

Emerging Thinking from the FATF on Proliferation Finance

Including Linkages with Export Control

Charles M. Ott
United States Department of the
Treasury

Financial Action Task Force (FATF)

- Inter-governmental body for the development & promotion of policies to combat money laundering & terrorist financing
- Established in 1989 by the G-7
- Evolving mandate
 - Drug money laundering
 - All serious crimes money laundering
 - Terrorist Financing
 - Proliferation Finance as of April 2008

Financial Action Task Force (FATF) (continued)

- Known for its 40 Recommendations and 9 Special Recommendations, commonly called the 40+9
- Conducts rounds of mutual evaluations of its members
- Current membership
 - 32 countries and territories
 - 2 regional organizations
- FATF-Style Regional Bodies

FATF and Proliferation Finance

- FATF work on proliferation finance has reflected/complemented UN Security Council concerns
- Security Council Resolutions
 - UNSCR 1540 (WMD)
 - UNSCRs 1695 & 1718 (DPRK)
 - UNSCRs 1737, 1747 & 1803 (Iran)

FATF Guidance & UNSCRs

One Caveat

- Keep in mind that the FATF Guidance regarding proliferation finance is not binding & not directly related to any of the 40+9 Recommendations
- Not relevant to the FATF mutual evaluation process

FATF Proliferation Finance The Initial Guidance

- First Guidance issued in June, 2007
- Speaks to a range of UNSCRs. This Guidance is designed to assist jurisdictions in implementing:
 - Targeted financial sanctions; and,
 - Activity based financial prohibitions.
- Also established a framework for further study and work with the UN 1540 Committee

FATF Guidance of October 2007 (Iran & Financial Prohibitions)

- Related to UNSCR 1737 and its activity-based financial prohibitions
- These are prohibitions on providing Iran certain financial services
- Advises that such prohibitions should complement and not duplicate export control regimes
- Encourage financial institutions to apply enhanced scrutiny for high risk customers and transactions

FATF Guidance of October 2008 (Dealing with Iranian Banks)

- Aims to assist jurisdictions in their implementation of the financial provisions of UNSCR 1803
- Specifically, to exercise vigilance over financial institutions in their dealings with Iranian banks – particularly Bank Melli & Bank Saderat

FATF Typology Report

June 2008

- A milestone work which:
 - Assesses the threat
 - Identifies measures to combat proliferation finance in UNSCR context
 - Offers 18 case studies
 - Provides indicators of suspect transactions
 - Provides red flags in trade finance
 - Outlines elements of export control systems

FATF Typology Report (continued)

- Concludes by proposing four issues:
 - *Legal systems* – explicit criminalization vs. reliance on complicity provisions
 - *Preventative measures* – relevance of existing AML/CFT measures
 - Awareness – outreach and education
 - *Investigation* – Financial information aiding investigations/prosecutions

FATF & Proliferation Finance

Current State of Play

- Three sets of guidance issued as well as a typologies report
- The FATF has in place a Project Team, established in October 2008, to continue work in this area.
- The Project Team is generally considering the four issues identified in the conclusion of the Typology Report.
- Goal: To develop policy options

FATF & Proliferation Finance

Current State of Play (continued)

- Project Team held a meeting in London in April of 2009 to hear from:
 - Export control authorities; and,
 - Financial institutions.
- Intends to hold a similar meeting in the near future
- Meanwhile, the Project Team is reporting to the FATF plenary this week in Lyon on its progress and prospects

FATF, Proliferation Finance & Export Control

- Explicit recognition on the part of the FATF that its work should solicit opinions from export control authorities as well as customs, intelligence, law enforcement, financial institutions.
- Typology Report's characteristics of export control regimes
- Ongoing outreach by the Project Team to export control authorities & others

FATF & the UN Security Council's 1540 Committee

- UNSCR 1540 (2004) is an underlying and comprehensive Resolution regarding Security Council concern with WMD proliferation
- Full implementation of UNSCR 1540 includes preventing the financing of proliferation-related activities
- UNSCR 1810 (2008) recognizes this key FATF role while extending the 1540 Committee's mandate
- The Committee stands as a crucial nexus between the FATF and the UN in this area

FATF & Proliferation Finance *Epilogue*

*There is no evil in the atom;
Only in men's souls.*

-Adlai Stevenson
"The Atomic Future"
Speech at Hartford
Connecticut, 1952