

INTRODUCTION

IMF member countries and other jurisdictions wishing to bring their legislation up to the norms and standards established by the international community in the area of combating the financing of terrorism face a number of choices. The sources of these norms and standards range from legally binding international norms, such as those contained in resolutions of the United Nations (UN) Security Council, and in international conventions, such as the International Convention for the Suppression of the Financing of Terrorism, to nonbinding standards established by groups of countries acting in concert, such as the Eight Special Recommendations on Terrorism Financing of the Financial Action Task Force (FATF). While there is considerable overlap among these sources, their scope varies. Implementation of some of the norms and standards requires legislation, but on many points, implementation can be effected in a number of different ways. As a result, in responding to their international obligations and meeting the standards, countries must make a number of choices as to the scope of the legislation and its contents.

The objective of this handbook is to assist IMF member countries and other jurisdictions in preparing legislation to implement the international obligations and to meet the international standards related to combating the financing of terrorism in a manner most appropriate to their circumstances.

Context

The international community's efforts to prevent and punish the financing of terrorism are part of a larger effort to combat all aspects of terrorism. These efforts have been deployed at the global and at the regional levels. At the global level, the United Nations has been involved in the issue since 1970.¹ In 1972, the General Assembly established the first Ad Hoc Committee on International Terrorism,² and in 1994, it adopted a Declaration

¹ Aerial Hijacking or Interference with Civil Air Travel, G.A. Res. 2645 (XXV), U.N. GAOR, 25th sess. 1914th mtg., Supp. No. 28, at 126, U.N. Doc. A/8028 (1970), reprinted in M. C. Bassiouni, 1 *International Terrorism: A Compilation of U.N. Documents (1972–2001)* 91 (Transnational Publishers 2001).

² "Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms and study of the underlying causes of those forms of terrorism."
(continued)

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on Measures to Eliminate International Terrorism.³ In 1996, the General Assembly established a new ad hoc committee to elaborate international conventions on terrorism. It is in this ad hoc committee that the Convention on the Suppression of the Financing of Terrorism was elaborated. Since 2000, the ad hoc committee has begun work on a comprehensive convention on international terrorism.⁴

Since 1985, the Security Council has also been concerned with the issue of terrorism, and in 2001, it established its Counter-Terrorism Committee, which is charged with monitoring the response of member states to the requirements of Security Council Resolution No. 1373 (2001).⁵ Earlier, in its Resolutions 1267 (1999)⁶ and 1333 (2000),⁷ the Security Council had decided that UN member countries would seize the assets of named terrorists and terrorist organizations. A number of conventions have also been adopted at the regional level.⁸ There is thus a complex web of international

terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes," G.A. Res. 3034 (XXVII), U.N. GAOR, 27th Sess., 2114th mtg., Supp. No. 30, at 19, U.N. Doc. A/8730 (1972), reprinted in Bassiouni, *supra* note 1, at 121. The Ad Hoc Committee issued three reports, in 1973 (U.N. GAOR, 28th Sess., Supp. No. 28, U.N. Doc. A/9028); 1977 (U.N. GAOR, 32nd Sess., Supp. No. 37, U.N. Doc. A/32/37); and 1979 (U.N. GAOR 34th Sess., Supp. No. 37, U.N. Doc. A/34/37).

³ G.A. Res. 49/60, U.N. GAOR, 49th Sess., 84th mtg., Supp. No. 49, U.N. Doc. A/49/60, (1994); and Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, G.A. Res. 51/210, U.N. GAOR, 51st sess., 88th mtg., Supp. No. 49, at 5, U.N. Doc. A/Res/51/210 (1996).

⁴ *See*, Report of the Ad Hoc Committee established by General Assembly Resolution 51-210 of 17 December 1996, Sixth Session (28 January–1 February 2002), U.N. GAOR, 57th Sess., Supp. No. 37, U.N. Doc. A/57/37 (2002).

⁵ U.N. SCOR, 56th Sess., 4385th mtg., U.N. Doc. S/INF/57 (2001) [hereinafter "the Resolution"]. The text is set out in Appendix IV of this handbook.

⁶ U.N. SCOR, 54th Sess., 4051st mtg., U.N. Doc. S/INF/55 (1999) [hereinafter "Resolution 1267 (1999)"]. The text is set out in Appendix IV of this handbook.

⁷ U.N. SCOR, 55th Sess., 4251st mtg., U.N. Doc. S/INF/56 (2000) [hereinafter "Resolution 1333 (2000)"].

⁸ Among them are the Organization of American States (OAS) Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance (1971), the European Convention on the Suppression of Terrorism (1977), South Asian Association for Regional Cooperation (SAARC) Regional Convention on the Suppression of Terrorism (1987), the Arab Convention on the Suppression of Terrorism (1998), the Treaty on Cooperation among the States Members of the Commonwealth of Independent States in Combating Terrorism (1999), the Convention of the Organization of the Islamic Conference on Combating International Terrorism (1999), and the Organization of African Unity (OAU) Convention on the Prevention and Combating of Terrorism (1999). In June 2002 the OAS adopted the Inter-American Convention against Terrorism, which places emphasis on the suppression of the financing of terrorism.

instruments through which states have committed to combat terrorism. The combating of the *financing* of terrorism became a prominent part of this effort following the terrorist attacks in the United States in September 2001 and the subsequent adoption of the FATF Special Recommendations on Terrorist Financing and Resolution No. 1373 (2001) and the establishment of the Counter-Terrorism Committee. Thus, in addition to fostering international cooperation in the prevention and repression of terrorist offenses themselves, the international community has now embarked on an ambitious program intended to prevent terrorism by detecting and suppressing its sources of financing, and criminalizing the provision of financing for terrorism.

The handbook provides examples of legislative measures that may be used to draft laws implementing the international obligations related to combating the financing of terrorism set out in Resolutions 1373 (2001), 1267 (1999), and 1333 (2000) and in the International Convention for the Suppression of the Financing of Terrorism, as well as to meet the standards established by the Eight Special Recommendations on Terrorist Financing issued by the FATF. These instruments each address the combating of the financing of terrorism, but their exact scope varies. In particular, the Resolution takes a very broad approach to the measures states are to take to combat the financing of terrorism. It includes, for example, provisions related to the potential abuse of refugee status by terrorists. In this handbook, the contents of Resolution 1373 (2001) will be briefly described, but only those measures bearing directly on combating the *financing* of terrorism will be discussed. However, each of the substantive requirements of the Convention and the Special Recommendations will be addressed.

Outline

Chapter 2 of this handbook presents the three main sources of international obligations and standards in the area of combating the financing of terrorism and discusses the main issues they raise. Chapter 3 presents the legislation that certain countries have already adopted in this regard and discusses the general issues involved in the preparation of such legislation. Chapter 4 offers detailed discussions of specific topics to be covered in the legislation. Examples of legislation are provided in Appendixes VII (for civil law countries) and VIII (for common law countries).