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Terrorist Financing: The U.S. and International Response

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Rensselaer Lee
Consultant in International Affairs
Foreign Affairs, Defense, and Trade Division

Terrorist Financing: The U.S. and International Response

Summary

The U.S.-led international campaign to deprive terrorists of funding has so far produced mixed results. Though more than $120 million in terrorists' accounts reportedly has been blocked since September 11, 2001, less than 20 percent of this total has been frozen in the past 11 months. The al Qaeda network increasingly is shifting to non-bank methods of moving and storing value and is relying on a decentralized structure of largely self-financing cells; moreover, Middle Eastern donors apparently continue to provide funds to al Qaeda and other terrorist groups. In addition, the campaign has aroused controversy on various political, religious and humanitarian grounds and is viewed in some quarters as broadly anti-Islamic. How the crackdown on terror finance should be prioritized and integrated with a comprehensive global struggle against terrorism thus becomes an issue of considerable significance for U.S. policymakers and for Congress.

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Introduction

In a speech on September 24, 2001, President George W. Bush stated that "Money is the lifeblood of terrorist operations today. We're asking the world to stop payment."[1] Accordingly, during the past year the United States has mounted a wide-ranging domestic and international effort to freeze, seize, and intercept the flow of funds to terrorist groups. Since the September 11 attacks, roughly $121 million in terrorist assets has been frozen worldwide, but less than 20 percent of this total has been blocked in the past 11 months.[2] For a variety of reasons that will be discussed in this report, traditional anti-money-laundering tools appear to be of limited use in disrupting terrorist financing, which follows a dynamic different from that of traditional criminal organizations. In addition, pre-September 11 financial support for terrorism from Middle Eastern sources reportedly has continued.[3] Furthermore, there is an increasing consensus that pursuit of terrorists' funds could entail significant domestic and international political costs, e.g. infringing on civil liberties or religious freedom, alienating large Muslim constituencies, inflicting harm on poor countries, and aggravating conflicts with Islamic states. Some observers also criticize the diversion of resources from traditional criminal investigations (such as ones focused on drug trafficking) to tracking the relatively minuscule amounts of money that find their way into terrorist cells through a host of informal channels. How efforts to "follow the money" should be prioritized in and integrated with a comprehensive global struggle against terrorism thus becomes an issue of considerable significance for U.S. policymakers and for Congress.

The Campaign to "Starve the Terrorists of Funding"

An overarching goal of U.S. counterterrorism policy since the September 11, 2001, attacks has been to expose, disrupt, and incapacitate the financial networks of

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[1] "President Freezes Terrorist Assets: Remarks by the President, Secretary of the Treasury O'Neill, and Secretary of State Powell on Executive Order." EMediaMillworks Inc., September 25, 2001.

[2] U.N. Security Council, *Second Report of the Monitoring Group Established Pursuant to Security Council Resolution 1363 (2001) and Extended by Resolution 1390 (2002)*, August 22, p. 3 and author interviews with U.S. financial officials, Washington D.C. October 24, and December 3, 2002. The $121 million figure is current as of November 28, 2002.

[3] Stewart Bell, "Muslim Donors Still Funding al Qaeda: Saudi Arabia a Key Source of bin Laden's Money, Police Say." *National Post*, September 11, 2002, p. A3

terrorist groups. In a speech delivered on September 24, 2001, President George W. Bush stated: "We will direct every resource at our command to win the war against terrorists, every avenue of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence. We will starve the terrorists of funding."[4] A key instrument in this effort was Presidential Executive Order 13224, issued on September 23, which blocked "all property and interests in property" of certain designated terrorists and individuals and entities materially supporting them.[5] As of late November 2002, some 250 individuals and groups, most of them al Qaeda-related, had been designated under the order and $36 million in terrorist-related funds in 92 separate accounts reportedly had been frozen by U.S. financial institutions.[6]

The vast bulk of terrorist assets and funding sources, though, are considered to lie outside of the United States. Consequently, Washington has made considerable effort to enlist support of other nations in the campaign against terrorist financing. To some extent, international efforts have mirrored U.S. policy. For example, the United Nations Security Council (UNSCR), pursuant to UNSCR Resolution 1390 (January 16, 2002) and related preceding resolutions, maintains a consolidated freeze list of some 300 individuals and entities linked to al Qaeda, Osama bin Laden, and the Taliban.[7] The European Union and a number of individual states maintain their own terrorism lists and blocking orders. As a result of these various activities, approximately $85 million of terrorist bank funds reportedly has been frozen outside the United States in the post-September 11 period. Of the total $121 million blocked worldwide, more than 75% reportedly has been linked to the Taliban and al Qaeda and the rest to other terrorist entities.[8] The bulk of the activity has occurred in a few countries. Although almost 170 nations have blocking orders in force, only 4 countries, including the United States, account for about two-thirds of the blocked $121 million, according to U.S. financial data.

How effective the campaign to limit terrorist finance has been is a matter of controversy. U.S. officials regard the effort as a vital adjunct to the overall fight against terrorism. They claim that asset seizures to date have constricted the funds of al Qaeda and other terrorist groups. A Treasury Department fact sheet of September 2002 noted: "Our war on terror is working—both here in the United

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[4] "President Freezes Terrorist Assets," op. cit.

[5] The President, "Blocking Property and Prohibiting Transactions to Commit or Support Terrorism." Executive Order 13226 of Sept. 23, 2001. *Federal Register*, vol. 66 no. 186, September 25, 2001, pp. 49079-49081. The Secretary of State has primary responsibility for designating terrorist organizations and individuals. Under the order, authority of the Secretary of State to designate organizations meeting stated criteria for Foreign Terrorist Organizations derives from the Anti-Terrorism and Effective Death Penalty Act of 1996, Public Law 104-132, Section 302. The Secretary of the Treasury has primary responsibility for freezing assets of persons or entities that act on behalf of or financially support terrorists.

[6] U.S. Treasury Department. "Unofficial List of Terrorist Individuals and Groups Designated by the United States Since September 11, 2001." December 3, 2002.

[7] U.N. Security Council. "New Consolidated List Pursuant to Security Council Resolutions 1267 (1999), 1333 (2000), and 1390 (2002)." September 5, 2002.

[8] Author interviews with U.S. financial officials, Washington, D.C. December 3, 2002.

States and overseas. … Al Qaeda and other terrorist organizations are suffering financially as a result of our actions. Potential donors are being more cautious about giving money to organizations where they fear the money might wind up in the hands of terrorists. In addition, greater regulatory scrutiny over financial systems around the world in the future may identify those who would support terrorist groups or activities."[9]

Others have expressed skepticism about the campaign. As a recent report by a U.N. Security Council monitoring group observes, "Al Qaeda continues to have access to considerable financial and other resources." As noted above, reports indicate that less than 20 percent of the reported $121 million total in blocked terrorist assets have been frozen since mid-January 2002, which suggests that the campaign is yielding sharply diminishing returns. "Government officials have indicated that it has proved extremely difficult to identify these additional funds and resources," the U.N. report concludes.[10]

The difficulty may be attributed to various factors. Some observers claim that al Qaeda is relying increasingly on non-bank mechanisms to move and store funds, such as converting assets to untraceable commodities, including gold and diamonds, or moving funds via informal value transfer ("hawala") systems that leave virtually no paper trail. Alternatively, al Qaeda may have acquired greater sophistication in laundering funds. Bin Laden himself remarked to a Pakistani journalist shortly after the September 11 attacks that his financial backers "are as aware of the cracks inside the Western financial system as they are of the lines of their hands."[11]

Additionally, the evident fragmentation of terrorist finances poses significant challenges for law enforcement. Many small terrorist cells are virtually self-sustaining, deriving income from legitimate businesses or from assorted small criminal scams.[12] In such cases, there is not much of a money trail to follow. Moreover, terrorist operations tend to be cheap; a U.S. government report notes "the relatively modest funds needed to undertake them elude all but the most concentrated oversight."[13] Apparently the September 11 attacks, which cost an estimated $500,000, required a strategic infusion of funding from outside (much of it reportedly from a terror support network in the United Arab Emirates).[14] Yet the highly destructive 1993 World Trade Center bombing, according to its "mastermind" Ramzi

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[9] U.S. Treasury Department. "Contribution by the Department of the Treasury to the Financial War on Terrorism." Fact Sheet. Washington, D.C. September 2002, p. 5.

[10] Second Report of the Monitoring Group, p. 3.

[11] Kevin McCoy and Daniel Cauchon, "The Business Side of Terror: Al Qaeda Network Runs Like Fortune 500 Firm." *USA Today*. October 16, 2001, p. B1.

[12] 12 On self-supporting cells see FBI, Terrorist Financing Operations Section, "Financing of Terrorism and Terrorist Acts and Related Money Laundering." Briefing, September 30, 2002.

[13] U.S. Agency for International Development. "Financing Terrorism: Transparency, Corruption and Informal Systems." USAID Seminar Series on Foreign Aid and the War on Terrorism." p.2

[14] FBI, "Financing of Terrorism," op. cit.

Yousef, cost less than $20,000. Reportedly, the conspirators were able to fund the operation themselves from criminal activities such as check and credit card fraud, and through donations raised from a local charity.[15]

A related concern centers on the level of international cooperation in disrupting terror financing. Some of the wellsprings of financial support for terrorism, especially sources in Middle Eastern countries, reportedly have been little affected by the post-September 11 crackdown. A report by the Council on Foreign Relations released in October 2002 states, "For years, individuals and charities based in Saudi Arabia have been the most important sources of funds for al Qaeda, and for years Saudi officials have turned a blind eye to this problem."[16] U.S. officials publicly state that they are pleased with Saudi cooperation, but it is widely believed that some Saudi donors continue to finance terror.[17] A July 2002 report by the Royal Canadian Mounted Police states that in Saudi Arabia alone individuals continue to donate $1 to $2 million a month to bin Laden through mosques and other fundraising avenues that also perform legitimate charity work.[18] Saudi performance in freezing assets seems to be improving; between late October and late November 2002 the amount of funds blocked by the kingdom reportedly increased more than tenfold, but whether this enforcement action has significantly curbed the flow of funds to terrorists is uncertain. Washington can continue to try to pressure the Saudis, but for overarching strategic reasons–U.S.-Saudi military ties and world dependence on Saudi oil–U.S. leverage in the situation or the readiness to use it is limited.

Another controversial topic concerns the scope of the U.S.-led campaign. U.S. designations under Executive Order 13224 target international terrorism broadly and include numerous terrorist entities that have little or no association with al Qaeda. Yet the international community has not yet adopted a unified definition of who is a terrorist and what constitutes terrorist activity. The universal adage, "One man's terrorist is another man's freedom fighter," has particular relevance here. For instance, the Convention on Terrorism of the Organization of the Islamic States says that "peoples' struggles aimed at liberation and self-determination shall not be considered a terrorist crime."[19] HAMAS and Hezbollah are excluded under this definition. Moreover, the European Union has not included Hezbollah on its freeze list but only designated the military wing of HAMAS (HAMAS Izz al Din al

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[15] "Go Get 'Em: Tactics the FBI and Other Government Agencies Use to Crack Down and Go After Bad Guys." *60 Minutes II*, October 10, 2001; Telephone interview, FBI, Washington, D.C., November 7, 2002; Daniel Benjamin and Steven Simon, "The New Face of Terrorism." *The New York Times*, January 4, 2000, p. A19.

[16] Maurice Greenberg et. al., *Terrorist Financing: Report of an Independent Task Force*. Sponsored by the Council on Foreign Relations. New York: Council on Foreign Relations, 2002, pp.1, 8

[17] Matthew Leavitt, "Combating Terrorist Financing, Despite the Saudis." *Policywatch*, Washington Institute for New Enterprise Policy, November 11, 2002, p. 2.

[18] "Muslim Donors Still Funding al Qaeda," op. cit., p. A3.

[19] Cited in Herbert Morais, "The War Against Money Laundering, Terrorism, and Terrorist Financing." *Lawasia Journal*, 2002, p. 12.

Qassem) for sanctions purposes.[20] The U.N. list is limited to entities linked to al Qaeda and the Taliban. In the view of some, differences with European and Middle Eastern states over designations of terrorists could detract from the international fight against al Qaeda.

Most controversial of all, perhaps, have been the U.S. freezing orders against Islamic charities and other nongovernmental organizations (NGOs). Certain charities allegedly serving as conduits for terrorist funds also support legitimate humanitarian causes. One targeted organization—the Holy Land Foundation for Relief and Development (HLFRD)—disbursed approximately $6 million in 2000, mostly to Palestinian refugee families in Jordan, Lebanon, and Israel, according to its annual report.[21] (HLFRD is the largest Islamic charity in the United States.) The government claims the HLFRD funds flow to the civilian "Dawa" infrastructure of HAMAS, which manages broad-based charitable activities for needy families, but also provides support for families of suicide bombers, some with HAMAS connections. (Also, other international donors may support the same causes. One allegedly HAMAS-controlled entity that the HLFRD financed—the al Razi hospital in the West Bank—also reportedly received assistance from the U.S. Agency for International Development as well as the UAE's Red Crescent Society.[22]) Furthermore, the government's policy, has been described as having created the impression that America is intolerant of a religious minority. Giving alms to the less fortunate is a central tenet of Islam and charities are seen as performing an important role in this respect. As the director of the Muslim Affairs Council notes, "The administration policy has interfered with a basic pillar or tenet of Islam: *zakat* or almsgiving … In this respect the restriction on Muslim charities is an issue of religious freedom."[23]

The above discussion raises a number of significant questions with respect to U.S. counterterrorism policy and efforts to combat terrorist finance. First, based on the evidence, what conclusions are to be drawn about current patterns and objectives of terrorist financing? Second, have freezing orders and related measures significantly impacted al Qaeda's ability to raise, accumulate, and transfer funds? Third, does the current U.S. approach carry higher costs than rewards, and are other aspects of policy—such as dismantling terror networks and tracing and undermining

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[20] "Council Common Position of 17 June 2002." *Official Journal of the European Union*. 1.160/32. June 18, 2002.

[21] Holy Land Foundation for Relief and Development. *Rebuilding Shattered Lives*. Annual Report 2000, p. 31. HLFRD also has raised funds for non-Islamic causes, including—rather ironically—for families of the victims of the Oklahoma City bombing and the September 11 attacks. In the latter case, a check for partial payment of $10,000 of a $30,000 total donation reportedly was to be delivered to the Red Cross, but was impounded by the FBI when it raided HLFRD's office in December 2001.

[22] British Broadcasting Company (BBC). BBC Monitoring Middle East. "UAE Red Crescent Donates Huge Chunk of Aid to Palestinians in Jenin." October 29, 2002; US-AID West Bank and Gaza, "US-AID Delivers Humanitarian Relief to People of Jenin." April 16, 2002. [http://www.usaid.gov/wbglpress].

[23] Salam al Marayati, "Indict Individuals, Not Charities." *The New York Times*, October 11, 2002, p. A33.

their leadership—likely to yield better results? Fourth, can the fight against terror finance be made more effective, less disruptive, and more compatible with the policies of foreign nations? These questions will be addressed in the discussion that follows.

Terror Finance

Terrorist versus Criminal Finance

Terrorists and criminals generate and manipulate money for different ends and in somewhat different ways. Viewed in the simplest terms, terrorists' regional or global financial networks are designed to serve predominantly non-financial goals—for example, seeking political influence or legitimacy, or disseminating an ideology. Criminals, by contrast, are concerned primarily with amassing vast quantities of wealth and with concealing the fruits of their crimes. The distinction should not be overdrawn, because both terrorists and criminals engage in activity that could be called "political"—such as bankrolling political campaigns, issuing communications through the media, and sponsoring social projects in poor neighborhoods. Criminals occasionally turn to terror tactics—the Medellin cartel's bombing campaign in Colombian cities at the end of the 1980s is a case in point—and like terrorists, they have at times sought to negotiate amnesty arrangements with governments. Yet what criminals seek ultimately is protection in the broadest sense—a favorable and secure environment for the conduct of illicit enterprises. Terrorists' agendas usually are broadly gauged, aiming at liberation or self-determination of a group, redistribution of material power and wealth, or (in the case of bin Laden) fulfilling a radical religious vision.[24] Admittedly, the motives of terrorists and criminals are sometimes intertwined; some criminals may harbor exalted political ambitions and some terrorists may behave functionally as bandits.

In addition, terrorists tend to finance their operations differently than criminals. Terrorists are known to engage in criminal activity such as robbery, fraud, drug running, and counterfeiting, especially at the individual cell level; yet unlike criminals they rely on contributions for a significant portion of their overall funding. "...the most important source of al Qaeda's money is its continuing fundraising efforts," notes the above-mentioned Council on Foreign Relations report.[25] Diversion of funds from charities and other NGOs plays an important role in this process, although some donors convey funds to al Qaeda directly. Donors to charities may or may not be aware that some of their money will go to support al Qaeda operations or

[24] On the Colombian cartels' forays into the political arena and narcowelfare activities, see Patrick Clawson and Rensselaer Lee, *The Andean Cocaine Industry*. New York: St. Martin's Press, 1998, chs. 4, 6, 8. Pablo Escobar, the leader of the Medellin Cartel, used drug money to further populist causes and even served briefly in the Colombian Congress in the early 1980s. In certain cases, terrorist organizations have devolved into militant criminal enterprises. Colombia's Revolutionary Armed Forces of Colombia (FARC) have been cited in that context. See Rensselaer Lee, "Perverse Consequences of Andean Counternarcotic Policy." *Orbis*, vol. 43, no. 6, Summer 2000, pp. 541-546.

[25] *Terrorist Financing*, op. cit., p. 7.

those of other terrorist groups. Terrorists are said to practice "reverse" money laundering: While criminals seek to obscure the origin of illicitly-generated cash, terrorists harness ostensibly clean funds for violent and illicit purposes.

Additionally, some terrorist organizations rely on sympathetic states for infusions of money, weapons, and training. Examples in the Middle East include the Lebanese Hezbollah and Palestinian nationalist organizations such as HAMAS, although such groups also maintain their own fundraising mechanisms.[26] Iran currently appears to be the principal external sponsor of these entities. By contrast, profit-motivated criminals do not ordinarily receive government sponsorship or recognition, although governments might unofficially tolerate their activities (perhaps seeing no reasonable alternative).[27]

Terrorist and criminal financing have features in common. Both have employed a range of bank and non-bank transactions to store and transfer funds. Yet in the post-September 11 climate, terrorists may feel especially pressured to move their organizations outside the formal financial system. Certainly the freezing of $121 million in terrorist funds, including more than $50 million in al Qaeda-related accounts, represents a disincentive to using banks. It is possible that trade in high-value commodities such as gold and diamonds and reliance on underground banking systems (to be discussed in more detail below) will play a dominant role in terror finance for the foreseeable future.

Al Qaeda's Financial Network

General Principles. Al Qaeda financing can be divided into two basic categories: One is more or less centrally-directed funding which supports system maintenance activities (recruitment of adherents, training and logistics, proselytizing and the like) as well as coordination of significant terror activities. These derive mainly from business commitments and contributions from Arab supporters, though trade in drugs and commodities may provide an additional funding stream. A second category relates to the decentralized day-to-day operations of individual cells. Many of these are self-supporting from petty crime or various odd jobs and minor businesses.[28]

Al Qaeda's total annual budget is a mystery. The U.N. Monitoring Group report referred to earlier estimates that wealthy individual donors contribute up to $16

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[26] Al Qaeda appears to represent a different pattern. While based in Sudan and later Afghanistan, bin Laden reportedly invested millions of dollars in construction, agricultural, and other projects. Both countries could have been described as terrorism-sponsored states rather than vice versa. See, for example, Peter Bergen, *Holy War Inc.: Inside the Secret World of Osama bin Laden*. New York: Touchstone, 2002, pp. 82, 105.

[27] This has been the situation for many years in states such as Colombia, Bolivia, Peru, Afghanistan, and Burma, where the central government is weak and where criminals command significant economic resources. In such circumstances, governments may find it more advantageous to coexist with criminal groups rather to persecute them.

[28] FBI Briefing. "Financing of Terrorism," op. cit.; Rohan Gunaratha. *Inside al Qaeda: Global Network of Terror*. New York: Columbia University Press, May 2002, p. 65.

million annually. The total centrally managed portion is said to be under $50 million a year, but little known evidence exists to back up these figures.[29]

Key Sources. Osama bin Laden, son of a Saudi construction magnate, allegedly inherited a fortune that different estimates put at from $25 to $30 million to $250 to $300 million. The money reportedly has been distributed in investments and bank accounts in countries around the globe. The U.N. Monitoring Group report similarly places the size of bin Laden's business portfolio at $30 million to $300 million, with income from the portfolio helping to finance al Qaeda.[30]

Among bin Laden's first business ventures was the establishment of a network of companies in the Sudan, among them a trading firm, a construction company, an agricultural production and export company, and a furniture-making concern. According to the U.S. State Department, bin Laden also invested $50 million in shares of a Sudanese bank, the al Shamal Islamic bank. Accounts differ regarding the profitability of these ventures. In any case, bin Laden was expelled from the Sudan in 1996, under pressure from the United States and Egypt, and was forced to sell his business interests there. According to the U.N. Monitoring Report, bin Laden's current portfolio includes investments in Mauritius, Singapore, Malaysia, the Philippines, and Panama, as well as bank accounts in Hong Kong, London, Dubai (UAE), Malaysia, and Vienna and "hundreds of millions of dollars" secured in real estate in Europe and elsewhere. Such assets reportedly are held in the name of intermediaries and no further details are available.[31]

Direct contributions from wealthy Arab benefactors and funds siphoned from Islamic charities are said to represent the mainstay of al Qaeda's global financial network. As noted, contributors may or may not be aware that their money will be directed to al Qaeda's violent ends. "Knowing" donors may sympathize with terrorists' causes, but other motivations also may play a role.[32] For instance, it is widely reported that Arab businessmen paid al Qaeda operatives extortion money to forestall attacks on their business interests throughout the Middle East. Similarly, an al Qaeda-connected group in the Philippines—Abu Sayyaf—is known to extort "revolutionary taxes" from local residents, businessmen, and white collar workers.[33]

The protection theme is a subject of a recent $1 trillion lawsuit brought by the families of the victims of the September 11 attacks against "financial sponsors of terror" in Saudi Arabia and elsewhere.[34] The plaintiffs allege, for example, that

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[29] *Second Report of Monitoring Group*, pp. 12, 27; *Global Network of Terror*, p. 61.

[30] *Second Report of Monitoring Group*, p. 11. *Inside al Qaeda*, p. 11.

[31] *Second Report of the Monitoring Group Pursuant to Security Council 1390* (2002) Draft. Undated 2002, p. 12. October 21, 2002. Holy War Inc., p. 83.

[32] CDI Terrorism Project. "The Financial War Against Terrorism." March 5, 2002. pp.5-7

[33] Jonathan Winer and Trifin Roule, "Fighting Terrorist Finance." *Survival*, vol. 44, no. 3, Autumn 2002, p. 89.

[34] Thomas Burnett et al v. al Baraka Investment and Development Corp. et.al. Case number (continued...)

following the Khobar Towers bombing in Dharan in June 1996 (which killed 19 U.S. military personnel and wounded 515 persons, U.S. and Saudi) that a group of prominent Saudis met in Paris where they "conspired" to pay off al Qaeda and bin Laden. The payments were "to ensure that al Qaeda would never attack inside the borders of the Saudi kingdom again." The plaintiffs also assert that a member of the Saudi royal family brokered an agreement in Kandahar, Afghanistan, in 1998 to "provide aid and generous financial assistance" to the Taliban in return for guarantees that bin Laden and his followers would not attack the Saudi government. The veracity of these allegations, however, has yet to be established (the suit is currently before the U.S. District Court).[35]

Also, various Islamic charities and related nonprofit organizations allegedly are used by the bin Laden network to finance and recruit terrorists. The United States has designated 12 terror-linked charities, including 3 U.S.-based ones, under Executive Order 13224; some of them also are named in the U.N. Security Council 1390 list.[36] Media accounts, congressional testimony by experts, and other sources have named other charities in addition to the ones already listed. According to one expert on terror finance, at least 20 NGOs have been infiltrated and coopted by bin Laden and his followers.[37]

Reports suggest varying patterns of involvement. Some entire charities allegedly are tainted. They do "a small amount of humanitarian work and raise a lot of money for equipment and weapons," in the words of one U.S. official.[38] The U.S.-based Benevolence International Foundation, the leader of which was recently indicted by a U.S. court, allegedly provided organizational cover for al Qaeda operatives and funneled money to al Qaeda-influenced relief organizations abroad.[39] Perhaps a more typical pattern is for al Qaeda to infiltrate local branches of apparently legitimate international charities. For example, the Peshawar (Pakistan) office of the Kuwait-based Revival of Islamic Heritage Society allegedly "padded the number of orphans it claimed to care for by providing names of orphans that did not exist or who had died. Funds sent for the purpose of caring for non-existent or dead orphans was instead diverted to al Qaeda terrorists."[40] A Philippine branch office of a large Saudi charity, the International Islamic Relief Organization, allegedly supplied funding and

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[34] (...continued)
1:02CV01616 August 15, 2000 p. 42

[35] *Ibid.* pp. 50, 233.

[36] *Treasury Department Fact Sheet*, p. 12.

[37] Radio Free Europe-Radio Liberty, "Al Qaeda Network Vast, Yet Mysterious." Washington, D.C. October 25, 2002. (Reference to talk by Jonathan Winer, a former U.S. Deputy Assistant Secretary of State for international law enforcement.)

[38] Matthew Leavitt, "Role of Charities and NGOs in Terror Financing." Prepared statement before the Senate Banking, Housing, and Urban Affairs Committee. Federal Document Clearing House, August 1, 2002, p. 4

[39] FBI. "Affadavit in Support of Complaint Against Benevolence International Foundation Inc. and Enaam M. Arnaout, pp. 1-22.

[40] *Treasury Department Fact Sheet*, op. cit., p. 13.

weapons for two al Qaeda-linked groups: Abu Sayyaf and the Moro Liberation Front. Similarly, the United States and Saudi Arabia have jointly designated and frozen the assets of the Saudi and Bosnian offices of a multinational charity, al Haramain, for alleged links to al Qaeda. Some observers believe that the headquarters of al Haramain in Riyadh also has to some degree supported al Qaeda, but the United States so far has not chosen to make that case.

Other possible sources of strategic funding for the al Qaeda network can be cited. One terror financial expert says that "The al Qaeda network received millions of dollars per annum through the production and distribution of opium, which was smuggled through neighboring Central Asian states or transported to distributor networks in East Africa.[41] However, some disagreement exists on this point. persuasive evidence exists that the Taliban benefitted from the trade; a U.N. Committee of Experts Report estimated that the Taliban received between $15 million and $27 million per year from taxes on opium production in the late 1990s, before banning such production in 2000.[42] Some experts believe, however, that al Qaeda itself benefitted little from the traffic, which is said to be highly organized and resistant to penetration by outsiders.[43] Drugs may play a role in al Qaeda's financing (as they do for many terrorist organizations) but their overall importance is uncertain.

Trading in precious stones also appears to have played a role in al Qaeda's financing. For instance, the *Washington Post*, citing Western intelligence officials and other informed sources, claims that bin Laden's network "reaped millions of dollars in the past three years from the illicit sale of diamonds moved by rebels in Sierra Leone."[44] According to the *Post*, a top bin Laden advisor named Abdullah Ahmed Abdullah, also one of the FBI's most wanted terrorists, initiated contacts with a diamond dealer representing Sierra Leone's Revolutionary United Front (RUF) in Liberia in September 1998. Negotiations reportedly resulted in an agreement to buy uncut diamonds from the RUF on a regular basis; and Al Qaeda commissioned professional diamond traders to transport the stones to Europe and other destinations, where they were sold for sizable profits.[45] Another revenue source appears to have been tanzanite, a valuable purple-brown crystal (it turns blue when heated) that is found only in northeastern Tanzania. In this cell, a key player appears to have been Wadi al-Hage, reputedly a professional gem trader and former personal secretary of Osama bin Laden. (Al-Hage is now serving a life sentence for his role in the 1998 embassy bombings in Africa.) According to the *Wall Street Journal*, two al Qaeda companies—Tanzanite King and Black Giant—exported quantities of uncut stones

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[41] "Fighting Terrorist Finance," op. cit., p. 89.

[42] "Report of U.N. Committee of Experts on Afghanistan," May 18, 2001. p.15

[43] Author interview with U.S. intelligence official, October 21, 2002.

[44] Douglas Farah, "Al Qaeda Cash Tied to Diamond Trade, Sale of Gems from Sierra Leone; Rebels Raised Millions, Sources Say." *The Washington Post*, Nov. 2, 2001, p. A1.

[45] Personal communication from Douglas Farah, Nov. 1, 2002.

from Kenya to Hong Kong. How much al Qaeda earned from these operations and whether the network is still in the tanzanite business are not known with certainty.[46]

Funds destined for the overall purposes of al Qaeda (recruitment, training, proselytizing, and the like) can be distinguished, at least conceptually, from funds generated by al Qaeda's largely compartmentalized cells for their own financial support. Such cells, which reportedly exist in at least 40 countries, engage in both legitimate small business activities and criminal ones. For instance, according to FBI documents, a Madrid al Qaeda cell ran a home repair company that provided masonry, plastering, and electrical services, as well as an enterprise that restored and resold dilapidated vehicles. The cell's activities also included a criminal repertoire—credit card and document fraud, as well as street crimes such as home burglary and car theft. A Singapore-Malaysia al Qaeda cell sold medical supplies and computer software but also engaged in bank robberies, violent assaults, and kidnappings.

A few cells appear to generate significant revenues—beyond those needed for self-maintenance. These funds may revert to the organization as a whole. An Algerian al Qaeda cell detected in Britain in 1997 reportedly raised some $200,000 in 6 months. Yet the money was transferred out of Britain to banks in the Middle East and Pakistan and the cell members hardly lived in luxury. In al Qaeda's most expensive operation, the September 11 attacks, hijackers reportedly transferred more than $25,000 in unspent funds back to unnamed terror financiers in the UAR.[47]

Moving and Storing Value. Al Qaeda, like most illegal organizations, has relied on both conventional and unconventional means of moving and storing funds. Prior to September 11, it appears, al Qaeda relied extensively on commercial banks, shell banks, front companies, NGOs, money exchange firms, and various financial service businesses to move funds for their global operations. The FBI has tracked $90,000 in wire transfers from the UAE to New York and Florida bank accounts of the September 11 hijackers.[48] Al Barakaat, a financial and telecommunications conglomerate with offices in at least 40 countries around the world, reportedly was channeling several million dollars a year to and from al Qaeda until the company's funds were frozen by the United States and the international community.[49]

This pre-September 11 financial network has largely been disrupted, probably compelling al Qaeda to depend increasingly on an informal or alternative way of manipulating and transferring funds. Several characteristic methods have come to light since the September 11 attacks and apparently predated them.

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[46] Robert Block and Daniel Pearl, "Underground Trade: Much Smuggled Gem Called Tanzanite Helps Bin Laden Supporters—Bought and Sold by Militants Near Mine, Stones Often End Up at Mideast Souks—Deal Making at the Mosque." *The Wall Street Journal*, Nov. 18, 2001, p. A1.

[47] *Inside al Qaeda*, p. 65; FBI, "Financing of Terrorism."

[48] "Financing of Terrorism," op. cit.

[49] *Treasury Department Fact Sheet*, op. cit., p. 6.

One of those methods is the conversion of assets to commodities: The *Washington Post* reports that "al Qaeda operatives long before September 11 began shifting money out of bank accounts that could be traced and into untraceable gold and precious stones such as diamonds, tanzanite, and sapphires."[50] An article in the *London Observer* claims that al Qaeda struck deals in Africa for diamonds worth more than $20 million in the months before the attacks.[51]

Diamonds, it should be noted, are a particularly attractive commodity for smuggling operatives. "They don't set off alarms at airports, they can't be sniffed by dogs, they are easy to hide, and are highly convertible to cash," notes a U.S. official.[52] Also, diamonds have a high value-to-weight ratio: a pound of average quality rough diamonds is valued at approximately $225,000. A pound of $100 bills is worth in the neighborhood of $45,000, and a pound of gold, at $300 per ounce, is worth $4,800.[53]

Reports also have surfaced of large gold shipments, allegedly controlled by al Qaeda and the Taliban, between Palestine and Sudan, apparently transiting Iran and the UAE. The Washington Post, citing European, Palestinian, and U.S. investigators, says that boxes of gold, usually disguised as other products, were taken from Nairobi to either Iran or Dubai and from there mixed with other goods and flown by chartered airplanes to Khartoum. The Post refers to different reports that the gold represented stored profits from opium and heroin trafficking or remnants of Osama bin Laden's personal fortune liberated in the early 1990s.[54]

A second alternative way of transmitting value between locations is through underground banking networks. Viewed in the most basic terms, underground banking, called by different terms such as hawala, hundi, or black market peso exchange, is a way of sending money cheaply and anonymously across borders without physical transport or electronic transfer of funds. The transaction is essentially paperless. It works as follows. Money brokers (hawaladars) in one country receive cash from a client with no questions asked. For example, the client might be a cab driver in New York who wants to send $5,000 to his brother in Karachi. The hawaladar alerts a correspondent broker in Karachi by telephone, fax, or e-mail, who dispenses $5,000 (less fees and commissions) to the brother. Neither the sender nor the recipient needs to identify themselves; the latter only needs to provide a prearranged code, such as a sequence of numbers and letters, to complete the transaction. At some other point, clients in another country may send an equivalent amount back to the United States in the same fashion. Over time, the transactions are

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[50] Karen de Young and Douglas Farah, "Infighting Slows Hunt for Hidden al Qaeda Assets; Funds Put in Untraceable Commodities." *The Washington Post*, June 18, 2002, p. A1.

[51] Amelia Hill. "Bin Laden's $20 M in African 'Blood Diamond' Deal." The Observer, Oct. 20, 2002. [http://www.observer.co.uk/in].

[52] Douglas Farah, "Al Qaeda Cash Tied to Diamond Trade: Sale of Gems from Sierra Leone Rebels Raised Millions, Sources Say." *The Washington Post*, Nov. 2, 2001, p. A1.

[53] Author telephone interviews: Izzy Heller, Heller Jewelers; U.S. Customs; Green Quest; Washington, D.C., October 24, 2002.

[54] Douglas Farah. "Al Qaeda Gold Moved to Sudan; Iran, UAE Used as Transit Points." *The Washington Post*, September 3, 2002, p. A1.

netted out and no currency actually crosses national borders.[55] These networks can be used by terrorists although they were originally conceived, and continue to serve, as financial exchange meechanisms largely involving immigrant workers.

Similar principles underlie a money laundering system called the black market peso exchange (BMPE), used predominantly by Colombian drug dealers to reintegrate drug profit into their home economies. In a typical BMPE transaction, a Colombian cocaine exporter sells cocaine in the United States for dollars and then sells the dollars to a Colombian black market peso broker's agent in the United States. The broker then deposits the agreed-on equivalent of Colombian pesos (minus commissions) into the exporter's bank account in Colombia. In this fashion, no currency crosses the U.S. and Colombian borders. The broker may then resell the dollars to a Colombian importer who uses them to purchase U.S. goods that then are shipped or smuggled back into Colombia.[56]

Tens of billions of dollars a year are said to move through such informal value transfer systems. Officials in Pakistan, for example, estimate that at least $7 billion enters that country through hawala channels each year, substantially more than enters through banks. The black market peso exchange is documented as the "largest known money laundering system in the Western hemisphere"—representing up to $5 billion annually to Colombia. U.S. officials admit to having very little luck tracking movements of funds through these informal systems, which may explain why efforts to break the terrorist financial chain have been decreasingly productive of late.[57]

Yet another technique for laundering money used by terrorists is trade-based fraud, especially fictitious invoicing of exports or imports. Some hawaladars may balance their accounts this way. In the example given above, the New York broker might repay his counterpart in Karachi by sending him $20,000 worth of computer peripherals, but only invoicing him for $15,000. Such schemes may have played a role in moving funds to terrorists, although this is speculation. For instance, U.S. trade data in 2000 suggest that there has been price manipulation of U.S. exports of honey to Persian Gulf states. The December 9, 2002 study showed that in that year, for U.S. exports of approximately 390,000 kilograms to UAE, Yemen, Saudi Arabia, and Kuwait, importers in these countries paid an average of 35 percent over the U.S. per kilogram export price ($1.91), yielding excess funds of $257,000. Whether these funds were channeled to U.S.-based terrorists is not publicly known; however, two U.S. honey companies—the al-Nur Honey Press Shop and the al-Shifa Honey Press for Industry and Commerce—appear on the list of terrorist groups and entities designated by the United States.[58]

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[55] Morais, Herbert, *The War Against Money Laundering*, op. cit., p. 5; Winer and Roule, *Fighting Terrorist Finance*, op. cit., p. 93.

[56] Department of the Treasury and Department of Justice, *National Money Laundering Strategy*. Washington, D.C.: July 2002, p. 33.

[57] Ibid; Jimmy Gurule, "The Financial War on Terrorism." Statement Before the Senate Finance Committee. Federal Document Clearing House, October 9, 2002, p. 7.

[58] "Honey Exports May Have Financed Terrorism." *Money Laundering Alert*, vol. 13, no.
(continued...)

Combating Terrorist Finance: Challenges and Options

Underpinnings of Strategy

The United States has pursued a comprehensive strategy for combating terrorist financing in the wake of the September 11 attacks. Reduced to its essentials, the strategy comprises two interrelated objectives: The first is to locate, isolate, and freeze terrorist assets, both in the United States and globally. As already noted, the United States and the international community have frozen $121 million in terrorist-related accounts since the attacks. A second is to disrupt terrorists' financial infrastructures—specifically, their formal and underground methods for transferring funds across borders and between cells, "whether through banks, businesses, hawalas, subverted charities, and innumerable other means."[59] Freeze orders and other enforcement activities have effectively shut down some banks, financial companies, trading firms, and NGOs involved in manipulating and channeling funds for al Qaeda. A critical underlying component of this strategy has been to enlist international cooperation in disrupting terrorists' finances. A Treasury Department report notes, "International alliances against terrorism are crucial because the overwhelming majority of terrorists' assets, cash flow, and evidence lies outside our borders."[60] Partial success has been recorded on this front, although problems remain, as will be discussed.

Important organizational and regulatory initiatives have accompanied the implementation of strategy. New institutional arrangements and new powers granted by the president and Congress have facilitated U.S. enforcement actions against terrorist financing. These will be summarized briefly below.

On the organizational front, the new inter-agency task force Operation Green Quest and the Terrorist Financing Operations Section (TFOS)—headed respectively by the U.S. Customs Service and the Federal Bureau of Investigation—have enforcement responsibilities vis a vis terrorist finance. TFOS investigates the financial linkages and support of known terrorist cells, while Green Quest tries to establish terrorist connections to ongoing investigations of criminal financing. In practice, however, the missions and activities of these entities reportedly overlap significantly.[61] Another interagency entity, the Foreign Terrorist Asset Targeting

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[58] (...continued)
1. November 2001, p. 1.

[59] *Fact Sheet*, p. 4.

[60] Ibid, p. 5.

[61] TFOS was established in September 2001, initially to investigate the financial activities and links of the September 11 hijackers. Green Quest was established in October 2001 to bring the Treasury Department's financial expertise to bear against terrorist finance. TFOS is the larger of the two task forces, with approximately 150 people, compared to about 40 in Green Quest. Ten different government agencies are represented in Green Quest and about 15 in TFOS, although Customs and the FBI respectively are the dominant contingents
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Group, now housed in the CIA's Counterterrorism Center, analyzes and evaluates intelligence information on terrorist financial flows.

Additionally, the Treasury Department has set up a Terrorist Tracking Task Force, the diplomatic arm of Treasury's enforcement effort, which works with foreign governments in blocking terrorists' access to funds. Within the State Department, a new Counterterrorism Finance Unit, under the Office of Counterterrorism, has been established to oversee international information-sharing and technical assistance programs relating to terrorist finance. Also, existing anti-crime entities have acquired new missions. For example, much of the U.S. and international architecture designed to combat criminal money laundering—for instance, Treasury's Financial Crimes Enforcement Network, DEA's Financial Intelligence Unit, INL, and the 31-nation Financial Action Task Force—focuses increasingly on specific issues and problems relating to terrorist finance. The Internal Revenue Service's Tax Exempt and Government Entities Operating Division, which oversees nonprofit entities, will now investigate "suspect charities of all stripes that provide financial and material support for terrorist groups."[62] Finally, an overarching entity has been established within the National Security Council, the Policy Coordination Committee on Terrorist Financing, to provide government-wide coordination of financial aspects of the counterterrorism effort.

A related priority has been to strengthen the legal-regulatory basis for combating terrorist finance. An important step was the President's Executive Order 13224 of September 24, 2001, which expanded the U.S. government's power to freeze terrorism-related assets. The order included in the class of targeted groups not just terrorists themselves (previous executive orders had imposed sanctions on the Taliban and on terrorists who disrupt the Middle East peace process)[63] but also on all those who provided financial or material support or who were "associated with" designated terrorist groups. As noted, 250 persons and entities have been designated under the order, many of them falling into the category of financiers of terrorism.

Other significant measures were mandated by Congress in Title III of the USA PATRIOT Act of October 25, 2001, entitled "The International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001." The Act both cast a wider regulatory net over U.S. financial institutions and refocused the existing anti-money-

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[61] (...continued)
in these entities.

[62] *National Money Laundering Strategy*, op. cit., p. 24.

[63] Reference is made to Executive Order 12947, "Prohibiting Transactions With Terrorists Who Disrupt the Middle East Peace Process," January 25, 1995 (60 *Federal Register* 5079, January 25, 1995). Department of the Treasury Office of Foreign Assets Control (OFAC), "List of Specially Designated Terrorists Who Threaten to Disrupt the Middle East Peace Process." 60 *Federal Register* 58435, November 27, 1995. Executive Order 13099, "Prohibiting Transactions With Terrorists Who Threaten to Disrupt the Middle East Peace Process," August 20, 1998 (63 *Federal Register* 45167, August 25, 1998); this order added Osama bin Laden and other names to the OFAC list. See also Executive Order 13129, "Blocking Property and Prohibiting Transactions With the Taliban," July 4, 1999 (64 *Federal Register* 36759, July 7, 1999).

laundering regime on the problem of terror financing. The Act mandated increased record-keeping, report filing, and internal policing requirements for a wide range of financial institutions—including such previously unregulated sectors as hedge funds, commodities brokers, and commercial loan and finance companies. It prohibited or restricted access to the U.S. financial system by certain categories of foreign banks, including offshore banks, so-called shell banks, and banks in unregulated jurisdictions. Much of the legislation seemed particularly relevant to criminal money laundering. Several provisions, though, seemed especially designed to disrupt terrorist financial networks.

For example, Section 326 of the USA PATRIOT Act stipulates that the "Secretary of the Treasury shall prescribe regulations setting forth minimum standards" for verifying the identity of customers, including foreign nationals, opening accounts at U.S. financial institutions. The standards would include checking the name of the applicant against lists of known or suspected terrorists provided to the financial institution by a U.S. government agency. Section 328 calls on the Secretary, in consultation with the Attorney General and the Secretary of State, to encourage foreign governments to require that all wire transfer instructions sent to the United States include the name of the originators. Conceivably, such a provision could help authorities track terrorist donors, such as those who financed the September 11 attacks. Section 330 concerns "International Cooperation in Investigation of Money Laundering, Financial Crime, and Financing of Terrorist Groups." Essentially, it empowers relevant U.S. agencies to conclude agreements with foreign financial supervisors on two points: to ensure that foreign banks maintain records of terrorists' accounts and transactions and to "establish a mechanism" whereby those records can be made available to U.S. officials. Other sections of the Act (359 and 373) extend the financial regulatory net to encompass all persons engaged in transmission of funds, including "informal money transfer systems." Under these provisions, hawaladars or the equivalent would be required to register, obtain licenses, and file suspicious activity reports (SARS). Finally, a provision of the Act criminalizes bulk cash smuggling into or out of the United States. Such smuggling, defined as an undeclared movement of more than $10,000 in monetary instruments across U.S. borders, is described as "one of the most reliable warning signs of drug trafficking, terrorism, money laundering" and similar crimes.[64]

The United States also sought to internationalize various regulatory requirements vis a vis terrorist finance, and to some degree the international community consented. On September 28, the U.N. Security Council passed Resolution (UNSCR) 1373, which required member states to criminalize terrorist financing and to deny terrorists safe harbor. UNSCR 1390 of January 10, 2002, obliged states to "freeze without delay" funds, financial assets, and other economic resources of al Qaeda and Taliban related entities. A consolidated list of such entities, mandated by UNSCR 1390 and by previous UNSCR resolutions (1267 and 1333), formed the basis of freezing actions. In addition, regional groupings such as the European Union and even individual countries established their own lists.

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[64] USA PATRIOT Act of 2001, October 20, 2001, 115 Stat. 296-342.

Also, states were encouraged to focus on specific indicators of terrorist money laundering that might be distinguishable from classic money laundering. For example, the 31-member Financial Action Task Force (FATF), the world's preeminent multilateral anti-money laundering body, has refocused its activities to some extent on the terrorist threat. At its October 2001 plenum in Washington, D.C., FATF adopted a special recommendation as a "basic framework" to detect and suppress the financing of terrorist acts. The most important of the related recommendations included freezing and confiscation of terrorist assets, reporting of suspicious transactions related to terrorism, registration of persons or legal entities engaged in informal value transfer systems, documentation of originators of wire transfers, and strengthened oversight of NGOs that might act as conduits for terrorist funds. Similarly, the Asia-Pacific Group issued its own recommendation on Alternative Remittance and Underground Banking Systems, calling for enhanced regulatory oversight. As part of this effort, the United States participated in a worldwide hawala conference held in the UAE, attended by 58 countries, in May 2002; this culminated in the May 16 "Abu Dhabi Declaration on Hawala," expressing concern about the lack of "transparency and accountability in the hawala system and calling on countries to increase government supervision to prevent abuse of the system by criminal elements."[65]

How Effective?

The U.S.-led effort to sever terrorism's financial lifelines has received mixed reviews to date. Bush administration officials claim that the effort has disrupted at least the centrally-managed portion of al Qaeda's funding, which has been linked largely to the formal banking system. "Al Qaeda's stipends to followers are drying up and people are leaving al Qaeda. Donors have been sent the message that they will be burned if they contribute," says one administration expert on money laundering. Nevertheless, some experts believe that the funds seized internationally since September 11, 2001, represents only a small fraction of the funds and resources believed to be still available to al Qaeda and the Taliban.[66] Some reports suggest that al Qaeda may have converted a significant portion of its assets into commodities such as gold and diamonds some months prior to the attacks. Also, some observers point out that the financial needs of al Qaeda have been reduced with the collapse of the Taliban government and the destruction of most of their training camps in Afghanistan, leaving funds available for other activities. According to the U.N. monitoring report, these may include "a stepped-up indoctrination and recruitment program that provides support to related fundamentalist organizations, schools, and social organizations."[67]

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[65] "Abu Dhabi Declaration on Hawala" made at the conclusion of the International Conference on Hawala on Thursday, May 16, 2002; *National Money Laundering Strategy*, op. cit., p. 22. FATF in 1996 issued 40 recommendations dealing with classic money laundering; the eight special recommendations constituted a supplement to these.

[66] *Second Monitoring Report*, p. 10.

[67] Ibid.

Furthermore, key elements of the al Qaeda organization may still be in place and capable of directing terror operations—October 2002 attacks on a French oil tanker in Yemen and a destructive nightclub blast in Bali as well as the bombing of an Israeli tourist hotel in Mombasa, Kenya have been linked in varying degrees to al Qaeda or local affiliates. Additionally, the network's top strategists Osama bin Laden and Ayman al-Zawahiri apparently have successfully escaped detection by the authorities.

The future direction and odds of success of the campaign against terrorist finance also are uncertain. From a purely financial standpoint, the campaign is yielding diminishing returns, with the bulk of the freezing actions having occurred in the three-month period between September 11, 2001 and mid-January 2002. Operation Green Quest reportedly seized $19 million (to October 2002) in smuggled cash and other monetary instruments, of which $11 million is "Middle Eastern related," yet Green Quest has not determined or is not prepared to acknowledge that any of these funds are linked to terrorist groups.[68]

Certain limiting factors in the campaign already appear evident. One relates to the regulatory burden imposed on U.S. financial institutions. The sheer volume of paperwork required of U.S. financial institutions to comply with anti-money laundering provisions of the Bank Secrecy Act (PL 91-508 as amended) and the USA PATRIOT Act (PL 107-56) is enormous. In FY 2001, some 12,600,000 currency transaction reports (CTRs), required for transactions above $10,000, and 182,000 suspicious activity reports (SARs) were filed with the Treasury Department.[69] Separating out financial activity of serious criminals, including terrorists, from the more than 12 million standard reports filed annually is a task of Herculean proportions. Terrorists can enter the United States, set up bank accounts, draw on them, and consummate their operations long before their nefarious plans come to light. One of the September 11 terrorists, Mohammed Atta, had been the subject of a SAR filed by his bank in connection with a transfer of $69,985 wired into his account in September 2000 from the UAE. Yet this report was just one of the 153,500 SARs filed that year, and was not distinguishable from those related to other suspected financial crimes.[70]

In addition, most terrorists' financial transactions, unlike those of major criminals, tend to be small—falling below the $10,000 threshold that requires notification of the U.S. authorities. Finally, the ability of financial institutions to fully implement enhanced security and due diligence procedures itself may be questionable. Such procedures are costly and time-consuming, and some institutions may lack the required resources. For such reasons, increased financial regulations and paperwork might not represent an effective way to stop terrorist finances and the acts that result from them.

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[68] Author interview, Operation Green Quest, Washington, D.C. October 10, 2002. By mid-November the respective seizure figures had increased to $21 million and $12.9 million.

[69] *National Money Laundering Strategy*, pp. 43-44.

[70] Report of the Monitoring Group Established Pursuant to Security Council Resolution 1363 (2001) and Extended by Resolution 1390 (2002). May 2002. p. 7

Al Qaeda's adaptiveness in the face of increased law enforcement pressure also is cause for concern. As noted, al Qaeda transferred a portion of its exposed assets into untraceable precious commodities (gold, diamonds, and precious stones) even before the September 11 attacks, possibly as early as 1998 when the United States and some European governments initiated certain freezing actions against the Taliban. Such commodities are small and easy to store and transport. Moreover, they retain their value over time and can be introduced in small quantities in the market without attracting attention.[71] One area of U.S. national money laundering strategy is to investigate the links between precious stones and commodity trading and the funding of terrorist groups; however, this is an extremely complex task offering uncertain payoffs at this stage.[72]

Also significant is evidence that nontraditional money movement systems such as hawala play an increasing role in the terror financial chain. As the U.S. monitoring report notes, al Qaeda members "will likely use the hawala system to circumvent the regular banking system and possible detection via Suspicious Transaction Reports."[73] The USA PATRIOT Act, as noted, requires hawala-type businesses to register and to file SARs, but whether those engaged in illegal money transactions will do so is a matter of speculation. "That's like saying the corner bookie must register with the FBI," says one former U.S. federal prosecutor.[74] As of mid-2002, according to one report, only about 10,000 of an estimated 250,000 money service businesses in the United States had registered under the new regulations.[75] Also, the U.S. enforcement record against underground banking systems has been extremely modest. For instance, an intensive U.S.-Colombian investigation of the black market peso exchange, which reportedly represents up to $5 billion dollars annually to Colombia, resulted in seizure of only $8 million in cash as well as some quantities of drugs and firearms.[76]

The new legal tools under the PATRIOT Act will increase risks for illegal money remitters, but some observers contend that the most likely result could be an increase in the commission they charge their customers. Putting them out of business or even disrupting them significantly would require refined targeting of ethnic communities where they operate and extensive undercover investigations; and the results, some argue, might not justify the societal costs or forestall terrorist attacks.[77]

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[71] *Second Report of Monitoring Group*, p. 13.

[72] Author interviews: Green Quest, Washington, D.C., October 10, 2002; TFOS, Washington, D.C., October 22, 2002.

[73] *Second Report of Monitoring Group*, p. 14.

[74] Robert Trigaux, "Tracking of Terrorist Money Puts Government to the Test." *St. Petersburg Times*, November 18, 2001, p. 1A.

[75] John Cassara, "Hawala Countermeasures." Unpublished paper. Washington, D.C., May 2002, p. 5.

[76] *National Money Laundering Strategy*, p. 33.

[77] A paper written by the U.S. Agency for International Development (US-AID) observes, "It is at least theoretically possible to disrupt such a system by subverting a few links in the

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Also problematic from a law enforcement perspective is al Qaeda's relatively fragmented structure, comprising numerous supporting cells spread over many different countries. Al Qaeda may have further decentralized its operations as a defensive measure since the September 11 attacks. The possibility exists that the network could survive in some fashion, even if central sources of funding are reduced or cut off. U.S. counterterrorism expert Steve Emerson stated in recent Congressional testimony, referring to a fishing company managed by an al Qaeda cell in Kenya in 1998: "This independent business structure is a particularly troubling development, because it heralds the likelihood of terrorist cells operating independently from any foreign financial benefactor, raising the lion's share of their assets from otherwise legitimate, nondescript commercial entities."[78] The related implication is that law enforcement agencies must spread their resources across a vast number of low value targets in the hope of discovering a terrorist connection. This may well be happening in the United States. An August 2001 Washington Post article reported that U.S. authorities are investigating more than 500 mostly Muslim and Arab small businesses to determine whether they are dispatching money raised through commercial activity to terrorist groups overseas. Such activity included a potpourri of petty crimes: "skimming the profits of drug sales, stealing and reselling baby formula, illegally redeeming huge quantities of grocery coupons, collecting fraudulent welfare payments, swiping credit card numbers, and hawking unlicenced t-shirts."[79]

Finally, some observers question whether the international campaign against terrorist finance has significantly weakened al Qaeda's main fundraising structure, reportedly centered in Saudi Arabia and other Persian Gulf states. Many details of U.S. cooperation with Gulf states in the campaign are not in the public domain. (For domestic political reasons, Gulf states have been reluctant to disclose what kinds of assistance they have provided to or accepted from the United States in this sphere.) Nevertheless, there are signs that cooperation is sometimes halting and incomplete. Major donors in the Middle East still reportedly are funneling millions of dollars annually to al Qaeda. According to some observers, large international charities based in Saudi Arabia with histories of alleged links to Islamic terrorism have not been significantly affected by the freeze campaign. The United States and Saudi Arabia have jointly designated one such entity—the government-supported al

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[77] (...continued)
chain. For example, if just a few merchants in the network were paid by outsiders to renege on hawala obligations, it might spread a highly corrosive distrust ... We know, however, that disrupting hawala would add new burdens to poor people who benefit from the system's low cost and accessibility ... and there is no guarantee that disrupting funds will cripple a terrorist cell or prevent an act of terror." See "Financing Terrorism: Transparency, Corruption and Informal Systems." US-AID Seminar Series on Foreign Aid and the War on Terrorism. April 19, 2002, p. 4.

[78] Steven Emerson, "PATRIOT Act Oversight: Investigating Patterns of Terrorist Fundraising; Fundraising Methods and Procedures for International Terrorist Organizations." Testimony Before the House Committee on Financial Services, Subcommittee on Oversight and Investigations. Federal Document Clearinghouse. February 12, 2002, p. 16.

[79] John Mintz and Douglas Farah, "Small Scams Probed for Terror Ties; Arab States Monitored as Part of Post Sept. 11 Inquiry." *The Washington Post*, August 12, 2002, p. A1.

Haramain Islamic Foundation—but the designation was limited to al Haramain's Bosnian and Somali branches.[80] At the same time, Saudi officials have publicly rejected criticism that the kingdom has not done enough in the global war against terrorism, saying that detractors were helping Osama bin Laden by driving a wedge between the United States and Saudi Arabia.[81]

Al Haramain seems to illustrate the limits of U.S.-Saudi cooperation in fighting terrorist finance. In August 2002, Bosnian authorities lifted a freeze on al Haramain's bank accounts that had been imposed following the joint U.S.-Saudi designation in March and also renewed the Foundation's license to operate in Bosnia. Some experts believe that pressure from Saudi sources was behind these moves.[82] Saudi newspapers reported in September that al Haramain was expanding its operations in both Bosnia and Somalia and that it had opened a $530,000 Islamic center in Sarajevo. Additionally, there are recent news reports that the Foundation's support for terrorism may have extended well beyond Bosnia and Somalia to encompass combat operations by rebel groups in Chechnya as well as activities of Indonesian militants affiliated with al Qaeda.[83]

Saudi intransigence and U.S. timidity in dealing with it are widely viewed in the United States as major obstacles to progress in the war against terror, despite repeated official Saudi denials. As one U.S. analyst notes, "The U.S. has failed to present a coherent political strategy aimed at delegitimizing the ideology of Islamic terrorism and undermining terrorists' sources of support. And it is becoming increasingly clear that the reason for this failure is Washington's unwillingness to risk a rupture with Saudi Arabia." Yet the domestic political context constrains Saudis' freedom of action in suppressing the funding of Islamic militants, including

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[80] Another Saudi charity widely depicted as a source of terror financing is the International Islamic Relief Organization (IIRO), headquartered in Jeddah. IIRO operates with an annual budget of $420 million and funds activities in more than 100 countries: Terrorism expert Steven Emerson calls IIRO "foremost among terrorist organization ties to Osama bin Laden and al Qaeda as well as other terrorist organizations such as HAMAS." An IIRO branch in the Philippines allegedly has supported successionist Islamic interests in that country and the Kenya branch was shut down by the Kenyan government after the 1998 embassy bombings. IIRO reportedly donated $60 million to the Taliban regime in Afghanistan and distributed $280,000 to HAMAS-identified "Islamic committees" in the West Bank. Both the IIRO and al Haramain (including the latter's Riyadh headquarters) have been named in the $1 trillion lawsuit mentioned earlier. U.S. authorities raided an IIRO office in Virginia in March 2002; yet the organization has not yet been designated as a financier of terrorism under Executive Order 13224. See, for example, Emerson testimony, pp. 2-4; RFE-RL Briefing Report; Kenneth Timmermann, "Documents Detail Saudi Terror Links." *Insight*, June 10, 2002, p. 24; *Barnett et al. vs. al Barsha et al.*, p. 435.

[81] David Sands. "Saudis Seek to Cut Cash Flow to Terrorists." *The Washington Times*, December 4, 2002. P.A1

[82] Omar al-Zobaidy. "Bosnia Lifts Freeze on Charity Funds." *Arab News* (Middle East News File), August 13, 2002; Matthew Leavitt, "Combating Terrorism Financing Despite the Saudis." *Policywatch*. The Washington Institute for Near East Policy, November 1, 2002, p. 1.

[83] Edward Nelson, "The Money Trail: How a Crackdown on Support Charities Is Failing to Stem the Flow of Funds to al Qaeda." *Financial Times*, October 18 , 2002, p. 19.

terrorist groups. As the above-mentioned Council on Foreign Relations report notes, "It may well be the case that if Saudi Arabia and other nations in the region were to move quickly to share sensitive financial information with the United States, regulate or close down Islamic banks, incarcerate prominent Saudi citizens or render them to international authorities, audit Islamic charities, and investigate the hawala system—just a few of the steps that nation would have to take—it would be putting its current system of governance at significant political risk. Successors to the current regime could easily be drawn from the very elements in their societies that the United States is seeking to suppress."[84]

Concluding Observations

Information presented in this report suggests that, while the current campaign against terrorist finance reportedly has diminished al Qaeda's ability to recruit and sustain allegiances, significant funds still appear to be available to the organization. Efforts to further regulate and introduce transparency into the global financial system are welcome steps; yet they will not necessarily reduce terrorists' striking capacity because most of the proposed measures cannot with certainty separate out terrorists from other types of lawbreakers. The plethora of reporting requirements creates a sort of "needle-in-the-haystack" problem for the authorities. Al Qaeda's evident ability—documented even before the September 11 attacks—to exploit non-bank mechanisms of moving and storing value, as well as its structure of decentralized self-supporting cells represent additional constraints on law enforcement. Finally, in the view of many observers, the amount of cooperation against terrorist financing that can be expected from Saudi Arabia and other Gulf states, where support of Palestinian "freedom fighters" and opposition to U.S. and Isreali policies in that region has gone on for decades, is problematic.

Investigation of terrorists' finances can be a useful tool for identifying linkages among terrorist cells and possibly major donor networks. Analyses of records confiscated by Green Quest and TFOS might contribute more to the anti-terror fight than the actual freezing of assets, which so far has been modest. These collateral benefits are difficult to assess because much of the relevant information remains in the classified realm. Also the Treasury Department announced in November 2002 that it was offering a reward of up to $5 million for information "leading to the dismantlement of any system used to finance a terrorist organization."[85] Much larger rewards ($25 million) have been issued also for the capture of al Qaeda leaders Osama bin Laden and his aide Ayman al-Zawahiri, but with no result. In general, the potential of these investigative tools remains to be developed. Terrorists, like criminals, can work through labyrinths of intermediaries, create false trails, and exploit Internet money transfers and new payment technologies to disguise the source and ownership of their illicit proceeds.

[84] *Terrorist Financing,* p. 20

[85] U.S. Treasury Department. "Stop the Flow of Blood Money." [http://www.treas.gov/rewards].

Overall, although U.S. financial actions against terrorism have produced significant tangible successes, whether measured in terms of immobilization of funds or of knowledge gained about terrorist structures, the full impact of those actions is uncertain. The Bush administration's 2002 National Money Laundering Strategy promises to "apply the lessons we have learned from the federal government's effort against money laundering to attack the scourge of terrorism." Yet such efforts have made limited headway against money laundering operations such as the black market peso exchange that recycles billions of dollars in illegal proceeds, mainly from the drug trade. Terrorists' multitudinous small transactions, often camouflaged as legitimate business or social activities, may prove even more difficult for financial investigators to track and shut down.

Furthermore, the campaign against terrorist finance has provoked controversy on various religious, public policy, and humanitarian grounds. The new antiterror standards have been portrayed as selectively anti-Islamic. Indeed, the 12 charities designated under Executive Order 12334 all appear to be associated with Islamic causes. Some observers speculate that the U.S. image abroad has suffered as a result of the freezing of charities' funds. One U.S. Muslim spokesperson agrees, "In an ideal setting, American Muslim charities serve a national security interest by promoting a positive image of America throughout the Muslim world. Unfortunately, the view that America's Muslims are a harassed or persecuted minority is gaining ground overseas, partly because of the blockage of the Muslim charities."[86]

A related issue concerns the Bush administration's definition of the terrorist enemy, which, as noted, clearly diverges from that of European and (especially) Middle Eastern states. The broad U.S. designation of Islamic militant groups for freezing purposes is said to have deepened the sense of ambivalence and unease in the entire Arab region. According to one account, "Countries such as Saudi Arabia, Egypt, Jordan, and Syria have urged Bush to focus narrowly on blocking off bin Laden's financial network rather than simultaneously targeting other terrorist groups."[87] In this view, Washington's simultaneously broad and unilateralist approach to terrorism detracts from the international coalition against al Qaeda, diminishing the chances that Arab governments will crack down on its major supporters.

Other possible dysfunctions of the campaign relate to the interruption of assistance flows. For instance, the crux of the government's case for closing the Holy

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[86] Comments by Salam al Marayati in "Terrorist Financing," Hearing of the Senate Judiciary Committee. Federal News Service. November 20, 2002, pp. 10-11. For comparison purposes, reference is made to a non-Islamic foundation, Irish Northern Aid (NORAID) that, according to its Web site, supports Irish Republican causes "while providing assistance to the families of those imprisoned or killed for their political beliefs." It is widely accepted that NORAID helps families of IRA members. Similarly, Holy Land has been accused of distributing funds to families of suicide bombers in Israel. The U.S. political context is completely different in the first case but the logic of the U.S. freezing action against Holy Land would seem apply to NORAID as well.

[87] CDI Terrorism Project, "Mounting Costs of the Financial War on Terrorism." Washington, D.C., December 20, 2001. p.2

Land Foundation was that the Foundation's projects in the West Bank and Gaza allowed HAMAS to amass popular support "by distributing charity to people who then associated this social outreach with HAMAS."[88] Yet the benefits of cutting funds to HAMAS-controlled entities in this case can be weighed against the potential human costs. The Foundation's programs and services have "directly improved the lives of more than 500,000 people,"[89] according to its 2000 Annual Report. (The fact that other international donors, according to the U.S. Agency for International Development, supported a HAMAS-built hospital funded by Holy Land underscores the dilemma associated with charitable giving in this war-torn region.)

In sum, while charities and other financial entities may move money to terrorists, U.S. efforts to shut off this flow have caused controversy. In the view of some observers, closing down entire enterprises that fill social needs in poor countries in order to keep some funds out of terrorists' hands carries excessively high political and diplomatic costs. No simple solutions may exist to this apparent conflict. However, various "damage control" measures have been proposed to increase transparency of charities' operations and reduce their vulnerability to freezing actions. These include requiring charities to list their donors, to specify exactly how their funds are used, to reveal the names of their directors, and to disclose financial links to other charitable organizations. Another proposal is to treat charities under existing legislation (the 1970 Bank Secrecy Act and the 2001 USA PATRIOT Act) as financial institutions subject to money laundering risk; charities would then be required to submit Suspicious Activity Reports, establish internal audit procedures, and submit to federal examiners like, say, banks, insurance companies, and hedge funds.[90]

More regulatory oversight might afford officials the chance to indict and prosecute individuals (or branches) within charities that are disbursing funds to terrorists, while preserving the financial situation of the organization as a whole. The United States has proposed to other countries, including Saudi Arabia, that they set up government bodies to better monitor and control charities, so the idea seems to be gaining currency. Saudi Arabia itself has announced plans to set up such a government agency. [91]To be sure, wealthy donors who want to support al Qaeda terror bombers need not use charities as conduits for their funds.[92] Yet increasing

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[88] *The Holy Land Foundation for Relief and Development Plaintiff v. John Ashcroft et. al. Defendants.* "Defendants' Statement of Material Facts as to Which There Is No Genuine Issue." U.S. District Court for the District of Columbia, Civil Action no. 02-00442, May 31, 2002, p. 23.

[89] HLFRD Annual Report, p. 7.

[90] On these points see comments by Jonathan Winer, "Hearing on Terrorist Financing," November 20, 2002, pp. 8, 14; "Indict Individuals, Not Charities"; Emerson testimony, p. 12,

[91] Karen de Young "Saudis Detail Steps on Charities." *Washington Post*, December 3, 2002 pp. A1, A19.

[92] Most funds that supported the September 11 terrorist attacks appear not to have come by way of charities or other NGOs, but rather to have been transferred directly to the hijackers

(continued...)

regulatory scrutiny could both diminish charities' role in terrorist finance and allow legitimate funding of projects to proceed, which are the principal points at issue here. Recently, the Treasury Department issued "voluntary best practices" guidelines for charities in response to requests from American Muslim communities who reported reductions in charitable giving and apprehensions among charitable donors as a consequence of Treasury's blocking actions; whether these guidelines will provide sufficient protection to charities, though, remains to be seen.[93]

A more difficult problem is reconciling the different U.S. and Middle Eastern conceptions of what constitutes terrorist activity. The more encompassing U.S. definition, which reflects U.S. policy in the Israeli-Palestinian conflict as well as widespread domestic abhorrence of violence directed against civilians, clearly is at odds with that of much of the Islamic world.[94] The rather egregious fund-raising campaigns in Persian Gulf states in support of families of Palestinian "martyrs," including suicide bombers, epitomizes these conflicting perceptions. A possible U.S. strategy in this situation would be to pursue the campaign against terror finance on different levels, publicly asserting opposition to terrorism in any form while privately seeking agreement with Saudi Arabia and other involved states on ways to curb flows of funds to al Qaeda. Even with a limited diplomatic agenda, though, obtaining meaningful cooperation against terror may prove to be an uphill battle.[95]

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[92] (...continued)
by Middle Eastern contributors. Recent news reports suggest that a humanitarian donation by the wife of the Saudi Arabian ambassador to the United States and a member of the royal family may indirectly and without her knowledge have helped pay living expenses of two of the September 11 hijackers. See FBI "Financing of Terrorism;" Kevin McCoy and Dennis Cauchon "The Business Side of Terror: Al Qaeda Network Runs Like Fortune 500 Firm: USA Today October 16, 2001 p.B.1; and author interview with U.S. terrorism finance expert, September 6, 2002; Susan Schmidt and Mike Collier, "FBI Probes Donation from Saudi," *The Washington Post*, November 24, 2002, pp. A1, A10.

[93] Treasury Department, Office of Public Affairs "Testimony of Jimmy Gurule before the Senate Judiciary Committee." November 20, 2002. p. 6

[94] See, for example, Simon Houston, "Telethon of Terror," *Scottish Daily Record*, April 24, 2002.

[95] According to recent news reports, U.S. frustration with the current level of cooperation is increasingly apparent. *The Washington Post*, for example, states that the Bush Administration has crafted an interagency plan "designed to force Saudi Arabia to crack down on terrorist financiers within 90 days or face unilateral U.S. action." U.S. officials have not disclosed the nature of the unilateral action that might be taken. In a White House briefing, Press Secretary Art Fleischer said that President Bush "believes that Saudi Arabia has been a good partner in the war against terrorism. But even a good partner like Saudi Arabia can do more..." Yet in a speech in Mexico City, Secretary of State Colin Powell noted that despite Saudi funding of charitable foundations that may have links to terror, "we should not go to the point where we rupture relations with a country that is a good friend of the United States for many years and a strategic partner," suggesting differences within the Administration on this issue. See Diana Milbank and Jeff Kessler. "Bush Aides: Saudis Can Do More to Finance Terror." *The Washington Post*, November 27, 2002 p.A5 and Douglas Farah. "Saudis Face U.S. Demand on Terrorism" Ibid. November 26, 2002 pp A1, A24.