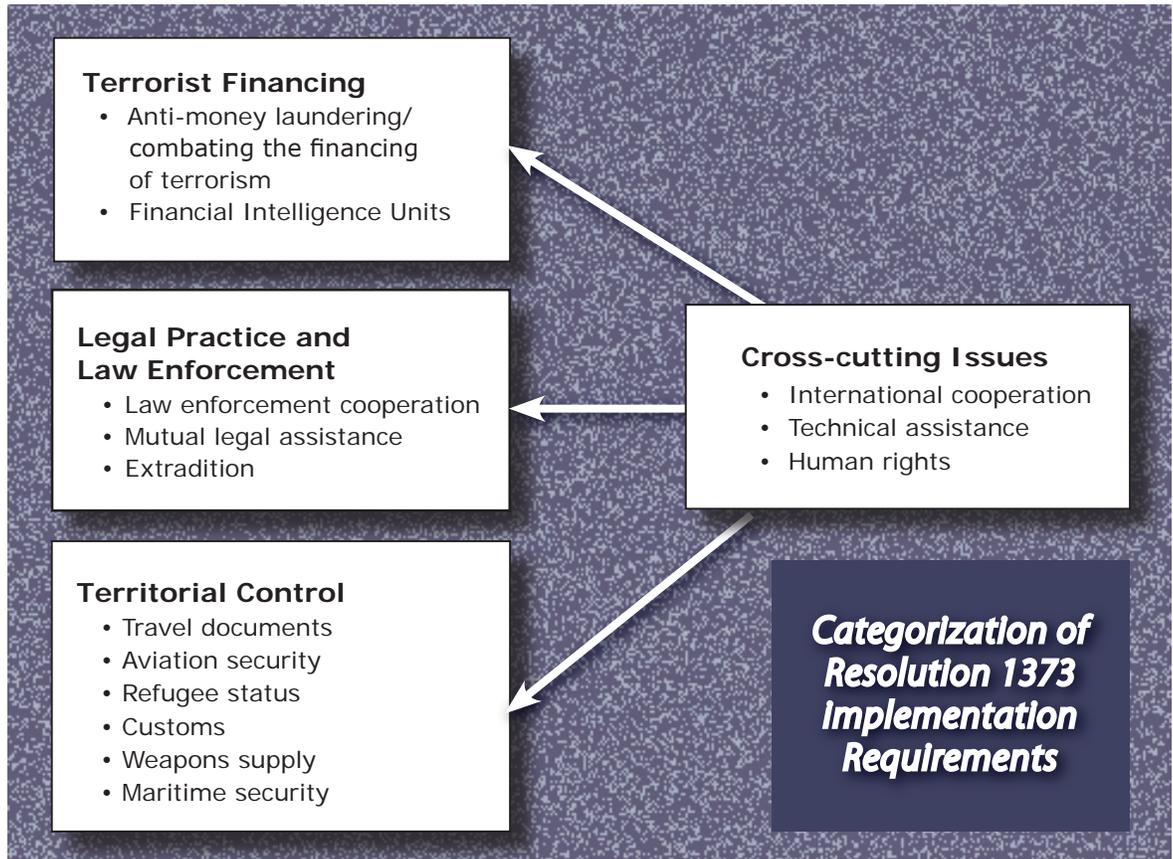
As CTED executive director Javier Rupérez has pointed out, international functional organizations such as the Financial Action Task Force (FATF), Interpol, the International Civil Aviation Organization (ICAO), and the International Maritime Organization (IMO) have already “invented the wheel.”⁹ Those agencies and numerous others have devised a vast array of relevant standards and best practices (For an overview of key standards and best practices see Appendix B).

A general overview paper on the identification of best practices related to Resolution 1373 was prepared by the CTED and acknowledged by the committee in its programme of work for January–March 2006. The CTC indicated that it “will seek to conclude this discussion and develop guidance on how to proceed.”¹⁰

The CTED has focused its efforts on making operational each specific provision of Resolution 1373 and identifying specific corresponding best practices. To stimulate discussion of the issue at the CTC’s 168th meeting the CTED also provided to the CTC a directory of international best practices, codes, and standards identified by the CTED in order to assist member states in their implementation of Security Council Resolution 1373.¹¹ Such an approach may be useful to the CTC in assessing implementation of specific provisions, but a consolidated functional framework may be more helpful in categorizing the requirements of Resolution 1373 for stakeholders to understand and use effectively.

3. Categories Of Implementation

This report proposes new, simplified categories of Resolution 1373 implementation requirements, dividing its provisions into three broad areas: terrorist financing, legal practice and law enforcement, and territorial control. The report also identifies three cross-cutting categories that apply to all implementation requirements: international cooperation, the provision of technical assistance, and compliance with human rights standards. These categories can be adapted or expanded as the CTC’s mandate evolves.¹² Simplifying



and consolidating the categories as proposed will make it easier for policymakers and practitioners to understand and implement the multiple requirements of Resolution 1373.

The three broad categories proposed here are based on the operational paragraphs of Resolution 1373: paragraph 1, [(a) to (d)], paragraph 2, [(a) to (g)], and paragraph 3, [(a) to (g)]. As presented in Appendix C, each of the operational provisions in the resolution can be placed within one (or in some cases two) of the three broad categories identified above. The table above depicts the proposed simplified categorization.

The bulk of this report focuses on best practices in the three broad categories, but the cross-cutting categories also deserve careful attention and should be applied to all areas of implementation related to Resolution 1373 and all other counter-terrorism mandates.

International cooperation: Coordination and consultation with international, regional, subregional, and specialized functional organizations are imperative for the development, dissemination, and implementation of best practices and standards across all thematic areas of Resolution 1373. Security Council resolutions mandate that the CTC and its executive directorate consult with other organizations in this area. It is not possible for the CTC with its limited resources to develop standards in a vacuum. Whenever possible, standard-setting entities must take the lead in developing practices. The CTC must work with organizations inside and outside the UN system to ensure that practices benefit all states in all regions and that they are culturally and contextually appropriate. The requirement for international cooperation applies equally to the relevant specialized functional organizations, regional and subregional organizations, and individual member states across all the thematic areas of Resolution 1373.

Provision of technical assistance: The standards and best practices discussed in this study are intended to prioritize and facilitate the provision of technical assistance for states and regional and subregional organizations. Every standard and best practice identified in this paper requires a corresponding institutional capacity on the part of a member state or regional and subregional organization. In many instances, member states and organizations may lack sufficient capacity to implement the recommended standards and practices. It is vital that capacity needs are identified and fulfilled. The CTC is mandated with facilitating the provision of technical assistance to enhance implementation. In carrying out that function, the CTC should take into account contextual issues that are specific to the region in question, drawing upon good governance criteria utilized within the development community. Standards of governance and performance in the security sector have a direct bearing on social and political stability and the prospects for long-term economic development. In the context of efforts to counter terrorism, it seems particularly relevant to strengthen government institutions operating in or close to the security sector. This more comprehensive approach to capacity building assessments will help states identify needs for preventing conflict and violent extremism and for improving governance and long-term development.

The linkage between security and development has been increasingly acknowledged within the development community. Poverty reduction and social development can be sustained only if there are institutions and mechanisms of governance that ensure the security and safety of citizens.¹³ The development community has given greater attention in recent years to improving the functioning of government institutions.¹⁴ There is also recognition among security actors that short-term operations related to counter-terrorism will not bring sustainable benefit without corresponding attention to underlying longer-term development needs. As the UN Secretary-General stated, “the three freedoms which all human beings crave—freedom from want, freedom from war or large-scale violence, and freedom from arbitrary or degrading treatment—are closely interconnected. There is no long-term security without development. There is no development without security.”¹⁵

Assessments of counter-terrorism capacity building needs in developing countries must first identify the specific challenges that each country and region faces. In the Horn of Africa and South Asia, for example, the obstacles to the implementation of counter-terrorism mandates are not merely technical or legal. A lack of government accountability and mistrust between citizens and security forces may weaken public support for legitimate counter-terrorism measures. An active strategy to win “hearts and minds” and a greater emphasis on human rights protection and social development would be helpful in both regions to gain public backing for successful implementation of counter-terrorism requirements.

Human rights: The implementation of counter-terrorism measures requires states to comply with universal human rights standards. The UN Secretary-General has included the defense of human rights as one of the five pillars of global counter-terrorism strategy and has devoted an entire section to human rights in his recommendations for a global counter-terrorism strategy.¹⁶ Resolution 1456 states that: “States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should

adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law.”¹⁷ Human rights organizations have argued, therefore, that the CTC has “an obligation to ensure respect for human rights in counter terrorism efforts by member states.”¹⁸

According to the Office of the High Commissioner for Human Rights (OHCHR), “[h]uman rights law has sought to strike a fair balance between legitimate national security concerns and the protection of fundamental freedoms.”¹⁹ In April 2005 OHCHR’s Commission on Human Rights decided to appoint “a special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.”²⁰ The first report of the rapporteur in December 2005 stated that “States are not receiving a clear enough message from the [Counter-Terrorism] Committee concerning their duty to respect human rights while countering terrorism.”²¹ The report also expressed a desire to continue “dialogue with the Committee and the Counter-Terrorism Executive Directorate including, in particular, the joint identification and compilation of “best practices” in the field of effective and human rights compatible responses to terrorism.”

The CTED includes an expert on human rights on its staff, which will enhance the ability of the CTC to ensure that counter-terrorism best practices are compatible with respect for human rights. Respect for human rights must be a fundamental element which undergirds standards and best practices in all of the issue areas of Resolution 1373.

3.1 Terrorist Financing

Resolution 1373 gives priority to measures against the financing of terrorism. It devotes an entire operative paragraph to this issue and calls on states to sign, ratify, and implement the *International Convention for the Suppression of the Financing of Terrorism* (1999). The emphasis by Resolution 1373 on terrorist financing, as well as the work done by the FATF, is why standards and practices in this area have received the greatest attention in the CTC. In its communications with governments, the CTC has noted that implementation of paragraph 1 of Resolution 1373 requires states to have a mechanism in place to register, audit, and monitor the collection and use of funds and other financial resources, including by charitable associations, to ensure that such funds are not diverted to terrorist purposes. The CTC has also urged states to regulate all money and value transfer systems, whether formal or informal, and to license or register all persons involved in such transfers. In addition, the CTC has determined that implementation of paragraph 1 requires financial institutions and other intermediaries to be under legal obligation to identify their clients and report suspicious transactions to a financial intelligence unit or other relevant authority.²²

Financial Action Task Force

FATF is the principal standard-setting body in the area of anti-money laundering and combating the financing of terrorism (AML/CFT). FATF was established by the Group

Kader Asmal, then FATF president, delivers a special address at the March 2006 Plenary/Ministerial Meeting of the Caribbean Financial Action Task Force (CFATF) in Montego Bay Jamaica. CFATF is one the seven FATF-Style Regional Bodies. (Photograph courtesy of CFATF)



of Seven in 1989 to develop standards and promote policies to combat money laundering. It later broadened its focus to include terrorist financing. The FATF is not an official or permanent international organization and its membership is not universal. FATF is currently comprised of thirty-one member “jurisdictions” and two regional organizations (the European Commission and the Gulf Co-operation Council).²³ A much larger number of states (over 100) are members of FATF-Style Regional Bodies (FSRBs) and as such have pledged to implement common countermeasures to address the problems of financial crime and money laundering, including the financing of terrorism.

In its first year, the FATF issued a set of Forty Recommendations as part of a comprehensive plan of action against money laundering.²⁴ The FATF adopted eight Special Recommendations on Terrorist Financing at its plenary meeting in Washington D.C. on 29–30 October 2001. It added a ninth recommendation in October 2004 and issued a best practices paper in February 2005 to address the physical transportation of funds across borders for potential terrorist financing or money laundering purposes (For a complete list of the FATF’s Special Recommendations on Terrorist Financing, see Appendix D). The FATF established a working group which has developed and published guidance for the Special Recommendations on Terrorist Financing. The FATF issues Special Interpretative Notes and best practices papers on issues such as preventing the misuse of nonprofit organizations’ wire transfers, the freezing and seizing of terrorist assets, and the criminalizing of terrorist financing.

In 2005, pursuant to Resolution 1566, the CTC initiated work on developing a set of best practices related to the financing of terrorism. A number of member states and the CTED recommended endorsing the FATF’s Nine Special Recommendations on Terrorist Financing. Committee members expected that the Security Council’s late July 2005 adoption of Resolution 1617 (strengthening council sanctions against Al Qaeda/Taliban and its associates), which “strongly urges all Member States to implement the comprehensive international standards embodied in the FATF Forty Recommendations on Money Laundering and the FATF Nine Special Recommendations on Terrorist Financing,” would expedite the CTC’s work in this area.²⁵ As of this date, however, no decision has been reached on the

matter.²⁶ The FATF guidelines are widely viewed as the clearest, most readily available standards for adoption. However, committee members have not been able to agree on whether to adopt FATF standards wholesale, to modify them in some fashion, or to use them as a basis for the CTC to develop separate standards of its own. While problems arise from the limited membership of the FATF and from concerns expressed by some Security Council members about approving or adopting recommendations which they had no role in developing, multilateral organizations such as the Asia-Pacific Economic Cooperation (APEC) and the OCSE have managed to adopt FATF standards and best practices in a timely manner.

Egmont Group: Financial Intelligence Units (FIUs)

The Egmont Group represents 101 countries with “recognized operational FIUs” around the world. Financial Intelligence Units are specialized governmental agencies established with the purpose of developing systems to detect financial crime and money laundering. FIUs are set up to receive and analyze information from financial institutions about potential unlawful activity. In many cases FIUs disseminate this information to appropriate government authorities and internationally to other FIUs in support of national and international law enforcement operations. The Egmont Group has no permanent secretariat and is not a formal organization. It promotes international cooperation and facilitates information exchanges among FIUs. It does not set uniform guidelines for FIUs but has developed best practices for the exchange of information between Financial Intelligence Units.²⁷

While the FIUs have implemented programs which have been successful in monitoring and tracking suspicious money transactions at the national level, there is no central location for these transactions to be reported or linked to transactions from other countries. Interpol recognized this and is currently in the process of implementing the Interpol Money Laundering Automated Search System, designed to be the first global central location where money laundering transactions can be reported and linked to transactions in other countries. This system will not only allow for the corroboration of information on money transactions, but may also provide links between suspected individuals and possible criminal activities, thus assisting member countries’ investigations.

Basel Committee and the Coordination Group

The Basel Committee on Banking Supervision, the International Association of Insurance Supervisors (IAIS), and the International Organization of Securities Commissions (IOSCO) have provided useful standards on customer due diligence and customer identification. The Basel Committee’s *Customer Due Diligence for Banks* (October 2001) provides important customer standards in these areas. The work of the IAIS and IOSCO has been important in providing AML/CFT guidance to the securities and insurance sectors which like the banking sector may also be vulnerable to misuse for money laundering and the financing of terrorism. The three entities formed a coordination group in 2003, meeting

in Berlin to review common AML/CFT standards and identify gaps or inconsistencies in approaches and recommendations.

Implementation

The chief obstacles to effective implementation of AML/CFT standards and best practices arise from: 1) states that lack the capacity to comply (e.g. states with a minimal regulatory infrastructure or large informal banking sectors) and 2) states that lack the will to comply (e.g., jurisdictions that thrive on the business generated by bank secrecy.)

The FATF and other international financial institutions have developed specific processes for assessing implementation of measures to combat financial crime. The first consists of mutual evaluations, where each member country is assessed by a team of three or four selected experts from the legal, financial, and law enforcement fields of other FATF members during an on-site visit. The team issues a confidential report which provides a “comprehensive and objective assessment of the extent to which the country in question has moved forward in implementing effective AML/CFT measures and to highlight those areas in which further progress may still be required.”²⁸

The FATF also applies graduated peer pressure on noncomplying members. When a member country is deemed to be out of compliance, the FATF initiates a four-step countermeasure program in which it:

- 1.) requires the country to deliver a report to the FATF plenary meeting;
- 2.) sends a letter from the FATF president and/or a high-level mission to the country;
- 3.) issues a statement requiring financial institutions to pay special attention to business transactions with the particular country, its citizens, and its businesses; and
- 4.) revokes membership status in the FATF.

The last two measures can have negative financial implications for the state in question. In particular, the measure enjoining financial institutions to pay special attention to business transactions with the designated state constitutes a financial sanction. Although nominally requiring increased “scrutiny” of financial transactions, essentially this measure restricts the access of the state, its financial institutions, and its citizens to the international financial market (or at least the significant percentage of it controlled by FATF member states) through higher barriers to and costs of entry.

In addition to the measures taken against member states, the FATF has a separate process for nonmember states deemed noncooperative. In recent years the FATF has

released a list of noncooperative countries and territories (NCCT) that have “serious systemic problems.”²⁹ The FATF instructs financial institutions in its member states to give increased “scrutiny” to financial transactions with countries on the NCCT list. Banks and other financial institutions are advised to be wary of conducting business in countries that are deemed to have “inadequate anti-money laundering and counter-terrorist financing infrastructure.”³⁰ The consequences of being placed on the NCCT list can be severe for the designated country which acts as a strong incentive for that country to adopt necessary improvements in its financial regulatory systems.

The NCCT listing process has stirred controversy. Many countries have objected to the “name and shame” approach embodied in the listing process. The fact that FATF lacks universality and is, for the most part, composed of the world’s richest countries has compounded these concerns. As a result and because of greater involvement of the IMF, which mandates voluntary involvement in its reviews, reliance on the NCCT listing process has dwindled in recent years and is no longer the preferred FATF mechanism for encouraging compliance with measures to prevent money laundering and the financing of terrorism.

The FATF is working with other organizations and entities to build a worldwide AML/CFT network to improve implementation of AML/CFT standards and best practices. FATF has created “primary” partnerships with seven FSRBs, which focus on implementing the FATF Recommendations through standard setting and mutual evaluation processes for assessing compliance.³¹ Since 2002, the IMF, together with the World Bank, has also been conducting assessments of their member states’ compliance with FATF recommendations as part of its Offshore Financial Centers and Financial Sector Assessment Programs. To avoid overlap and duplication of effort with the mutual evaluation programs of the FATF and the FATF-style regional bodies, a common assessment methodology was developed with FATF and the FSRBs, which is now the basis for assessments by all bodies concerned. Assessments produced by FATF and FSRBs are used to feed the AML/CFT part of IMF assessments and IMF/World Bank assessments help inform FATF/FSRB mutual evaluation reports. Monitoring of developments in the AML/CFT areas is also done by the IMF as part of its monitoring of the international economy as developments in the money laundering and financing of terrorism areas are now considered relevant factors and are reported to the IMF board when they may have macro-economic or systemic implications. According to the IMF, from June 2002 to September 2005, “89 AML/CFT assessments [had] been conducted worldwide and IMF staff have taken part in 38 of them.”³²

FATF also cooperates with other relevant organizations and bodies including the Offshore Group of Banking Supervisors (OGBS), the Egmont Group, the G8’s Counter-Terrorism Action Group (CTAG) and regional organizations such as the European Union. The FATF and the World Bank have also worked with regional organizations, such as APEC, to provide states with a uniform framework to estimate remittances so they can begin to conduct in-depth investigations into alternative remittance flows.³³

In the area of technical assistance and capacity building, the IMF is very active. Since 2001, IMF experts undertook more than 200 missions in more than one hundred countries to provide technical assistance services. Technical assistance delivered includes legislative drafting, guidance in strengthening regulatory frameworks, training of personnel involved in AML/CFT, training of assessors of FSRBs, establishment of FIUs, review of the efficiency of AML systems, and assessment of AML/CFT risks.

Since 2001 the UNODC and its United Nations Global Programme against Money Laundering (GPML) have also helped to disseminate and build capacity for implementation of AML/CFT standards. They have provided technical assistance and training to states in the adoption of necessary legislation and related infrastructure.

Recommended Action

Adopt the FATF Forty + Nine Recommendations as best practices for UN counter-terrorism monitoring and implementation. Work with international financial institutions and relevant organizations, such as the UNODC to adapt FATF guidelines to UN requirements. Disseminate these standards widely among all member states and regional and subregional organizations.

3.2 Legal Practice And Law Enforcement

One of the central objectives of Resolution 1373 and of the entire United Nations counter-terrorism program is to strengthen cooperative law enforcement efforts. Law enforcement tools are the principal means of preventing the financing of terror and implementing the 1999 *Convention on the Suppression of Terrorist Financing*. Legal practices are pertinent to all of the universal conventions and protocols against terrorism and are directly relevant to the challenge of enhancing border control and travel security. Resolution 1373 contains a number of specific provisions on questions of legal practice and law enforcement.³⁴ For example, states are required to take steps to prevent and prosecute those committing terrorist acts and to cooperate with other states in criminal investigations and law enforcement efforts. Furthermore, Resolution 1373 calls on states to accelerate information sharing and cooperation to prevent and suppress the commission of terrorist acts. Resolution 1373 also calls on states to “[b]ecome parties as soon as possible to the relevant international conventions and protocols relating to terrorism.” This requires states to criminalize certain terrorist acts and prosecute or extradite those responsible. International organizations such as the Commonwealth and UNODC provide guides and model legislation for implementing those conventions.

Interpol

The largest and most important international agency with standards and practices that are relevant to counter-terrorism law enforcement is Interpol. With its 184 National Central

Interpol General Secretariat in Lyon, France. (Photograph copyright Interpol)



Bureaus, which act as the focal point in each of its member countries, a headquarters in Lyon, France, regional bureaus in six cities around the world, and a United Nations liaison office in New York, Interpol has broad-based international participation and representation. It has developed a number of policy tools for assisting countries in the fight against terrorism. Its programs fall into three broad categories: 1) prevention, 2) investigation, and 3) support after an attack.³⁵ Interpol also maintains databases and provides mechanisms for sharing vital law enforcement information.

Interpol has established special regionally focused projects. So far projects have been initiated in Southeast Asia, Central Asia, Central and South America, and Africa. They assist states in the regions to identify terrorist groups, collect and share intelligence, provide analytic support, and enhance capacity to address threats of terrorism and organized crime.

One of Interpol's most valuable tools to assist member countries to prevent and combat crime is its new I-24/7 secure police communications system. This service enables officers in member countries to gain direct access to Interpol's various databases, which contain many millions of records including names of criminals and suspected individuals, search requests for wanted persons, fingerprints, photographs, DNA profiles, stolen and lost travel documents, stolen vehicles, and illicit weapons related to criminal cases, as well as other vital law enforcement information. Interpol describes the information in these databases as its "lifeblood."³⁶ Improving the capacity of law enforcement officers to gain direct access to these information tools is an important way to advance the global counter-terrorism fight.

Police officials report that information exchange is the most important aspect of law enforcement cooperation. Said one senior official interviewed for this report, "police cooperation is 80 percent exchanging information."³⁷ Efforts to improve information exchange among police services are thus crucial to international law enforcement cooperation. Resolution 1617 (2005) encouraged member countries "to work in the

framework of Interpol, in particular through the use of the Interpol database of stolen and lost travel documents.” Improving access to the I-24/7 communications system and other mechanisms of information exchange deserves the highest priority in international efforts to improve counter-terrorism practices.

Interpol assists member countries in reporting terrorist activity by providing practical guidelines on the type of information required. These guidelines encourage reports on crimes that may be linked to terrorism, such as suspicious financial transactions, weapons trafficking, and the falsification of travel and identity documents. Such efforts to improve and standardize the reporting of crime and suspicious activity deserve support. Guidelines for the reporting of potential terrorism-related activity should specify the need for a) the identity of the person, group, or entity; b) the specific acts under investigation and their circumstances; c) links with other relevant cases of terrorist offenses; d) the communications technologies and information obtained; and e) the presence of any threats related to weapons of mass destruction.

Interpol has established the Fusion Task Force within its Public Safety and Terrorism Sub-Directorate as a proactive, multidisciplinary mechanism for assisting member countries in the investigation of terrorism-related activity. It helps countries identify individuals connected with criminal groups and provides access to specialized databases. The Fusion Task Force convenes meetings on specific topics or regional issues. It also disseminates warning lists of individuals wanted for or suspected of terrorism-related activities. It issues special reports on specific topics, and maintains a secure website and photo gallery on terrorism-related activity and suspects. Fusion contact officers have been assigned in nearly 120 countries. These officers maintain an active network of communication and serve as a vital link in international criminal investigations.³⁸ Encouraging all countries to participate in the Fusion Task Force will help to advance international capabilities for the investigation of terrorism-related crime.

Through Interpol’s Command and Coordination Center, which operates twenty-four hours a day seven days a week, Incident Response Teams are made available to assist countries in the aftermath of a terrorist attack. These teams can, upon request, provide investigative and analytic support to help member countries deal with the immediate challenges of a terrorist incident. They also provide information to the international community to prevent future attacks. In addition, Interpol provides guidelines to assist local law enforcement officials in collecting forensic evidence and responding to incidents.³⁹

Europol and Other Regional Bodies

Member states of the European Union created Europol as a mechanism to advance law enforcement cooperation among EU member states. Europol works primarily among national law enforcement agencies but also with immigration and customs authorities. EU member states designate liaison officers to work with Europol, which is headquartered in The Hague, Netherlands. Europol facilitates the exchange of information, provides

operational analyses, generates strategic reports and threat assessments, provides expertise and technical support for investigations and police operations, and promotes the harmonization of crime analysis and investigation among member states. Europol has also been given the authority to develop so-called “terrorist profiles” that seek to identify potential target organizations active in the European Union. The agency has established a 24-hour alert counter-terrorism unit and a Counter-Terrorism Task Force to collect relevant intelligence on potential terrorist threats in a timely manner and to respond quickly with analyses and threat assessments.

Europol also maintains a law enforcement database. The Europol Computer System helps national law enforcement agencies across the European Union share information on known and suspected criminals and on stolen objects. A related database system, the Schengen Information System (SIS), allows law enforcement and judicial and consular authorities of EU member states to exchange data on categories of wanted persons and lost or stolen objects. The SIS database also contains names of third-country nationals to be refused entry, missing persons, witnesses or persons required to appear before judicial authorities, and persons or vehicles placed under surveillance for specific purposes. The SIS is now being upgraded and enlarged in light of the expansion of the EU. The second generation SIS is expected to be in place in 2007.

Other regional organizations have established task forces to enhance law enforcement cooperation through the creation of special programs to facilitate professional development and the exchange of information. Such task forces allow high-level interaction and exchange of information in both formal and informal settings. The Southern African Regional Police Chiefs Cooperation Organization includes twelve states⁴⁰ and has support from Interpol for its utilization of a Terrorism Early Warning Centre in Harare. Joint training and police academy programs enhance communication and professionalism among law enforcement officers. The Jakarta Centre for Law Enforcement Cooperation participates in ad hoc working groups on law enforcement and legal issues established at the Bali Ministerial Meeting on Counter-Terrorism in February 2004. With assistance from the government of Australia, the Centre aims to improve coordination with law enforcement agencies and centers in Southeast Asia, including the South East Asian Regional Centre for Counter Terrorism in Kuala Lumpur and the International Law Enforcement Academy in Bangkok, Thailand.⁴¹ The Asian Regional Forum of the Association of Southeast Asian Nations (ASEAN) has also endorsed measures to enhance information sharing and intelligence exchanges and document security.⁴²

Mutual Legal Assistance and Extradition

Resolution 1373 calls upon all states to “[c]ooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts.” It further urges states to “[b]ecome parties as soon as possible to the relevant international conventions and protocols relating to terrorism,”⁴³ which, in most cases, call upon states to criminalize various terrorist

activities and to cooperate in the investigation, prosecution, and/or extradition of those responsible. Mutual legal assistance and extradition treaties are crucial to the success of international counter-terrorism efforts as they form the basis for cooperation between legal, judicial, and law enforcement authorities in different countries to provide assistance in areas such as executing search and seizures, transferring criminal suspects, hearing the testimony of witnesses, and conducting joint investigations.

Although these are functions largely negotiated and conducted bilaterally between states, certain general models do exist to assist states in developing effective mutual legal assistance and extradition treaties, laws, and best practices. Principal among these are the UN's Model Treaty on Extradition and the Model Treaty on Mutual Assistance in Criminal Matters. Both of these model treaties were adopted as resolutions by the UN General Assembly and provide templates and options for negotiating and concluding such agreements. Another important source of best practices is UNODC's *Model Law on Extradition* and its *Manuals on the Model Treaties on Extradition and Mutual Assistance in Criminal Matters*. The UNODC's Model Law on Extradition provides an instrument for implementing the provisions of the UN's Model Treaty on Extradition but also includes new international norms in extradition law. UNODC's *Revised Manuals on the Model Treaties on Extradition and Mutual Assistance in Criminal Matters* provide extensive guidance on the purpose, application, and implementation of the two model treaties. In addition to those materials, UNODC has also produced reports on best practices for mutual legal assistance case work, conducted training programs, developed software to process requests for legal assistance, and provided "on-line assistance for requests for mutual assistance and extradition."⁴⁴

In addition to the hundreds of bilateral agreements that exist between states, mutual legal assistance and extradition arrangements have been concluded within regional and multilateral organizations such as the Commonwealth and the European Union. In the EU, for example, a European Convention on Mutual Assistance in Criminal Matters entered into force in August 2005, and a specialized agency, Eurojust, was created to help coordinate investigative and prosecutorial efforts among member states. Despite these advances in Europe and elsewhere, the global tapestry of mutual assistance and extradition arrangements remains largely inadequate to deal with the threat of international terrorism.⁴⁵ Resolution 1373 calls upon states to improve this network of "arrangements and agreements." The UN model treaties and UNODC materials in this regard provide a solid basis from which to begin.

Implementation

Improving the training and operational capacity of police forces is one of the most important steps countries can take to improve counter-terrorism efforts. The greater the capability and professionalism of police forces, the stronger the international response to terrorism. Standards of police capability and training vary greatly from country to country

and are obviously highest in the most developed states. The standards and practices in highly developed countries cannot be transferred automatically to developing countries. Nonetheless, a step-by-step process for raising the capabilities of police forces is possible and necessary.

The challenge of implementing best practices and improving law enforcement capacity consists of two major elements: 1) training and raising professional standards of serving officers, and 2) providing resources for the hiring of additional officers where they are needed and for the acquisition of infrastructure and communications equipment. UNODC and Interpol are performing valuable services in leading international efforts to improve the training and professionalism of police forces in many countries.⁴⁶ These efforts should be continued and extended to all countries that may need such assistance. UNODC and Interpol should continue to coordinate their training activities to assure maximum efficiency and coverage.

Greater efforts are needed to provide resources to states that need assistance for the hiring of law enforcement officers and for the acquisition of infrastructure and communications equipment. These efforts need more international attention and a more focused assistance effort. The training of police officers will have little impact if police services do not have the infrastructure and equipment needed to perform their duties and if they do not have the ability to access Interpol databases or conduct sophisticated criminal investigations.

As with other implementation efforts, training programs for police officials should not be a one-off process. UNODC, Interpol, and other agencies should be encouraged to check back with police officers who have received assistance to determine how well they are implementing professional standards and to determine any additional needs that may exist.

Recommended Action

1. Assure that all states and regional organizations are achieving maximum utilization and secure access to Interpol's new I-24/7 system and other international and regional mechanisms of information exchange in a manner that is mindful of specific local and regional contextual and cultural issues. Where necessary, provide training and resources to assist states in making full use of these databases.

2. Establish guidelines to improve and standardize the reporting of terrorist-related criminal activity. Urge all states to provide the following information in standardized format: a) the identity of the person, group, or entity involved; b) the specific acts under investigation and their circumstances; c) links with other relevant cases of terrorist offenses; d) the communications technologies and information obtained; e) the presence of any threats related to weapons of mass destruction.

3. Encourage countries to participate in the Interpol Fusion Task Force to coordinate and improve international capabilities for the investigation of terrorism-related crime.

Facilitate participation in Interpol's special regionally focused projects to identify terrorist groups, collect and share intelligence, provide analytic support, and enhance capacity to address threats of terrorism and organized crime.

4. Enhance mutual legal assistance among states and regional organizations by encouraging countries to: a) appoint senior officials within their police services and judicial bodies to maintain liaison with Interpol and other international and regional law enforcement bodies, b) give priority attention to responding quickly to requests for mutual assistance concerning investigations and legal proceedings against individuals and entities suspected of terrorist activity, and c) provide secure access for appropriate international and regional agencies to obtain information on individuals and entities suspected of terrorist activity.

5. Assist states and regional organizations in upgrading statutes and conventions to improve cooperation, mutual legal assistance, and the extradition of suspects. The model UN treaties on extradition and mutual assistance should be endorsed and utilized by the CTC as best practices in its efforts to encourage further legal, judicial, and law enforcement cooperation. With respect to mutual legal assistance and extradition, the CTC should continue to work with UNODC to encourage the development and dissemination of bilateral best practices.

3.3 Territorial Control

A third hallmark of Resolution 1373 is the call on states to strengthen control of their borders. Specifically, states are required to deny the safe haven and movement of terrorists across and within their borders by increasing border, aviation, and maritime security; strengthening customs enforcement; and raising attention to travel and identity documents.⁴⁷ Though the onus ultimately falls on states to enact and enforce laws that are consistent with human rights laws, while exerting strict control over the people and goods that flow across and within their borders, the role of international standards and the provision of technical assistance can greatly increase the capacity of states to do so.

Implicit in Resolution 1373's demand to deny safe haven, freeze assets, and bring terrorists or those who support them to justice is the need to quickly and properly identify terrorists. Paragraph 2(g) of Resolution 1373 decides that states shall "prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery, or fraudulent use of identity papers and travel documents."⁴⁸ Subsequent Security Council resolutions have also dealt with the matter of safe haven.⁴⁹ Resolution 1566 explicitly "calls upon States to cooperate fully . . . in order to find, deny safe haven and bring to justice, on the basis of the principle to extradite or prosecute, any person who

supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens.”⁵⁰

Travel Documents

Since September 2001, the International Civil Aviation Organization has spearheaded international efforts to standardize travel documents through its Machine-Readable Travel Document (MRTD) Programme and has established the standard of having only machine-readable passports (or “e-passports”) in issuance by 2010.⁵¹ ICAO Document 9303 details the technical specifications for MRTDs in three parts: part one covers machine-readable passports; part two, machine-readable visas; part three, official machine-readable travel documents.

As referenced in Resolution 1373, states must also ensure that terrorists do not have access to fraudulently obtained travel documents. In 2002 Interpol launched a global database of lost and stolen passports that now contains more than 11 million records coming from more than 100 member countries.⁵² As the estimated number of stolen and lost travel documents in circulation far exceeds 11 million, there is a need for member countries to continually update the database to increase its effectiveness. The Security Council recognized in Resolution 1617 (2005) the importance of this information tool and encouraged member countries to share information on travel documents with other member states through the Interpol database. Resolution 1617 provides the CTC with a basis for endorsing participation in Interpol’s database and doing so could further boost the level of participation. The G8’s twenty-eight standards set forth in the Secure and Facilitated Travel Initiative (SAFTI) endorse the Interpol database and commit to working with ICAO to develop international standards in passport issuance. Additionally, ICAO has produced “Guidelines for Dealing with External Passport and Other Travel/Identity Document Fraud-Recommended Standard Practices for the World’s Governments” to be posted on the MRTD website.

Implementation

ICAO’s revised standards for MRDTs are essential to ensure standardization and interoperability of MRTDs. Progress towards implementing those standards, though promising, has been uneven. As of early 2006, over 110 states have already issued or plan to issue MRTDs, while seventy-nine have not.⁵³ ICAO has worked on its own and in conjunction with regional organizations to further implementation. ICAO disseminates those standards in part through its website which presents an MRTD overview, a summary of Document 9303, links to the supporting documents, avenues for guidance and capacity building, and information about the Technical Advisory Group which adopts the specifications for and provides guidance on MRTDs.⁵⁴ Twice a year, ICAO publishes the MRTD Report to provide an update on technological developments and improved standards. Additionally, ICAO offers the Education and Promotion Working Group (EPWG), which

focuses on outreach missions and promotes publications as means of increasing knowledge and implementation of MRTD standards. The EPWG is ICAO's central source of identifying implementation problems and proposing solutions. In addition ICAO holds symposia on MRTDs and biometric enhancement to share information about products and services related to MRTDs, biometric identification, and border inspections. ICAO has also established an e-learning package in the form of a step-by-step guide on MRTDs and biometrics. ICAO's capacity building and outreach mission includes coordination with regional and other international organizations. For example, ICAO has set up workshops with OSCE, has worked with IMO, and has sponsored regional seminars. The G8, including through SAFTI, has developed standards that been endorsed by ICAO.⁵⁵ Given the widespread acceptance of ICAO standards for MRTDs, CTC endorsement would not likely be politically difficult and could only serve to further implementation efforts.

Refugee Status Determination

The process of determining refugee status is another important element of efforts to deny safe haven to those who commit or support terrorist acts. Resolution 1373, paragraph 3 [(f) and (g)] calls upon states to ensure that terrorists are not granted refugee status or that individuals who engage in terrorist activity lose any privileges of asylum.⁵⁶

The UN High Commissioner for Refugees (UNHCR) is the primary international body responsible for refugee status determination. Just as ICAO's universal standards in travel documents are critical to tracking citizens at points of entry and exit, standardized refugee certificates are necessary to the global tracking and acceptance of legitimate refugees.

In 2005 the UNHCR produced the Procedural Standards for Refugee Status Determination report, which details the criteria and procedures upon which refugee status is established.⁵⁷ Within the framework of counter-terrorism, the 4 September 2003 document, *Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, is most relevant.⁵⁸ The exclusion principle relates to instances when an individual otherwise qualifies for refugee status, but is ultimately denied because he or she has committed any of the following: a crime against peace, a war crime, or a crime against humanity; a serious nonpolitical crime; or an act contrary to the principles of the United Nations.

Implementation

In applying the exclusion clause, states and UNHCR must grapple with the definitional issue. According to UNHCR guidelines, "acts commonly considered to be terrorist in nature are likely to fall within the exclusion clauses"; however "[t]he fact that an individual is designated on a national or international list of terrorist suspects (or associated with a designated terrorist organization) should trigger some consideration of the exclusion clauses but will not in itself generally constitute sufficient evidence to justify exclusion."⁵⁹ Without

Thousands of shipping containers stacked at a terminal in Port Elizabeth, New Jersey. The sheer volume of international trade means it is impossible for national customs authorities to inspect more than a small fraction. (Photograph courtesy of National Oceanic and Atmospheric Administration)



a clear universal definition of terrorism, the UNHCR attempts to keep the decision-making process within the bounds of those acts that are identified by international law (e.g. criminal acts under existing universal instruments such as the hijacking of airplanes or violent acts against maritime safety) and addresses terrorism-related issues on a case-by-case basis.

Implementing standards for refugee status determination in practice can be even more difficult. The obvious challenges of distinguishing combatants or those who have “planned, facilitated or participated in the commission of terrorist acts” from legitimate refugees are greatly exacerbated in conflict zones where large flows of refugees primarily occur (e.g. the Afghanistan/Pakistan border in the fall of 2001). Conversely justifiable national security concerns may result in restricted access for legitimate refugees.⁶⁰ In cases where states lack the capacity to carry out the function of determining refugee status and UNHCR must assume that function, UNHCR itself often struggles to meet the same standards to which it seeks to hold states to account.⁶¹ Although CTC endorsement of UNHCR guidelines for refugee status determination may not solve many of the dilemmas on the ground, it would help to clarify for states their dual obligations under Resolution 1373 to deny terrorists safe haven and comply with international humanitarian law.

Customs

The World Customs Organization is the primary international agency responsible for developing standards and best practices between national customs agencies.⁶² A guiding principle of the WCO is that increased security can and should be achieved in a manner that facilitates, rather than hampers global trade. In June 2005, largely in response to concerns about the vulnerability of international trade to terrorist exploitation, WCO members unanimously adopted the *Framework of Standards to Secure and Facilitate Global Trade* (SAFE Framework of Standards). The SAFE Framework consists of four core elements:

- harmonizing advance electronic cargo information requirements on inbound, outbound, and transit ships;
- employing a consistent risk management approach to identifying security threats for each country that joins the SAFE Framework;
- performing inspections of high-risk containers and cargoes, based on common risk targeting methodology; and
- defining benefits for businesses that meet supply chain security standards and best practices, provided by customs administrations.⁶³

The SAFE Framework of Standards presents a well-developed, user-friendly, comprehensive list of standards and best practices. The Framework rests on the two pillars of enhancing customs-to-customs exchanges and customs-to-business partnerships. The first pillar uses “advance electronic information” to identify high-risk cargoes and containers and priority vessels and requires standards in risk assessment, communication, inbound and outbound cargo inspection, inspection technology, and record keeping, as presented in Annex 1 of the Framework.⁶⁴ The second pillar focuses on partnering with private businesses to provide incentives for boosting compliance with security standards and technical specifications listed in Annex 2 of the Framework.⁶⁵ Another priority of the SAFE Framework of Standards included as an appendix to Annex 1 is the Seal Integrity Programme for Secure Container Shipments, the underlying premise of which is to ensure that standard information is provided at each point along the supply chain. Standardized seals help to ensure that shipping containers have not been tampered with.⁶⁶

The international exchange of security information collected through domestic customs administrations is also central to the WCO Framework. The SAFE Framework lists the Guidelines for the Development of National Laws for the Collection and Transmission of Customs Information, the Johannesburg Convention, and the Model Bilateral Agreement as sources that will benefit the development of these desired provisions.

WCO provides a variety of additional guidance materials for its members. WCO members have also adopted a series of recommendations relevant to specific provisions of Resolution 1373 including: money laundering, illegal weapons trafficking, illicit cross-border movement of nuclear and hazardous materials, and passenger information systems.⁶⁷

Implementation

The most obvious implementation challenges stem from the enormous volume of international trade which means it is impossible for customs authorities to inspect more than a small percentage of cargo. WCO has sought to overcome those challenges by emphasizing partnership with business to decrease the burden on customs authorities and emphasizing a risk assessment approach to cargo security.

A second implementation challenge stems from a lack of capacity on the part of many national customs authorities. In conjunction with the adoption of the SAFE Framework of Standards in June 2005, WCO launched the Columbus Programme for the 21st Century, “described as a comprehensive global customs capacity building initiative.”⁶⁸ The programme’s goal by 2006 is to provide diagnostic and development assistance in all aspects of customs administration to the more than eighty WCO members. Another form of assistance from the WCO is the World Customs Centre of Learning, an online forum through which WCO trainers provide operational and technical training to interested member states through on-site training, e-learning, and tailor-made classes.

Small Arms and Light Weapons

Resolution 1373 paragraph 2 (a) decides that states shall refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists. Paragraph 3 (a) calls on states to intensify and accelerate the exchange of operational information regarding . . . traffic in arms, explosives, or sensitive materials.⁶⁹ The 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection is also one of the universal terrorism conventions and protocols to which Resolution 1373 urges states to accede.



MANPADs, such as the Stinger Missile pictured above, in the wrong hands may pose a serious threat to civil aviation. Guidelines restricting the export and sale of these weapons may help to decrease that risk. (Photograph courtesy of the U.S. Department of Defense)

In this arena, standards have been generated by the OSCE and the Wassenaar Arrangement, the members of which account for a large portion of the world’s arms exporters. Since the end of the cold war, the OSCE has developed a substantial program on preventing the sale and trade of surplus weapons in Eastern European countries. The Forum for Security Co-operation is the subsidiary body of the OSCE that covers small arms and light weapons control. The forum’s standards on regulating and decreasing the prevalence of these weapons are outlined in the 2003 *Handbook on Best Practices on Small Arms and Light Weapons* [SALW].⁷⁰ The SALW Handbook is a comprehensive guide that includes best practices on the manufacture, marking, record-keeping and traceability of weapons;

stockpile management and security; brokering activities; export control; definitions and indicators of surplus; and the destruction, disarmament, demobilization, and reintegration of small arms and light weapons.

The OSCE's approach is to present broad guidelines, while leaving room for national systems to develop unique approaches to meeting them. In the subtopic of controlling the manufacturing of SALW, for example, the handbook stipulates that licenses must authorize the manufacture of weapons and that illegal production without licenses must be prosecuted. Universal licensing and punitive measures are not included; rather, states develop the specific measures domestically. Similarly, the handbook recommends that SALW be clearly marked and recorded, but does not detail a universal system for doing so.

User handbooks may be appropriate not only in the area of small arms but for the full range of counter-terrorism implementation categories. In his recommendations for a global counter-terrorism strategy in April 2006, the UN Secretary-General pledged to disseminate United Nations counter-terrorism resources through an online handbook that should "make clear where to look for relevant resources, including best practices available in key areas and frequently asked questions." He urged "the Counter-Terrorism Implementation Task Force to work with the relevant entities to create such a handbook as soon as possible."⁷¹ Handbooks have been produced for other areas of UN policy, including the sanctions reform initiatives sponsored by the Swiss, German, and Swedish governments.⁷² Handbooks that are designed for easy use by policymakers and practitioners could be produced for each of the major categories of counter-terrorism implementation.

In addition to the OSCE, other bodies have developed standards and protocol for the regulation and destruction of SALW. In 1996, thirty-three states agreed to the Wassenaar Arrangement, a multilateral export control regime for conventional weapons and sensitive dual-use goods and technologies. Participating states meet regularly at the headquarters in Vienna and make decisions by consensus. Membership is open to any nation that produces or exports arms, and maintains nonproliferation and export control policies. The Wassenaar Arrangement has produced best practices and guidelines on: the export of SALW, export controls for Man-Portable Air Defense Systems (MANPADs), the disposal of surplus/demilitarized equipment, legislation on arms brokering, and "very sensitive list" items.⁷³ The overall goal is for member states to develop national export policies that ensure that conventional weapons and other sensitive goods are not transferred to states or organizations that would threaten international peace and security. Wassenaar best practices affirm UN and OSCE standards in the field of small arms and light weapons control, and specifically call attention to the need to deny access of SALW to terrorists.

The First Committee of the UN General Assembly also has a number of initiatives related to SALW, including a Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects based on Resolution 59/86 adopted in December 2004. The General Assembly held meetings in 2003 and 2005 to discuss implementation of the Programme of Action. Discussion topics included the subtopics of OSCE and Wassenaar best practices, with an emphasis on capacity building across all sectors. The OSCE *Handbook of Best Practices* references this UN initiative and emphasizes the OSCE's intention of strengthening its implementation.

The UN General Assembly adopted in December 2005 an “International Instrument to Enable States to Identify and Trace, In a Timely and Reliable Manner, Illicit Small Arms and Light Weapons” and Interpol was mandated to assist states with (1) the facilitation of tracing operations conducted within the framework of this instrument, and (2) investigations to identify and trace illicit small arms and light weapons.

Implementation

Excess supplies of small arms and light weapons are a prime opportunity for terrorist exploitation; unfortunately, effective implementation of the above standards and best practices has proven notoriously difficult.

The OSCE offers a number of mechanisms to assist states in developing national policies to implement the handbook’s recommendations. The Conflict Prevention Centre at OSCE headquarters organizes training sessions, seminars, and workshops in safeguarding and destroying SALW. The OSCE also has regional and field offices in Central Asia, the Caucasus, Southeastern and Eastern Europe, Western Europe, and North America that assist, monitor, and provide background information upon request from states. Workshops are convened on issues including the control of the sale and export of SALW and implementation of the UN Programme of Action to prevent, combat, and eradicate illicit trade of SALW.

A major problem with implementing best practices on the small arms and light weapons is the lack of any binding international framework regulating the trade of such weapons. OSCE and Wassenaar standards and best practices are merely political commitments. Short of a treaty on the international trade in small arms and light weapons (the prospects for which do not appear likely), comprehensive standards and best practices based on those of the OSCE and/or Wassenaar Arrangement but endorsed by the CTC or Security Council could help to improve implementation. Those parties that have heretofore resisted efforts to regulate the international trade in small arms and light weapons might prove less resistant to steps by the Security Council or one of its committees to endorse best practices in this area, particularly if those best practices are based on political commitments to which many of the major arms exporters have already agreed through the OSCE and/or the Wassenaar Arrangement.

While there is much overlap between the substance of OSCE and Wassenaar Arrangement standards and best practices, and mutual recognition of the respective efforts, CTC endorsement of the best practices devised by the Wassenaar Arrangement, a self-selecting arrangement with limited membership, may prove politically problematic within the Security Council. It should be noted, however, that ICAO, the OSCE, and APEC have endorsed (in some cases with minor modifications) Wassenaar Arrangement guidelines. Support for OSCE standards, on the other hand, may be politically more viable within the UN. In adopting the OSCE’s *SALW Handbook of Best Practices*, the CTC would have a comprehensive rubric that would be a valuable model for standards presentation in other areas. A CTC stamp of approval would also extend the reach of the standards from the regional to global level, increase the number of languages of translation, and might increase the flow of financial and technical assistance.

An oil tanker off of Rotterdam. The standards and best practices devised by the IMO and other organizations help to provide a standardized framework for protecting against threats to port and ship security. (Photograph courtesy of Danny Cronelissen, www.portpictures.nl)



Maritime Security

In addition to the more general territorial control requirements of Resolution 1373, two of the international conventions that Resolution 1373 calls upon states to adopt relate specifically to maritime security: the 1988 *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation* (SUA), including its 2005 Protocols; and the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*.⁷⁴

The principal international functional agency responsible for maritime security is the International Maritime Organization which has made significant strides in developing and disseminating standards and best practices relating to ship and port security.⁷⁵ Following a week-long diplomatic conference in December 2002, the IMO adopted several amendments to SOLAS focused specifically on protecting the maritime industry from acts of terrorism.⁷⁶

The objective of the International Ship and Port Facility Security (ISPS) Code is to provide a standardized framework through which states can assess risks and threats to ships and ports and devise appropriate security measures. The first portion presents mandatory requirements for ship and port security while the second outlines nonmandatory guidelines for implementation. The 2002 conference also adopted other relevant amendments and modifications to SOLAS on topics, including: Automatic Information Systems, Continuous Synopsis Records, training courses, performance standards, and the promotion of technical assistance through the Integrated Technical Co-operation Programme and the creation of a Maritime Security Trust Fund.

The IMO has cooperated with other functional organizations such as ICAO and the International Labour Organization (ILO). In 2003, the IMO and ILO published the *Code of Practice on Security in Ports* which extends ISPS to the wider port area. The IMO has also worked with the ILO on revising the *Seafarers Identity Documents Convention* (ILO Convention 185).

Implementation

In addition to disseminating its standards and best practices through circulars, resolutions, and reports, the IMO posts on its website an ISPS Code database with guidance memos, a voluntary self-assessment form, and a list of frequently asked questions on maritime security. The ISPS Code is part of the International Convention for the Safety of Life at Sea (SOLAS), so it is mandatory for the 156 states that have signed the treaty. The IMO has no enforcement mechanisms and though membership is strong and compliance with standards for ship security high, the IMO reports that port standards have been implemented to a lesser degree.⁷⁷ The IMO has indicated that CTC backing would benefit its current implementation efforts and potentially widen the channel of financial and technical assistance flowing to states.⁷⁸

Existing standards and best practices prepared by the IMO provide a detailed roadmap for states to improve their maritime and port security. They are fairly universal, readily available, and user-friendly. The CTC should therefore consider endorsing those measures that pertain to counter-terrorism. With widespread international participation in the IMO, and because the IMO is a specialized agency of the UN, there would not likely be significant political opposition to such a step. The detailed nature of the documents means that little input would be required from the CTC. Although SOLAS extends to areas unrelated to counter-terrorism, the IMO has highlighted those measures that could readily be adopted or endorsed wholesale by the CTC.⁷⁹

Aviation Security

As with maritime security, the issue of aviation security is implicit in Resolution 1373's demand on states to regulate the movement of goods and people across and within their borders. Four of the thirteen international conventions that Resolution 1373 calls upon states to adopt relate specifically to aviation security.⁸⁰ The International Civil Aviation Organization is the principal international functional agency responsible for setting standards in aviation security.

Speaking in the aftermath of the September 11, 2001 attacks, then Secretary-General of ICAO, Renato Cláudio Costa Pereira called for urgent action to reinforce cockpit doors, make air marshals more prevalent, and add video cameras and biometric screening. The broader ICAO strategy for aviation security is outlined in Annex 17 to the Convention on International Civil Aviation (Chicago Convention), which prescribes the basis for civil aviation security through a number of adopted standards and recommended practices (SARPs).⁸¹

First adopted in 1974, Annex 17 has been amended eleven times, twice since September 2001. The Annex requires each contracting state to develop its own civil aviation security program and provides a specific framework to facilitate compliance. The “standards” contained in Annex 17 require mandatory compliance from states, while the “recommended practices” are those to which states strive to conform. If states lack the capacity to comply with a “standard,” they are required to inform the ICAO council with a written letter (in which case they are no longer bound by it), whereas they are simply encouraged to inform the council of noncompliance with a “recommended practice.”

In addition to Annex 17, since 1971 ICAO has maintained the *Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference*.⁸² The security manual is a restricted document that provides detailed guidance material for states on interpreting and implementing SARPs. Another ICAO mechanism for strengthening implementation of SARPs is the Aviation Security Panel.⁸³ The Aviation Security Panel undertakes security-specific assignments from the ICAO Council, including the development of new SARPs, the identification of future threats to civil aircraft, and the maintenance of the security manual.

Implementation

To assess implementation of those measures, in 2002 ICAO created the Universal Security Oversight Audit Program. As of 31 January 2006, 109 audits have been conducted under the program, with the goal being that all 189 contracting states will be audited by December of 2007. ICAO does not have enforcement power; the auditing program is merely a means of assessing implementation. The audits have revealed that though there is generally high interest among states in achieving effective aviation security levels, great disparities exist in the extent to which states have the human and financial capacity to do so. Contracting states of ICAO are supposed to report steps that will be taken to address deficiencies identified through audits.

To strengthen implementation, ICAO offers different forms of capacity building and technical assistance. ICAO approaches capacity building employing a “coordinated assistance and development strategy” and partnering with other international and multilateral organizations such as the World Bank, the OSCE, the UNODC, and the CTC, as well as individual donor states. ICAO has ten regional Aviation Security Training Centers that conduct training classes in airline security, crisis management, auditing, inspections, and other topics.⁸⁴ ICAO also offers regional assistance workshops that cover topics identified through the audits as points of weakness by taking a regional approach to strengthening national civil aviation security programs.

ICAO’s highly developed standards, its auditing system, regional implementation efforts, and coordinated and sustainable approaches to capacity building provide models for what could be done in other less developed functional areas. Although ICAO already works closely with the CTC, endorsement of its standards could serve to further its efforts to refine and disseminate standards. Other organizations could benefit from ICAO’s model of establishing regional training centers to ensure that implementation and follow-up are integral components of the dissemination process.

Regional Snapshot

The Asia-Pacific Economic Cooperation (APEC)

Regional organizations make important contributions to global counter-terrorism efforts. Since September 11, 2001, regional organizations such as APEC, the African Union AU, the Organization of American States, OSCE, and the Pacific Islands Forum have adopted counter-terrorism action plans and/or established dedicated counter-terrorism units to work with their members in building implementation capacity. Some of these organizations have put political pressure on their members to fulfill international and regional counter-terrorism mandates and adopt counter-terrorism standards and best practices.

APEC, which has twenty-one member economies, views terrorism as a serious threat to its goals of free trade and investment in the Asia-Pacific region. APEC's focus on defending its core economic interests as a common objective has allowed its member economies to navigate difficult political obstacles and take steps in cooperation with standard setting entities to protect core interests. APEC provides a good case not only for how other regional institutions can adopt and implement standards and best practices at the regional level but how the CTC itself may proceed. The following are highlights of APEC's recent work:

In the financial sector, APEC has focused on increasing compliance with accepted international standards to counter money laundering and terrorist financing and on fostering closer cooperation through the exchange of information among financial intelligence units and customs bureaus. In a June 2006 meeting, APEC's Counter-Terrorism Task Force⁸⁵ agreed to conduct workshops on the role and responsibilities of FIUs for monitoring transactions involving non-profit organizations and alternative remittance systems. The initiative will help members meet their obligations under the United Nations counter-terrorism program as well as FATF's Nine Special Recommendations.

With regard to supply chain security and customs, in 2005, the APEC Sub-Committee on Customs Procedures adopted an APEC Framework based on the the major program components of the World Customs Organization's SAFE Framework. APEC has also endorsed the IMO's ISPS Code.

APEC has agreed to cooperate to ensure that all member economies begin issuing machine readable travel documents, if possible with biometric technology, by the end of 2008. To help achieve this objective, a capacity-building project was conducted by the Informal Experts Group on Business Mobility in 2006 to help APEC accelerate the adoption of standards for e-passports developed by the International Civil Aviation Organization.

In the area of man-portable air defense systems, APEC has endorsed Wassenaar Arrangement standards as guidelines, after slight modification, tailoring them to APEC principles. APEC has also adopted export control best practices called "APEC Key Elements for Effective Export Control Systems" based on Wassenaar principles in the areas of legal and regulatory control, licensing procedures, law enforcement, and industry participation.

APEC, a forum for regional economic cooperation, has therefore expanded to include security issues (at least those which may pose a direct threat to trade and investment). Although APEC has not traditionally dealt with security issues, linking implementation of the counter-terrorism standards and best practices with the common economic interests of the region perhaps accounts for its relative success in their adoption and implementation. APEC's experience also offers a practical lesson on how adoption of counter-terrorism standards and best practices may most easily be achieved. In most of the sectors above APEC has simply taken the existing standards and best practices of international functional organizations (in some cases modifying them slightly) and adopted them as their own. Such an approach avoids the potential political obstacles of trying to endorse standards and best practices of other organizations that may have differing membership while also dispensing with the need to devise its own from scratch.

Recommended Action

1. Endorse ICAO standards and best practices on the issuance and handling of travel documents and the use of Interpol's global database on lost and stolen travel documents.

Coordinate with ICAO, the G8 through CTAG, and other donors to assist states in developing the capacity to issue documents in compliance with ICAO standards and to share information on lost and stolen travel documents with Interpol.

2. Cooperate with ICAO in adapting and disseminating the updated civil aviation security standards in Annex 17 to the Chicago Convention and ICAO's Security Manual. Work with the ICAO oversight audit program in assessing member state implementation. Encourage support and participation in ICAO's "development approach" to capacity building.

3. Endorse UNHCR's process for determining refugee status in a manner that prevents abuse by terrorists while upholding human rights and humanitarian law. Support the development of standards for all documents relating to refugee and asylum-seeker status, particularly as biometric technology becomes more widespread.

4. Cooperate with WCO in adapting and disseminating standards to secure and facilitate global trade. Cooperate with WCO in adopting and promoting specific best practices on trade security that deal with terrorism-related concerns.

5. Endorse OSCE standards on the manufacture, marketing, brokering, and export of small arms and light weapons. Adapt and refine the OSCE's SALW Handbook to focus on the aspects of controlling small arms and light weapons that most directly relate to counter-terrorism priorities, such as controlling the manufacture and trade of explosives. Support capacity building efforts to meet these standards.

6. Endorse the maritime security standards and best practices developed by IMO that pertain to counter-terrorism security requirements. Work with ICAO and ILO to adapt, refine, and support capacity building efforts related to counter-terrorism standards on port security.

4. Conclusion

International functional agencies have developed and adapted numerous standards and best practices to improve implementation of UN counter-terrorism mandates. The CTED has identified many of these relevant best practices and made information available to states and regional organizations through links on its website. This informal utilization of standards and best practices is helpful to CTED experts in conducting assessments and to some extent may guide states in their implementation, but it is not sufficient for assessing full implementation of UN requirements. To achieve full international acceptance of standards and best practices, it is necessary to provide adequate assurances of universality, transparency, and objectivity, which requires UN endorsement. Continuing to rely informally on the standards and best practices of diverse functional organizations will not improve the legal and functional framework for implementation of counter-terrorism requirements.

The CTC and/or the Security Council should endorse formally the relevant standards and best practices of functional organizations noted in section three. Where necessary the CTC should adapt and refine them for UN purposes, working with the relevant functional organizations to identify and fill gaps that may exist between those standards and best practices and the specific requirements of UN Security Council mandates. Security Council and/or CTC endorsement of a comprehensive set of standards and best practices would improve the legal and functional framework for implementation of counter-terrorism requirements and provide stakeholders an improved basis for the coordination and delivery of technical assistance. It would also give states a concrete roadmap toward implementing Resolution 1373. Many functional organizations have indicated that CTC endorsement of relevant standards and practices would help to further their own implementation efforts.

In some categories, such as preventing terrorist financing, endorsement might involve simply removing the “label” of the relevant functional organization(s) and providing a CTC or Security Council stamp of approval. In other categories of implementation, the process would entail picking and choosing, and modifying existing standards and practices. This proposed approach of utilizing and refining existing standards and practices is the most promising way of combining the knowledge and expertise of the functional organizations with the political legitimacy and universality provided by the UN counter-terrorism program.

As the experience of trying to adopt the FATF Nine Special Recommendations illustrates, pursuing formal adoption of existing standards and best practices is not without its challenges. The endorsement of standards and best practices originating from organizations outside the UN system may present political and procedural difficulties. Moving from the realm of recommendations to what can be viewed as binding standards may add to the perception that the Security Council is overreaching and acting as a “global legislator.” The process of endorsing standards and practices would also involve the CTC, which is inherently a political body, in extensive deliberations on largely technical matters.

Formal endorsement of existing standards and practices would necessitate the active involvement and technical assistance of the major international functional organizations identified above. Working groups could be formed for the various categories of implementation. These could be tasked with adapting and refining a limited number of the most important standards and best practices that could be approved by the CTC and/or the Security Council and promulgated internationally as UN standards.

As the CTC moves forward with identifying and endorsing relevant standards and best practices, certain general recommendations should guide the process:

Establish agreed standards and best practices that are characterized by universality, transparency, and objectivity. Adopting and endorsing standards and best practices will improve the transparency and objectivity to the CTC’s work, but the process by which they are adopted should include the input of all interested parties including functional

organizations, as well as states, regional, and subregional organizations. To add a further degree of legitimacy, CTC recommended standards and best practices could be submitted to the full UN General Assembly for consideration and endorsement in a formal resolution.

Prioritize a succinct set of standards and best practices. Select a finite set of manageable best practices and ensure that in their final form they are both technically and politically useful. The FATF document, *Forty plus Nine Special Recommendations on Anti-Money Laundering and Terrorist Financing*, serves as an excellent model in this regard. Another particularly user-friendly format might be a handbook of standards and best practices for each of the three categories identified above. Following the Secretary-General's request, as noted in section 3.3 above, the CTC could assist in developing such handbooks, perhaps by encouraging and supporting particular functional organizations to lead the process. The OSCE's SALW Handbook could serve as a useful model for the development of handbooks of best practices in each issue area.

Limit the list of thematic implementation categories to make the scope of the standards definition process more manageable and accessible. Consider adopting a simplified set of three categories of counter-terrorism implementation: terrorist financing, legal practice and law enforcement, and territorial control. Include cross-cutting issues within each category: international cooperation, the provision of technical assistance, and compliance with human rights standards.

Strengthen coordination with relevant functional organizations. As this survey illustrates, international functional organizations have already devised a vast array of standards and best practices relevant to the implementation of Resolution 1373. The work and technical expertise of those organizations should be given priority. In adapting and refining best practices, the CTC should rely on the input of the relevant functional organizations and avoid micromanaging what should be an essentially technical process.

Enhance information exchange among all relevant actors. The CTC should strengthen its coordination with relevant functional organizations in assessing implementation and coordinating assistance by ensuring a maximum level of information exchange. Gaps in implementation identified through the various assessment mechanisms of the IMF, ICAO, IMO, and other functional organizations (particularly those within the UN family) should be shared with the CTC/CTED and potential assistance providers and vice versa. In instances where confidentiality agreements or other procedural obstacles prevent the exchange of such information, approval should be sought from states to disseminate all or some of the assessment information to relevant stakeholders. Efforts should be made to remove all such barriers to the full exchange of information between relevant functional organizations, the CTC/CTED, and potential donors.

Coordinate with the other elements of the UN, particularly UNODC and the other Security Council subsidiary bodies. The standard-setting process should be undertaken in coordination with the other counter-terrorism related bodies of the UN. The UNODC,

its Terrorism Prevention Branch and its Global Programme Against Money Laundering are already a source of many relevant counter-terrorism standards and best practices. The CTC should also coordinate with the other terrorism-related subcommittees of the Security Council, particularly where their mandates overlap (i.e., the Al Qaeda/Taliban Sanctions Committee in the area of terrorist financing and the 1540 Committee in the area of the supply of WMD and related materials). Although there are currently separate reporting requirements for each, the CTC/CTED and the other counter-terrorism bodies should develop and utilize best practices that are consistent throughout the UN.

Encourage partnerships with stakeholders, including private enterprise, to identify common interests and get “buy in” in the development and implementation of the standards and best practices. Although the obligations imposed by Resolution 1373 are those of states, effective implementation of those standards and best practices often fall to the private sector. The most effective implementation of counter-terrorism standards and best practices have occurred in sectors and regions where the common regional interests and those of the private sector have been taken into account.

Employ innovative assessment and evaluation mechanisms. Peer evaluation and mutual assessment processes such as those devised by the IMF, the World Bank, and the FATF on AML/CFT, and the EU on counter-terrorism measures, provide alternatives to more coercive measures such as “naming and shaming” or referring noncomplying states to the council. A three-step process could be devised in which a) countries of concern submit a self assessment report, b) neighboring countries conduct peer evaluations, and c) if necessary an appropriate international or regional organization initiates countermeasures to encourage further implementation. Recommended standards and best practices should also form the basis for providing concrete incentives through the facilitation of capacity building and technical assistance.

Improve dissemination and implementation of best practices at the regional level. In his recommendations for a global counter-terrorism strategy (April 2006) the UN Secretary-General noted that “[r]egional and subregional initiatives have provided a valuable forum for sharing best practices and capacity building, and for facilitating regional contributions to the international community’s efforts.”⁸⁶ Improving dissemination and implementation of best practices by regional organizations can help to circumvent some the inherent limitations of the CTC and Resolution 1373. Working at the regional levels is essential to ensure that contextual issues, in particular good governance needs, are taken into consideration. This approach can also ensure regional ownership of standards and best practices. Unfortunately, the regions furthest behind in their efforts to implement Resolution 1373 generally do not have effective counter-terrorism programs in their regional organizations and could benefit greatly from the dissemination of best practices from other regional organizations that have a proven track record of counter-terrorism implementation. Functional organizations should also consider establishing regional centers, as some have already done, to assist countries in implementing Resolution 1373

and developing best practices that could be more tailored to specific regional/cultural perspectives. The CTC should help to convene regional workshops that bring together local practitioners to develop best practice standards that are consistent with international standards but that are tailored to specific regional practices.

Notes

1. Counter-Terrorism Executive Directorate, “Framework for the Collection, Analysis, Development and Dissemination of Best Practices Relative to United Nations Security Council Resolutions 1373 (2001) and 1624 (2005),” New York, 2006 [draft internal document]. [Back](#).
2. United States Mission to the United Nations, *Written Statement of the U.S. Delegation for Inclusion in the Record of the Briefing by the Chairs of the 1267 Al-Qaida/Taliban Sanctions Committee, the 1373 Counter Terrorism Committee, and the 1540 Committee on Non-Proliferation of Weapons of Mass Destruction, in the Security Council*, USUN Press Release #80(05), 25 April 2005 <http://www.un.int/usa/05_080.htm> (accessed 28 April 2006). [Back](#).
3. G8 Summit 2006 Saint-Petersburg, “G8 Statement on Strengthening the UN’s Counter-Terrorism Program,” 16 July 2006 <<http://en.g8russia.ru/docs/18.html>> (accessed July 25 2006). [Back](#).
4. Counter-Terrorism Executive Directorate, “Framework for the Collection, Analysis, Development and Dissemination of Best Practices Relative to United Nations Security Council Resolutions 1373 (2001) and 1624 (2005),” New York, 2006 [draft internal document]. [Back](#).
5. Counter-Terrorism Executive Directorate, “Framework for the Collection, Analysis, Development and Dissemination of Best Practices Relative to United Nations Security Council Resolutions 1373 (2001) and 1624 (2005),” New York, 2006 [draft internal document]. [Back](#).
6. Counter-Terrorism Executive Directorate, “Framework for the Collection, Analysis, Development and Dissemination of Best Practices Relative to United Nations Security Council Resolutions 1373 (2001) and 1624 (2005),” New York, 2006 [draft internal document]. [Back](#).
7. United Nations Security Council, *Outcome Document of the Special Meeting of the Counter-Terrorism Committee with International, Regional and Subregional Organizations*, S/AC.40/203/SM.1/4, New York, 31 March 2003. [Back](#).
8. United Nations Security Council, *Report of the Counter-Terrorism Committee to the Security Council for its Consideration as Part of its Comprehensive Review of the Counter-Terrorism Committee Executive Directorate*, S/2005/800, New York, 16 December 2005. [Back](#).
9. Javier Rupérez, “A Response to the Recommendations for Improving the United Nations Counter-Terrorism Committee’s Assessment and Assistance Coordination Function” (remarks, International Peace Academy Policy Forum on the Counter-Terrorism Committee/Counter-Terrorism Committee Directorate, New York, 22 November 2005). [Back](#).
10. United Nations Security Council, *Work Programme of the Counter-Terrorism Committee Executive Directorate (1 January – 31 March 2006)*, S/2006/107, New York, 16 February 2006. [Back](#).
11. The CTED has recently indicated that “[a] breakdown of the various paragraphs of resolution 1373 (2001) in actionable parts is currently being done within CTED, and remains to be carried out for resolution 1624 (2005).” See Counter-Terrorism Executive Directorate, “Framework for the Collection, Analysis, Development and Dissemination of Best Practices Relative to United Nations Security Council Resolutions 1373 (2001) and 1624 (2005),” New York, 2006 [draft internal document]. [Back](#).

12. Since 2001 when Resolution 1373 was passed, the CTC's mandate has expanded. For example, with regard to best practices, in UN Security Council Resolution 1624 which called upon states to prohibit by law, prevent, and deny safe haven to those who incite others to commit terrorist acts, the Security Council directed the CTC to "[w]ork with Member States to help build capacity, including through spreading best legal practice and promoting exchange of information in this regard." See United Nations Security Council, *Security Council Resolution 1624 (2005)*, S/RES/1624, New York, 14 September 2005, para. 6. The categories outlined in this paper could easily be adapted to include such additional requirements and related best practices mandated by the Security Council, but this report does not address the issue of incitement per se. [Back](#).
13. See, for example, OECD, *The DAC Guidelines Helping Prevent Violent Conflict* (Paris: OECD, 2001), 37 <<http://www.oecd.org/dataoecd/15/54/1886146.pdf>> (accessed 21 July 2006). [Back](#).
14. A recent example is: DAC Network on Governance, *The Challenge of Capacity Development: Working Towards Good Practice*, DCD/DAC/GOVNET(2005)5/Rev1 (Paris, OECD, 1 February 2006) <<http://www.oecd.org/dataoecd/4/36/36326495.pdf>> (accessed 21 July 2006). [Back](#).
15. Kofi Annan, (statement before the United Nations Association of the United Kingdom, Central Hall, Westminster, United Kingdom, 31 January 2006). [Back](#).
16. United Nations General Assembly, *Uniting Against Terrorism: Recommendations for a Global Counter-Terrorism Strategy*, A/60/825, New York, 27 April 2006; Section VI, paras. 110–118. [Back](#).
17. United Nations Security Council, *Security Council Resolution 1456 (2003)*, S/RES/1456, New York, 20 January 2003, para. 6. [Back](#).
18. See, for example, Human Rights Watch, "Open Letter to the United Nations Counter-Terrorism Committee," 25 January 2005 <http://hrw.org/english/docs/2005/01/25/uzbeki10074_txt.htm> (accessed 9 May 2006). [Back](#).
19. United Nations Office of the High Commissioner for Human Rights, "Introduction," *Terrorism and Human Rights* <<http://www.unhchr.ch/terrorism/index.html>> (accessed 9 May 2006). [Back](#).
20. Office of the High Commissioner for Human Rights, "Protection of human rights and fundamental freedoms while countering terrorism," Human Rights Resolution 2005/80 <http://ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-2005-80.doc> (accessed 21 June 2006). [Back](#).
21. United Nations Economic and Social Council, *Promotion and Protection of Human Rights*, E/CN.4/2006/98, New York, 28 December 2005. [Back](#).
22. See the text of Security Council Resolution 1373 in Appendix A. See especially paragraph 1 (a), (b), (c), and (d). See also Eric Rosand, *Security Council Resolution 1373 and the Counter-Terrorism Committee: the Cornerstone of the United Nations Contribution to the Fight Against Terrorism*, in LEGAL INSTRUMENTS IN THE FIGHT AGAINST INTERNATIONAL TERRORISM 603, 606 (Cyrille Fijnaut, Jan Wouters, and Frederik Naert eds., Brill Academic Publishers 2004). [Back](#).
23. The FATF's member jurisdictions are: Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong (China), Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, Kingdom of the Netherlands, New Zealand, Norway, Portugal, the Russian Federation, Singapore, South Africa, Switzerland, Spain, Sweden, Turkey, the United Kingdom, and the United States. Additionally, the People's Republic of China became an observer on 21 January 2005. [Back](#).

24. The recommendations were purposely imprecise to allow for wide interpretation to accommodate different legal systems and institutional environments. As the organization learned more about the nature and practice of money laundering, and effective countermeasures against such practices, its interpretation of the recommendations became increasingly precise. The FATF began to issue Special Interpretative Notes to the recommendations to clarify certain provisions and facilitate greater compliance. This procedure narrowed the scope for reasonable interpretation, detailing conditions of application and elaborating required or proscribed behavior. The FATF has also conducted typologies exercises in cooperation with other bodies, such as the Council of Europe's Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures, to identify emerging trends in money laundering and terrorist financing and to continually assess the relevance of its recommendations, though it is not always obvious against what criteria this assessment is taking place. [Back](#).
25. United Nations Security Council, *Security Council Resolution 1617 (2004)*, S/RES/1566, New York, 8 October 2004. [Back](#).
26. Counter-Terrorism Executive Directorate, "Working paper on sources of potential best practices related to Security Council resolution 1373 (2001)," New York, 6 December 2005 [unpublished]. [Back](#).
27. Egmont Group, "Best Practices for the Exchange of Information Between Financial Intelligence Units," 15 November 2004 <<http://www.egmontgroup.org/bestpractices.pdf>> (accessed 28 April 2006). [Back](#).
28. Financial Action Task Force, *Annual Report 2003-2004*, FATF/OECD, Paris, 2 July 2004 <<http://www.fatf-gafi.org/dataoecd/12/44/33622501.PDF>> (accessed 1 May 2006). [Back](#).
29. Financial Action Task Force, *Review to identify Non-Cooperative Countries or Territories: Increasing the Worldwide Effectiveness of Anti-Money Laundering Measures*, FATF/OECD, Paris 22 June 2000 <<http://www.fatf-gafi.org/dataoecd/56/43/33921824.PDF>> (accessed 1 May 2006). [Back](#).
30. Financial Action Task Force, "FATF Tackles Terrorism Financing, Delists Guatemala," FATF/OECD, Paris, 2004 <<http://www.oecd.org>> (accessed 1 May 2006). [Back](#).
31. FSRBs are located in the following regions: Asia / Pacific Group on Money Laundering; Caribbean Financial Action Task Force; Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures; Eurasian Group; Eastern and Southern Africa Anti-Money Laundering Group; Financial Action Task Force on Money Laundering in South America; and the Middle East and North Africa Financial Action Task Force. [Back](#).
32. International Monetary Fund, "The IMF and the Fight against Money Laundering and the Financing Of Terrorism," *IMF Fact Sheet*, September 2005 <<http://www.imf.org/external/np/exr/facts/aml.htm>> (accessed 28 April 2006). [Back](#).
33. Asia-Pacific Economic Cooperation, "11th APEC Finance Ministers' Meeting Joint Ministerial Statement," Santiago, Chile, 2-3 September 2004 <http://www.apec.org/apec/ministerial_statements/sectoral_ministerial/finance/2004_finance/annex_a.html> (accessed 28 April 2006). [Back](#).

34. See the text of Security Council Resolution 1373 in Appendix A. See especially paragraph 2 (b), (e), and (f), and paragraph 3 (a), (b), (c), (d), and (e). [Back](#).
35. Interpol, “The fight against international terrorism,” Fact Sheet TE/01. [Back](#).
36. Interpol, “Interpol: An Overview,” Fact Sheet GI/01. [Back](#).
37. K. Ulrich Kersten, interview by David Cortright, 17 March 2006. [Back](#).
38. Interpol, “The fight against international terrorism,” Fact Sheet TE/01. [Back](#).
39. K. Ulrich Kersten, interview by David Cortright, 17 March 2006. [Back](#).
40. Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. [Back](#).
41. Jakarta Centre for Law Enforcement Cooperation, “About JCLEC,” 12 May 2005 <http://www.jclec.com/index.php?option=com_content&task=view&id=14&Itemid=28> (accessed 28 May 2006). [Back](#).
42. For the Bangkok Declaration see ASEAN Secretariat, “Third ASEAN Regional Forum (ARF) Inter-Sessional Meeting on Counter-Terrorism and Transnational Crime (3rd ISM on CT/TC),” Bangkok, 6-8 April 2005 <<http://www.aseansec.org>> (accessed 28 April 2006). [Back](#).
43. See the text of Security Council Resolution 1373 in Appendix A. See especially paragraph 3 (b), (c), (d), and (e). [Back](#).
44. United Nations Office on Drugs and Crime Terrorism Prevention Branch, *Global Programme Against Terrorism, Current Developments*, August 2003 <http://www.unodc.org/pdf/crime/terrorism/GPAT_2003.pdf> (accessed 9 May 2006). [Back](#).
45. United Nations Office on Drugs and Crime, “Project Revision,” FS/GLO/02/R35, Vienna, 1 January 2003 <http://www.unodc.org/pdf/crime/terrorism/R35_prodoc_revision.pdf> (accessed 9 May 2006). [Back](#).
46. K. Ulrich Kersten, interview by David Cortright, 17 March 2006. [Back](#).
47. See the text of Security Council Resolution 1373 in Appendix A. See especially paragraph 2 (a), (b), (c), (d), and (g). [Back](#).
48. United Nations Security Council, *Security Council Resolution 1373 (2001)*, S/RES/1373, New York, 28 September 2001; Paragraph 2(g). [Back](#).
49. Resolution 1624 calls upon states to prohibit incitement to commit terrorist acts and also calls on states to “[d]eny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct.” See United Nations Security Council, *Security Council Resolution 1624 (2005)*, S/RES/1624, New York, 14 September 2005. [Back](#).
50. United Nations Security Council, *Security Council Resolution 1566 (2004)*, S/RES/1566, New York, 8 October 2004. [Back](#).

51. ICAO Press Release, "Biometrics Featured at Global Symposium on Machine Readable Travel Documents," 18 August 2005 <http://icao.int/icao/en/nr/2005/pio200509_e.pdf> (accessed 16 May 2006). [Back](#).
52. Interpol Media Release, "Interpol issues alert on embassy blank passport theft," 1 May 2006 <<http://www.interpol.org/Public/ICPO/PressReleases/PR2006/PR200615.asp>> (accessed 10 May 2006). [Back](#).
53. See for example: ICAO, MRTD Overview <<http://www.icao.int/mrtd/overview/overview.cfm>> (accessed 13 July 2006); and "The Changing Nature of Secure Documents: New Documents Alter the Technology and Vendor Landscape," *Authentication News* 12, no. 2 (February 2006) <<http://www.authenticationnews.info/files/uploadedfiles/745/AN%20Feb06%20pp5-6.pdf>> (accessed 13 July 2006). [Back](#).
54. The Technical Advisory Group (TAG) meets every eighteen months and is composed of thirteen experts from ICAO member states and NGO observers from aviation, law enforcement, and standardization organizations. TAG adopts specifications for MRTDs that are developed in working groups and published in Document 9303. TAG also assists states in implementation by providing guidance and technical reports and information papers. See International Civil Aviation Organization, Machine Readable Travel Documents, "Welcome to MRTD," <www.icao.int/mrtd/Home/index.cfm> (accessed 10 May 2006). [Back](#).
55. The G8 SAFTI Initiative presents twenty-eight standards, of which a handful relate directly to ICAO and standard travel documents. To view the standards see: White House, "G-8 Secure and Facilitated International Travel Initiative (SAFTI)," 9 June 2004 <<http://www.whitehouse.gov/news/releases/2004/06/print/20040609-51.html>> (accessed 10 May 2006). [Back](#).
56. See the text of Security Council Resolution 1373 in Appendix A. See especially paragraph 3, (f) and (g). [Back](#).
57. United Nations Refugee Agency, Procedural Standards for *Refugee Status Determination under UNHCR's Mandate* <<http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=4317223c9>> (accessed 15 May 2006). [Back](#).
58. United Nations Refugee Agency, *Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/03/05, Geneva, 4 September 2003 <<http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=3f7d48514>> (accessed 15 May 2006). [Back](#).
59. United Nations Refugee Agency, *Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, HCR/GIP/03/05, Geneva, 4 September 2003 <<http://www.unhcr.org/cgi-bin/texis/vtx/publ/opendoc.pdf?tbl=PUBL&id=3f7d48514>> (accessed 15 May 2006). [Back](#).
60. Human Rights Watch, *No Safe Refuge*, Human Rights Watch Backgrounder, 18 October 2001 <<http://www.hrw.org/backgrounder/refugees/afghan-bck1017.htm>> (accessed 13 July 2006). [Back](#).
61. Michael Kagan, *The Beleaguered Gatekeeper: Protection Challenges Posed by UNHCR Refugee Status Determination*, in *INTERNATIONAL JOURNAL OF REFUGEE LAW* 18, 1 (2006). [Back](#).
62. APEC, the EU, and other regional organizations have also devised relevant standards and best practices with regard to securing international trade. APEC, for example, has devised: *APEC*

Best Practices in Secure Trade, November 2004; *APEC Key Elements for Effective Export Control Systems*, 2004; and *Nonbinding guidelines for use by the private sector to enhance supply chain security practices*. [Back](#).

63. World Customs Organization, *Framework of Standards to Secure and Facilitate Global Trade*, Brussels, June 2005, pg. 7 <http://www.wcoomd.org/ie/EN/Press/Cadre%20de%20normes%20GB_Version%20Juin%202005.pdf> (accessed 9 May 2006). A simple summary of the SAFE Framework is available at the United Nations Economic Commission for Europe, “A Framework of Standards to Secure and Facilitate Global Trade,” UNECE Round Table, 8 February 2006 <http://www.unece.org/trans/doc/2006/itc/itcrt_sec/pres1.pdf> (accessed 6 May 2006). [Back](#).
64. These eleven standards are summarized on pages twelve through thirteen of the WCO Framework and fully described on pages sixteen through thirty. See World Customs Organization, *Framework of Standards to Secure and Facilitate Global Trade*, Brussels, June 2005 <http://www.wcoomd.org/ie/EN/Press/Cadre%20de%20normes%20GB_Version%20Juin%202005.pdf> (accessed 9 May 2006). [Back](#).
65. These six standards are summarized on page fifteen of the WCO Framework and are fully described on pages thirty-six through forty. See World Customs Organization, *Framework of Standards to Secure and Facilitate Global Trade*, Brussels, June 2005 <http://www.wcoomd.org/ie/EN/Press/Cadre%20de%20normes%20GB_Version%20Juin%202005.pdf> (accessed 9 May 2006). [Back](#).
66. The responsibilities along the supply chain regarding seal integrity are described on pages thirty-one through thirty-five of the WCO Framework. See World Customs Organization, *Framework of Standards to Secure and Facilitate Global Trade*, Brussels, June 2005 <http://www.wcoomd.org/ie/EN/Press/Cadre%20de%20normes%20GB_Version%20Juin%202005.pdf> (accessed 9 May 2006). [Back](#).
67. All WCO recommendations are available online at: <http://www.wcoomd.org/ie/En/Recommendations/body_recommendations.html>. Relevant recommendations include: Recommendation of the Customs Co-Operation Council on the Need to Develop and Strengthen the Role of Customs Administrations in Tackling Money Laundering and in Recovering the Proceeds of Crime, June 2005; Recommendation of the Customs Co-Operation Council on the Insertion in National Statistical Nomenclatures of Subheadings to Facilitate the Monitoring and Control of Products Specified in the Protocol Concerning Firearms Covered by the UN Convention Against Transnational Organized Crime, June 2002; Recommendation of the Customs Co-Operation Council Concerning the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, Supplementing the UN Convention against Transnational Organized Crime, June 2003; Recommendation of the Customs Co-Operation Council on the Insertion in National Statistical Nomenclatures of Subheadings for Substances Controlled under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction, 1996 amended June 1999; Recommendation of the World Customs Organization concerning Transnational Organized Crime, June 1997; Recommendation against Illicit Cross-Border Movement of Nuclear and Hazardous Material (Including Their Wastes), June 1997; Adherence to Standards in Relation to Data Requirements for Advance Passenger Information (API), July 1993. [Back](#).
68. World Customs Organization, “WCO celebrates International Customs Day 2006,” Press release, Brussels, 27 January 2006 <http://www.wcoomd.org/ie/en/Press/Press_ICD_2006_EN.htm> (accessed 9 May 2006). [Back](#).

69. United Nations Security Council, *Security Council Resolution 1373 (2001)*, S/RES/1373, New York, 28 September 2001. It is also worth noting that in March 2004 the Security Council adopted Resolution 1540, modeled on Resolution 1373, requiring every state to take a series of legal and regulatory steps to prevent weapons of mass destruction from getting into the hands of terrorists and other nonstate actors. Resolution 1540 also created a distinct committee to monitor its implementation. In light of these distinct yet overlapping mandates, the CTC focuses on conventional weapons, such as small arms and light weapons. [Back](#).
70. Organization for Security and Co-operation in Europe, *Handbook of Best Practices on Small Arms and Light Weapons*, Decision No. 5/03, 2003 <http://www.osce.org/publications/fsc/2003/12/10621_29_en.pdf> (assessed 17 May 2006). [Back](#).
71. United Nations General Assembly, *Uniting Against Terrorism: Recommendations for a Global Counter-Terrorism Strategy*, A/60/825, New York, 27 April 2006. [Back](#).
72. The first process, the “Expert Seminar on Targeting UN Financial Sanctions,” was hosted by the government of Switzerland in Interlaken 17-19 March 1998. The Bonn-Berlin process followed with the objective of helping improve the design and implementation of UN-mandated arms embargoes and travel sanctions in order to make better use of their potential. The Stockholm process, initiated by the Swedish government, engaged governments, non-governmental organizations, and academics. Its goal was to suggest ways to strengthen the capacity to implement targeted sanctions by the United Nations and member states. [Back](#).
73. These and other Wassenaar standards and best practices are available online at: <<http://www.wassenaar.org/guidelines/index.html>> (accessed 17 May 2006). [Back](#).
74. Full text of these and all of the international conventions on terrorism are available online at: <<http://untreaty.un.org/English/Terrorism.asp>> (accessed 11 May 2006). [Back](#).
75. The most prominent set of standards is in the *International Ship and Port Facility Security Code* (ISPS Code) which is the 2002 chapter XI-2 amendment to the 1984 *International Convention for the Safety of Life at Sea* (SOLAS). International Maritime Organization, “International Convention for the Safety of Life at Sea (SOLAS), 1974,” Adopted 1 November 1974, entered into force 25 May 1980 <http://www.imo.org/Conventions/contents.asp?topic_id=257&doc_id=647#decription> (accessed 11 May 2006). [Back](#).
76. The conference was attended by 108 contracting governments to SOLAS; observer states; and intergovernmental, international, and nongovernmental organizations. For a summary of the adopted measures see: International Maritime Organization, “IMO adopts comprehensive maritime security measures,” <http://www.imo.org/Newsroom/mainframe.asp?topic_id=583&doc_id=2689> (accessed 9 May 2006). [Back](#).
77. Captain Hartmut G. Hesse, Senior Deputy Director, Sub-Division for Operation Safety, Security and Human Element, Maritime Safety Division, International Maritime Organization, email and telephone correspondence with the authors, 17 and 23 January 2006, respectively. [Back](#).
78. Captain Hartmut G. Hesse, Senior Deputy Director, Sub-Division for Operation Safety, Security and Human Element, Maritime Safety Division, International Maritime Organization, email and telephone correspondence with the authors, 17 and 23 January 2006, respectively. [Back](#).

79. International Maritime Organization, “IMO adopts comprehensive maritime security measures,” <http://www.imo.org/Newsroom/mainframe.asp?topic_id=583&doc_id=2689> (accessed 9 May 2006). [Back](#).
80. These conventions are: (1) *The Convention on Offences and Certain Other Acts Committed on Board Aircraft*, (2) the *Convention for the Suppression of Unlawful Seizure of Aircraft*, (3) the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*, (4) the *Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation*, supplementary to the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*. Full text of these and all of the universal conventions and protocols related to terrorism are available at: <<http://untreaty.un.org/English/Terrorism.asp>> (accessed 11 May 2006). [Back](#).
81. ICAO has a formalized approach to developing international SARPs that begin with a proposal from a contracting state, an international organization, or from within the ICAO. The proposal is then sent to a specialized working group for review and recommendation. The original proposal and the recommendations are then sent to contracting states and international organizations, which are given three months for critical review. The measures return to the ICAO Council (composed of thirty-six elected states) for a vote. If the draft gains a two-thirds vote it is adopted as an amendment to Annex 17 of the Convention of International Civil Aviation. The adoptions are sent to states for final consideration, and provided a majority of states do not submit registered disapprovals, an effective date is established. Attachments to the annexes also exist but require only council approval rather than adoption from all member states. [Back](#).
82. International Civil Aviation Organization, “Annex 17 to the Convention on International Civil Aviation: Security—Safeguarding International Civil Aviation against Acts of Unlawful Interference,” <http://www.icao.int/icaoenet/anx/info/an17_info_en.pdf> (accessed 1 May 2006). [Back](#).
83. The Aviation Security Panel consists of representatives from Argentina, Australia, Brazil, Canada, Egypt, Ethiopia, France, Germany, Greece, India, Italy, Japan, Jordan, Mexico, Nigeria, Russia, Saudi Arabia, Senegal, Spain, Switzerland, the United Kingdom, the United States, and experts from international organizations including the Airports Council International, the European Civil Aviation Conference, the International Air Transport Association, the International Federation of Airlines Pilots’ Associations, and Interpol. [Back](#).
84. The training centers are located in Auckland, Buenos Aires, Hong Kong, Johannesburg, Kunming, Amman, Brussels, Casablanca, Dakar, Kyiv, Moscow, Nairobi, Kuala Lumpur, Port of Spain, and Quito. [Back](#).
85. According to APEC, [t]he Counter-Terrorism Task Force’s role is to identify and assess counter-terrorism needs, coordinate capacity building and technical assistance programs, cooperate with international and regional organizations and facilitate cooperation between APEC fora on counter-terrorism issues;” <http://www.apec.org/apec/apec_groups/som_special_task_groups/counter_terrorism.html> (accessed 17 July 2006) [Back](#).
86. United Nations General Assembly, *Uniting Against Terrorism: Recommendations for a Global Counter-Terrorism Strategy*, A/60/825, New York, 27 April 2006. [Back](#).

Appendix A
UN Security Council Resolution 1373 (2001)
S/RES/1373

28 September 2001

The Security Council,

Reaffirming its resolutions 1269 (1999) of 19 October 1999 and 1368 (2001) of 12 September 2001,

Reaffirming also its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C., and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts,

Reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security,

Reaffirming the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368 (2001),

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Deeply concerned by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism,

Calling on States to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism,

Recognizing the need for States to complement international cooperation by taking additional measures to prevent and suppress, in their territories through all lawful means, the financing and preparation of any acts of terrorism,

Reaffirming the principle established by the General Assembly in its declaration of October 1970 (resolution 2625 (XXV)) and reiterated by the Security Council in its resolution 1189 (1998) of 13 August 1998, namely that every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

2. *Decides also* that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

3. *Calls upon* all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum seeker has not planned, facilitated or participated in the commission of terrorist acts;

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

4. *Notes with concern* the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security;

5. *Declares* that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and calls upon all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;

7. *Directs* the Committee to delineate its tasks, submit a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the Secretary-General;

8. *Expresses* its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter;

9. *Decides* to remain seized of this matter.

Appendix B
Key Standards and Best Practices
of Specialized International Organizations*

Organization	Standards and Best Practices
<i>Terrorist Financing:</i>	
Financial Action Task Force (FATF)	<p><u><i>Special Recommendations on Terrorist Financing</i></u>, Financial Action Task Force, Updated 22 October 2004.</p> <ul style="list-style-type: none"> • Provide recommendations on the universal implementation of UN instruments, criminalizing the financing of terrorism and associated money laundering, freezing and confiscating terrorist assets, reporting suspicious transactions related to terrorism, international cooperation, alternative remittance, wire transfers, nonprofit organizations, and cash couriers. • <u><i>Interpretative Notes to the Nine Special Recommendations on Terrorist Financing</i></u>, October 2004. • <u><i>Freezing of Terrorist Financing: International Best Practices</i></u>, 3 October 2003. • <u><i>Combating the Abuse of Alternative Remittance Systems: International Best Practices</i></u>, 20 June 2003. • <u><i>Combating the Abuse of Non-profit Organizations: International Best Practices</i></u>, 11 October 2002. • <u><i>Detecting and Preventing the Cross-Border Transportation of Cash by Terrorists and Criminals: International Best Practices</i></u>, 12 February 2005. <p><u><i>The Forty Recommendations on Money Laundering</i></u>, 3 June 2003.</p> <ul style="list-style-type: none"> • Provides a complete set of countermeasures against money laundering covering the criminal justice system and law enforcement, the financial system and its regulation, and international cooperation. • <u><i>Interpretative Notes to the Forty Recommendations</i></u> (2003).

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Key Standards and Best Practices
of Specialized International Organizations

Organization	Standards and Best Practices
Basel Committee for Banking Supervision (BCBS)	<p><u>Customer Due Diligence for Banks</u>, Publications No. 85, October 2001.</p> <ul style="list-style-type: none"> • Provides recommended standards for customer due diligence and know-your-customer procedures. • <u>General Guide to Account Opening and Customer Identification</u>, February 2003. <ul style="list-style-type: none"> – Attachment to Customer Due Diligence for Banks which provides guidelines and general good practices relating to account opening and customer identification. <p><u>Prevention of Criminal Use of the Banking System for the Purpose of Money-Laundering</u>, December 1988.</p> <ul style="list-style-type: none"> • General statement on ethical principles encouraging bank managers to properly identify their customers, discourage illegitimate transactions, and cooperate with law enforcement. <p><u>Sharing of Financial Records between Jurisdictions in Connection with the Fight against Terrorism</u>, April 2002.</p> <ul style="list-style-type: none"> • Describes channels of and best practices for cross-border information sharing.
Egmont Group	<p><u>Best Practices for the Exchange of Information between Financial Intelligence Units</u>, 15 November 2004.</p> <ul style="list-style-type: none"> • Provides best practices for the exchange of information between Financial Intelligence Units (FIUs) and the permitted uses and confidentiality of such information.
International Association of Insurance Supervisors	<p><u>Guidance Paper on Anti-Money Laundering and Combating the Financing of Terrorism</u>, October 2004.</p> <ul style="list-style-type: none"> • Provides guidance on reducing the vulnerability of the insurance sector to money laundering and terrorist financing and for monitoring compliance with international anti-money laundering and terrorist financing standards.
International Monetary Fund (IMF)	<p><u>Suppressing the Financing of Terrorism: A Handbook for Legislative Drafting</u>, 4 August 2004.</p>

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of Specialized International Organizations

Organization	Standards and Best Practices
International Organization of Securities Commissions (IOSCO)	<p><u>Anti-Money Laundering Guidance for Collective Investment Schemes</u>, Final Report of the IOSCO Technical Committee, October 2005.</p> <ul style="list-style-type: none"> Provides guidance on anti-money laundering and terrorist financing programs and client due diligence for collective investment schemes.
Offshore Group of Bank Supervisors	<p><u>Trust and Company Service Providers Statement of Best Practices</u>, September 2002.</p> <p><u>Securing Effective Exchange of Information and Supervision in Respect of Trust and Company Service Providers</u>, December 2004.</p>
United Nations Office on Drugs and Crime (UNODC)	<p><u>United Nations Model Terrorist Financing Bill</u>, 2003.</p> <ul style="list-style-type: none"> Model legislation primarily for countries with common law systems designed to bring into force the provisions of the International Convention for the Suppression of the Financing of Terrorism, 1999 and Resolution 1373 applicable to the financing of terrorism. <p><u>United Nations Model Bill on Money Laundering, Proceeds of Crime and Terrorist Financing</u>, 2003.</p> <ul style="list-style-type: none"> Model legislation primarily for countries with common law systems to establish a Financial Intelligence Unit; reduce the vulnerability of financial institutions and cash dealers to abuse; and allow the proceeds of crime and terrorist financing to be identified, traced, frozen, seized, and confiscated.
International Money Laundering Information Network (IMoLIN)	<p><u>International Money Laundering Information Network</u>.</p> <ul style="list-style-type: none"> An secure Internet-based network of anti-money laundering organizations assisting governments, organizations, and individuals including a database on legislation, an electronic library, and calendar of relevant events.

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Key Standards and Best Practices
of Specialized International Organizations

Organization	Standards and Best Practices
<i>Law Enforcement:</i>	
Interpol	<p><u><i>Interpol Global Police Communications System - I-24/7.</i></u></p> <ul style="list-style-type: none"> Secure police communications system that enables officers in member states to gain instant access to Interpol's central database.
<i>Mutual Legal Assistance and Extradition:</i>	
United Nations/United Nations Office on Drugs and Crime (UNODC)	<p><u><i>Model Treaty on Extradition</i></u>, (General Assembly Resolution 45/116, as amended by General Assembly Resolution 52/88).</p> <ul style="list-style-type: none"> Provides template and options for negotiating and concluding extradition treaties. <p><u><i>Model Treaty on Mutual Assistance in Criminal Matters</i></u>, (General Assembly Resolution 45/117, as amended by General Assembly Resolution 53/112).</p> <ul style="list-style-type: none"> Provides template and options for negotiating and concluding mutual legal assistance treaties. <p><u><i>Model Law on Extradition.</i></u></p> <ul style="list-style-type: none"> Provides instrument for implementing the provisions of the Model Treaty on Extradition and new international norms in extradition law. <p><u><i>Revised Manuals on the Model Treaties on Extradition and Mutual Assistance in Criminal Matters.</i></u></p> <ul style="list-style-type: none"> Provides guidance on the purpose, application, and implementation of the Model Treaties on Extradition and Mutual Assistance in Criminal Matters.

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of Specialized International Organizations

Organization	Standards and Best Practices
<i>Travel Documents:</i>	
International Civilian Aviation Organization (ICAO)	<p><i>ICAO Document 9303.</i></p> <ul style="list-style-type: none"> Document 9303 and the work of the ICAO Technical Advisory Group (TAG) and working groups on MRTDs provide standards and best practices for travel documents, immigration identification, and biometrics. <p><i>Interpol's Automated Search Facility/Stolen Travel Document Database.</i></p> <ul style="list-style-type: none"> Database that allows member states to share information on lost and stolen travel documents.
<i>Refugee Status:</i>	
United Nations High Commissioner for Refugees (UNHCR)	<p><u><i>Procedural Standards for Refugee Status Determination under UNHCR's Mandate</i></u>, 2005.</p> <ul style="list-style-type: none"> Detail the criteria and procedures upon which refugee status is determined. <p><u><i>Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees</i></u>, HCR/IP/4/Eng/REV.1 Reedited, Geneva, January 1992, 1979.</p> <ul style="list-style-type: none"> Provides guidance for government officials concerned with the determination of refugee status. <p><u><i>Guidelines on International Protection: Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees</i></u>, HCR/GIP/03/05, 4 September 2003.</p> <ul style="list-style-type: none"> Provides guidance on proper application of the exclusion clauses. <u><i>Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention relating to the Status of Refugees</i></u>, 4 September 2003. <ul style="list-style-type: none"> Provides analysis of the exclusion clauses. <p><i>Summary Conclusions – Exclusion from Refugee Status. Lisbon Expert Roundtable, Global Consultations on International Protection, EC/GC/01/2Track1, 3-4 May 2001.</i></p>

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of Specialized International Organizations

Organization	Standards and Best Practices
Customs:	
World Customs Organization (WCO)	<p><i>Framework of Standards to Secure and Facilitate Global Trade</i>, 23 June 2005.</p> <ul style="list-style-type: none"> • Outlines standards to protect and facilitate international trade from terrorism based on four core elements: harmonized advance electronic manifest information, inspections based on risk-management, use of modern technology, and customs privileges for businesses that meet minimal supply-chain security standards. <p><i>The Global Information and Intelligence Strategy</i>, Customs Compendium, Volume 4, February 2005.</p> <ul style="list-style-type: none"> • Provides a framework for the management of intelligence and information to maximize the effectiveness of controls on and to facilitate transnational trade.
Aviation Security:	
International Civilian Aviation Organization (ICAO)	<p><i>Standards and Recommended Practices contained in Annex 17 to the Convention on International Civil Aviation (Chicago Convention)</i>.</p> <ul style="list-style-type: none"> • Standards and recommended practices for the safeguarding of international civil aviation adopted by the ICAO Council. • <u><i>Security Manual for Safeguarding Civil Aviation Against Acts of Unlawful Interference</i></u>, Document 8973, [Restricted]. <ul style="list-style-type: none"> – Provides guidance on the interpretation and implementation of the SARPs found in Annex 17 of the Chicago Convention. <p><i>ICAO Man-Portable Air Defense Systems (MANPADS) Information and Assessment Tool Kit</i>.</p> <ul style="list-style-type: none"> • Provides instructions for conducting self-assessments of vulnerabilities at airports. <p><i>ICAO Dedicated Secure Website</i>.</p> <ul style="list-style-type: none"> • Provides additional guidance material to ICAO contracting states.

Appendix B, con't.
Key Standards and Best Practices
of Specialized International Organizations

Organization	Standards and Best Practices
<i>Maritime Security:</i>	
International Maritime Organization (IMO)	<p><i>International Ship and Port Facility Security Code (ISPS Code).</i></p> <ul style="list-style-type: none"> • Supports the provisions of SOLAS Chapter XI-2 providing a comprehensive security regime for international maritime shipping based primarily on a risk management approach. <p><i>Code of Practice on Security in Ports</i>, International Labor Organization and International Maritime Organization, Tripartite Meeting of Experts on Security, Safety and Health in Ports, Geneva, 2003.</p> <ul style="list-style-type: none"> • Provides guidance to enable governments, employers, workers, and other stakeholders to reduce security threats to maritime ports.
<i>Weapons Supply:</i>	
Organization for Security and Co-operation in Europe (OSCE)	<p><i>Handbook on Best Practices on Small Arms and Light Weapons</i>, 19 September 2003.</p> <ul style="list-style-type: none"> • Prescribes best practices for the manufacture, marking, export, brokering, stockpiling, and destruction of small arms and light weapons.
United Nations Office on Drugs and Crime (UNODC)	<p><i>Legislative Guide for the Implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Firearms Protocol) to the United Nations Convention against Transnational Organized Crime (Palermo Convention)</i>, New York, 2004.</p> <ul style="list-style-type: none"> • Lays out the basic requirements of the Firearms Protocol, lists issues that state parties must address, and provides options for legislative drafters taking into account different legal traditions and institutional capacities.

Appendix B, con't.
Key Standards and Best Practices
of Specialized International Organizations

Organization	Standards and Best Practices
<i>Weapons Supply, con't.:</i>	
The Wassenaar Arrangement	<p><u><i>Best Practice Guidelines for Exports of Small Arms and Light Weapons</i></u>, December 2002.</p> <p><u><i>Elements for Export Controls of Man-Portable Air Defense Systems</i></u>, 2003.</p> <p><u><i>Best Practices for Disposal of Surplus/Demilitarized Equipment</i></u>, 2000.</p> <p><u><i>Best Practices regarding "Very Sensitive List" Items</i></u>, 2000.</p> <p><u><i>Elements for Effective Legislation on Arms Brokering</i></u>, 2003.</p>
<i>Implementation of International Conventions on Terrorism/Model Legislation:</i>	
Commonwealth Secretariat	<p><u><i>Model Legislative Provisions on Measures to Combat Terrorism</i></u>, September 2002.</p> <ul style="list-style-type: none"> • Illustrates the legislative measures required under Resolution 1373 including measures that are not mandatory but useful in combating terrorism. <p><u><i>Implementation Kits for the International Counter-Terrorism Conventions</i></u>, 2002.</p> <ul style="list-style-type: none"> • Provides legal commentary on the universal counter-terrorism instruments and model legislative provisions.
Organization for Security and Co-operation in Europe (OSCE)	<p><u><i>OSCE Commitments and International Legal Instruments Relating to Terrorism: A Reference Guide</i></u>, July 2003.</p> <ul style="list-style-type: none"> • Provides a summary of OSCE counter-terrorism commitments and summary of relevant international legal instruments.

Appendix B, con't.
Key Standards and Best Practices
of Specialized International Organizations

Organization	Standards and Best Practices
<i>Implementation of International Conventions on Terrorism/Model Legislation, con't.:</i>	
United Nations Office on Drugs and Crime (UNODC)	<p><u><i>Legislative Guide to Universal Anti-Terrorism Conventions and Protocols</i></u>, New York, 2003.</p> <ul style="list-style-type: none"> • Provides an overview of the universal anti-terrorism convention, guidance on satisfying legislative obligations, and model legislation. <p><u><i>UNODC Checklists for the twelve universal anti-terrorism conventions and for Security Council Resolution 1373 (2001)</i></u>.</p> <ul style="list-style-type: none"> • Checklist for satisfying the universal anti-terrorism conventions and Resolution 1373. <p><i>UNODC Guide for the Legislative Incorporation and Implementation of the Universal Instruments against Terrorism.</i></p> <ul style="list-style-type: none"> • Provides legislative guidance primarily for countries with civil law systems implementing the universal instruments against terrorism including model legislation.

*This ongoing compilation of standards and best practices relevant to the implementation of UN Security Council Resolution 1373 was begun by the project in September 2004. It is based on original research conducted by the project but also reflects the parallel efforts of the CTED in this regard.

Appendix C
Categories of Implementation
and Operative Paragraphs
Resolution 1373

Terrorist Financing	Legal Practice and Law Enforcement	Territorial Control
1.(a)	2.(b)	2.(a)
1.(b)	2.(e)	2.(c)
1.(c)	2.(f)	2.(d)
1.(d)	3.(a)	2.(g)
	3.(b)	3.(f)
	3.(c)	3.(g)
	3.(d)	
	3.(e)	

Appendix D

FATF Special Recommendations on Terrorist Financing

Recognising the vital importance of taking action to combat the financing of terrorism, the FATF has agreed these Recommendations, which, when combined with the FATF Forty Recommendations on money laundering, set out the basic framework to detect, prevent and suppress the financing of terrorism and terrorist acts.

I. Ratification and implementation of UN instruments

Each country should take immediate steps to ratify and to implement fully the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.

Countries should also immediately implement the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts, particularly United Nations Security Council Resolution 1373.

II. Criminalising the financing of terrorism and associated money laundering

Each country should criminalise the financing of terrorism, terrorist acts and terrorist organisations. Countries should ensure that such offences are designated as money laundering predicate offences.

III. Freezing and confiscating terrorist assets

Each country should implement measures to freeze without delay funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts.

Each country should also adopt and implement measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations.

IV. Reporting suspicious transactions related to terrorism

If financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organisations, they should be required to report promptly their suspicions to the competent authorities.

V. International Co-operation

Each country should afford another country, on the basis of a treaty, arrangement or other mechanism for mutual legal assistance or information exchange, the greatest possible measure of assistance in connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts and terrorist organisations.

Countries should also take all possible measures to ensure that they do not provide safe havens for individuals charged with the financing of terrorism, terrorist acts or terrorist organisations, and should have procedures in place to extradite, where possible, such individuals.

VI. Alternative Remittance

Each country should take measures to ensure that persons or legal entities, including agents, that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all the FATF Recommendations that apply to banks and nonbank financial institutions. Each country should ensure that persons or legal entities that carry out this service illegally are subject to administrative, civil or criminal sanctions.

VII. Wire transfers

Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message through the payment chain.

Countries should take measures to ensure that financial institutions, including money remitters, conduct enhanced scrutiny of and monitor for suspicious activity funds transfers which do not contain complete originator information (name, address and account number).

VIII. Nonprofit organizations

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Nonprofit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

(i) by terrorist organisations posing as legitimate entities;

(ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and

(iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

IX. Cash Couriers

Countries should have measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments, including a declaration system or other disclosure obligation.

Countries should ensure that their competent authorities have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering, or that are falsely declared or disclosed.

Countries should ensure that effective, proportionate and dissuasive sanctions are available to deal with persons who make false declaration(s) or disclosure(s). In cases where the currency or bearer negotiable instruments are related to terrorist financing or money laundering, countries should also adopt measures, including legislative ones consistent with Recommendation 3 and Special Recommendation III, which would enable the confiscation of such currency or instruments.

(Updated by FATF October 2004)

About the Center on Global Counter-Terrorism Cooperation

The Center on Global Counter-Terrorism Cooperation is a nonpartisan research and policy institute that works to improve internationally coordinated responses to the continually evolving threat of terrorism by providing governments and international organizations with timely, policy-relevant research, analysis, and recommendations. Building on its years of research on regional and international counter-terrorism efforts, the Center continues to identify ways to improve existing arrangements for combating terrorism within the UN, the G8, and other international and regional bodies and consider new mechanisms for international counter-terrorism cooperation. It is the only research center in the world focusing on the role of multilateral institutions in the global campaign against terrorism.

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