

Briefing to the United Nations Security Council Committee, New York

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Chairman, ladies and gentlemen, good afternoon. I thank you for inviting me to speak to you today and it is an honour and a great pleasure for me to address this Committee. The last time an President of the Financial Action Task Force briefed the United Nations Counter Terrorism Committee was in December 2006 during the Canadian Presidency. Today I would like to inform you about the importance that the FATF places on its relationship with the United Nations, about how the FATF assesses and monitors global compliance and the emphasis we the put on co-operation with the private sector. I will also highlight some of the present priorities and trends in FATF.

Introduction

Some of you may not be entirely familiar with the FATF so I would like to provide you with an overview of the remit of this body. The FATF was established in 1989 by the G7 Summit in Paris in response to large amounts of drugs money being laundered. It is an intergovernmental body that develops and promotes policies and concrete standards to combat money laundering and terrorist financing. The FATF acts on the basis of a mandate, set by member jurisdictions at ministerial level.

As a policy making body, its primary objective is to generate with the largest possible group of participants the political will that is necessary to bring about national, legislative and regulatory reforms in the area of ML/TF. To this end, the FATF has evolved into being the standards setter in its field of work. It has issued 49 Recommendations: 40 Recommendations against money laundering in the early '90ties and 9 Special Recommendations against terrorist financing after 9/11. Taken together, the 40+9 Recommendations are commonly referred to as the FATF Standards.

The FATF identifies money laundering and terrorist financing techniques, it assesses compliance with the FATF Standard through a sophisticated peer review system and in the case of non-cooperative and high risk jurisdictions, FATF recommends whether counter measures should be applied.

Since its creation in 1989, the membership of the FATF has expanded from the original 16 members to 35. Two weeks ago I had the honour to welcome Korea as the 35th member, while India is currently an observer with the intent to become a full member. In addition, eight FATF Style Regional Bodies (FSRBs) were created over the years to promote and implement the FATF Standards in their membership and regions. Together with the membership of these sister organisations, the FATF community includes over 180 jurisdictions.

The FATF is recognised as the global standard setter on anti-money laundering and counter terrorist financing issues by the United Nations, the International Monetary Fund and the World Bank. For example, United Nations Security Council Resolution 1617 urged the international community to implement the FATF Standards. The endorsement of the FATF Standards by the Security Council is a very helpful factor in getting jurisdictions to effectively implement the Standards, especially for those few United Nations members that are not yet a member of the FATF or an FSRB.

Relationship with the United Nations

We place great importance on the relationship with the United Nations, in particular with your Committee (CTC) and its Executive Directorate (CTED), as well as with the the 1267 Committee, the 1540 Committee and the Vienna based UNODC.

One of the challenges is to ensure that United Nations instruments and FATF Recommendations, especially those based on United Nations instruments, do not become competing obligations. CTED's input to our discussions is indispensable in this respect. For example: just four months ago, the FATF agreed on a Best Practice Paper on Freezing of Terrorist Assets. This best practice paper aims to assist our membership in the implementation one of its Recommendations (SRIII), which in turn is based on United Nations Security Council Resolutions 1267 and 1373. Our membership was able to create this best practice paper in line with your Resolutions, in part because of the participation in this work by representatives of CTED and the 1267 Committee.

CTED and the FATF co-operate on other issues as well. FATF Secretariat staff joined in CTED missions to Morocco and India. I believe it could be appropriate if your Committee would consider participating in FATF assessment missions as well. That would not only benefit both our organisations, but also the to-be-reviewed countries by reducing the number of assessments they are subjected to. In the area of money laundering and terrorist financing, we have already looked at the issue of multiple assessments; we addressed it through the introduction of a single assessment methodology for FATF, FSRBs, IMF and World Bank, and by accepting each others' assessment reports.

As you can see, there are linkages between the FATF and the United Nations and especially with this Committee. We highly value the relationship and I am committed to encouraging its growth during my Presidency.

I would like to point out that in April 2008; the FATF slightly widened its mandate to include other emerging threats. Proliferation financing is an area where the FATF can add value to the wider efforts of the international community. We will work to ensure that our efforts do not duplicate existing efforts elsewhere and that we stay away from issues that other bodies are better equipped to handle. So far, the FATF has produced three guidance papers to assist countries in their implementation of United Nations Security Council Resolutions 1540, 1737 and 1803. I am happy to note that these guidance papers were subsequently welcomed and endorsed by the United Nations Security Council in follow-up Resolutions. In addition, a project team of the FATF is currently studying proliferation financing issues, in co-operation with representatives of the 1540 Committee. I expect some results from this work during my term as President.

Global compliance

One of the aims of the FATF family is to actively encourage and assess the implementation of the FATF Standards, including those elements that are based on United Nations instruments. We do so in many ways.

The Mutual Evaluation Process the most important pillar to enhance global compliance. All FATF and FSRB members are periodically assessed against a common methodology and all full assessment reports are published. We know that the compliance level with the FATF recommendations influences the financial sector of a country. This encourages jurisdictions to enhance compliance with the FATF Standards. Higher compliance means lower corruption and thus, lower cost to the economy. Higher

compliance also means lower risks and thus better terms for the financial sector on the global financial markets, which is positive for the economy and the investment climate of a country. All these are incentives for countries to enhance their compliance: it pays to do well.

I will say something more on the current compliance levels with the FATF Standards. Before that I like to share with you that assessment reports have proved to be a reliable means of measuring compliance and identifying implementation gaps and it is therefore of utmost importance that jurisdictions follow-up on the deficiencies identified in the assessment reports. To this end, the FATF has a follow-up programme in place. Implementation of the recommendations made in assessment reports is monitored by the FATF and continued non-compliance with these recommendations can lead to several unpleasant measures, including ultimately the termination of membership. Most FSRBs have similar follow-up programmes in place.

There are jurisdictions that do have the political will to implement the Standards, but lack the necessary resources. To assist these jurisdictions, the FATF has issued “Guidance on the implementation of the FATF Standards in Low Capacity Countries”. This Guidance is based on the view that lack of resources should not be an obstacle to implementing the Standards. It sets out four principles - commitment, prioritisation, planning and implementation – that assist low capacity countries to implement the Standards.

Technical assistance is another important tool to enhance global compliance with the Standards. The FATF supports FSRBs, the United Nations, the IMF and the World Bank in their work to assist jurisdictions. I am very grateful for the technical assistance provided to so many jurisdictions by the Vienna based UNODCs Global Programme on Money Laundering and for their ability to articulate at our meetings the needs and possibilities of recipient countries. I would also like to take the opportunity to thank this body for CTED’s South Asia initiatives. I fully support initiatives such as the workshops in November of this year with Members of Parliament from Pakistan to encourage adoption of the AML Law and the Dhaka Workshop for Police and Prosecutors.

International Cooperation

Despite all these efforts, some countries achieve insufficient progress towards compliance. We have dealt with those countries in several ways in the past, especially with those jurisdictions that lacked political commitment to implement the FATF Standards. Many of those jurisdictions that were already publicly listed earlier this decade are now front-runners in complying with the Standards in their regions. This I believe shows that publicly pointing out problems – when necessary – combined with a close engagement with affected jurisdictions can bring very good results.

Recently, the FATF has set up the International Co-operation Review Group (ICRG), a new process that is designed to achieve the same positive results as past processes, but in a different way. The many FATF and FSRB jurisdictions that allocate scarce resources to implement the FATF Standards do realise that they waste these resources if their neighbour remains a safe haven for criminals to launder money and for terrorists to finance their attacks. That is the basis on which we address non-compliance and I am convinced that the global common effort to deter non-compliance through this process will be successful. G20 leaders concluded in this context at their recent Pittsburg meeting that “we welcome the progress made by the FATF in de fight against money laundering and terrorist financing and call upon the FATF to issue a public list of high risk jurisdictions by February 2010”.

Compliance

Before saying something about the compliance by members of the FATF Family with the special recommendations that are relevant to this Committee, I should underline that these IX terrorism related special recommendations are intimately linked to the 40 recommendations on ML. The special recommendations were issued in 2001: the 40 Recommendations were revised in 2003. Objective was to ensure that key obligations, such as the requirements to conduct customer due diligence, record keeping and the reporting of suspicious transactions apply to both money laundering and financing of terrorism. The implementation of the 40 Recommendations is an indispensable and essential condition for being able to comply with the 9 Special Recommendations in any meaningful manner.

The current set of 40 Recommendations on money laundering was assessed in 2005. This new set of Recommendations was designed to be ambitious. Ambitious because the Recommendations require action by government and private sector alike. Ambitious also because it was decided to assess if jurisdictions have implemented their laws and regulations effectively. This means that it is no longer sufficient to have Parliament approve a bill; jurisdictions will only be considered in compliance if the approved act has been implemented effectively by all stakeholders concerned, including the private sector. The IX Special Recommendations against terrorist financing require jurisdictions to:

- implement the United Nations Terrorist Financing Convention and United Nations Security Council Resolutions 1267 and 1373,
- criminalise terrorist financing,
- have systems in place for the freezing and confiscation of terrorist assets,
- introduce reporting of terrorist financing related transactions,
- have systems in place for extradition and mutual legal assistance in terrorist financing cases,
- take measures to prevent the misuse of alternative remittance systems,
- require banks to send information on the payee with each transfer,
- ensure that non-profit organisations are not misused and
- have measures in place to detect cross border smuggling of cash.

A few numbers: As of early September 2009, 129 jurisdictions have been assessed by the FATF, by an FSRB, by the IMF or by the World Bank. Of these jurisdictions, 30 have sufficiently implemented the United Nations Terrorist Financing Convention and the United Nations Security Council Resolutions 1237 and 1373.

99 jurisdictions have not.

Similarly, of the 129 jurisdictions assessed, only 21 had effective systems in place to freeze terrorist assets, 108 jurisdictions had not.

The average compliance ratio for all IX Special Recommendations stands at 25%, which is slightly higher than the compliance with the two recommendations I just mentioned that are based on United Nations instruments.

You will agree with me that the overall compliance levels with the IX Special Recommendations on terrorist financing should and could improve. To that end, we have designated five of the nine Special Recommendations as so called Key Recommendations, which means their overall implementation has to be at a sufficient level for a country to be able to exit an FATF follow-up process. This includes the

Special Recommendations relating to the implementation of UN instruments. In doing so, we try to deliver on one of the key aims of the co-operation between the FATF and the United Nations.

Objectives of the Dutch FATF Presidency

It is the privilege of every FATF President to propose to the membership what the priorities for the FATF could be for the presidency year. My objectives have been accepted by the FATF Plenary meeting, and I am happy to highlight some of the important topics.

The FATF should co-ordinate efforts to mitigate the effects of the global financial crisis in its field of work. The crisis seems to have an impact on all jurisdictions. The global system to deter money laundering and terrorist financing is only as strong as its weakest link, and if governments devote fewer resources to anti-money laundering and counter-terrorist measures because of the crisis, that could potentially undermine the security of our societies.

The task force nature of the FATF enabled us to respond quickly to this possible threat. In February 2009, the FATF launched an initiative to evaluate the impact of the global financial and economic crisis on the implementation of the FATF Standards. Last August, we sent a report to the G20 Ministers of Finance and Central Bank Governors in preparation for their meeting early September. This report was welcomed by Ministers and found its way to the G20 leaders later in September. I quoted their conclusion on international co-operation already.

The current global crisis has many causes, but one of these is the persistent lack of transparency in some sectors and in some jurisdictions. The FATF recognised this as early as in 2003, when it called for better implementation of two Recommendations that enhance transparency of legal structures. So far, compliance with these two Recommendations is sub-optimal. However, the financial crisis reinforces the need to ensure that the FATF Standards are used to enforce transparency.

G20 leaders were also aware of this issue when they concluded in Pittsburgh that higher priority should be given to transparency. They did so in the context of their specific call to more actively fight corruption. “We ask the FATF to help detect and deter the proceeds of corruption by prioritizing work to strengthen standards on customer due diligence, beneficial ownership and transparency”. So the direction of our work is getting more clear and focussed!

Typologies and co-operation with the private sector

Finally, I would like to add a few words on the FATF's outreach tools, or as I like to call it, our antennas to reality. One of the key mistakes that policy makers can make is that they create output based on incorrect assumptions. The FATF tries to prevent this.

One such “prevention tool” is our typologies exercise. Typologies are descriptions of real cases, methods, techniques and trends. These typologies are of tremendous value to us. They enable us to continuously check the validity of the current Standards and to identify if criminals and terrorists may have found alternative ways to circumvent anti-money laundering or counter-terrorist financing measures. The typology studies performed in a dedicated Working Group prove to be an essential element of FATF policy making. All studies are published: in 2007 there was a publication on proliferation financing; earlier this year one on money laundering in the professional soccer sector.

The second outreach tool is our co-operation with the private sector. We have created a working relationship with private business entities. Our aim is to engage with the private sector on an early and continuous basis, discussing topics that are on our agenda as well as on theirs.

The co-operation with the private sector takes many forms, including consultative meetings, shared drafting of guidance papers and the participation of the private sector in specific project groups. An example of the former is a meeting of the “Consultative Forum” that I had the pleasure of chairing a few weeks ago in London; an example of the latter is the current project work on proliferation financing. In general, our aim is to benefit from the knowledge of the private sector in such a way that we can fulfill our mandate in the best possible manner.

Conclusion

The fight against money laundering and terrorist financing is a multi-dimensional and truly global endeavor. For this reason, close co-operation and collaboration between all stakeholders is essential. Thank you for your attention and for this opportunity to speak to you today. I want to assure you of my high respect for your achievements and the importance I place on the relationship between the Financial Action Task Force and your committee.