

ON THE WARPATH AGAINST TERROR FINANCING

Relevant for: International Relations | Topic: FATF

In October 2001, in the wake of the 9/11 terror attacks in the U.S., the plenary session of a little-known global organisation based in Paris working on money laundering and white collar crimes, the Financial Action Task Force (FATF), met in Washington DC to discuss a radical shift in its goals. It was already very clear to U.S. investigators that the attacks pointed to a terror network around the world from Germany to Karachi, Dubai to London and Kabul, and each thread had to be tracked down through a financial transaction made. More importantly, if the world were to actually fight “global terror”, it would need to not only “follow the money” trail but also hold countries that allowed terrorists safe haven and financial assistance to account.

“The FATF, the leading international body in the global fight against money laundering, will provide its expertise and energy to the related battle against the financing of terrorism,” said Ms. Clarie Lo, the then President of FATF, announcing the shift. The FATF plenary then adopted an eight-point amendment to its charter that added Combating the Financing of Terrorism (CFT) to its tasks on Anti-Money Laundering (AML/CFT).

On September 28, 2001, the UN Security Council had also passed a new resolution (UNSC 1373), which added to a previous 1999 resolution (UNSC 1267), which barred links to any group or individual connected to the Taliban or al-Qaeda. The lists that the UNSC then approved, of hundreds of designated terrorists, soon became one of the important tasks for the FATF, and the reason it is frequently in the news, including most recently this week, when it held its quarterly plenary session to discuss the listings of several countries on its radar, including Pakistan.

Technical prism

The FATF is not a part of the UN system, but it functions out of the Organisation for Economic Cooperation and Development headquarters in Paris, since it was started in 1989 after a decision by members of the G-7 and the European Commission. The FATF runs differently from other multilateral agencies, as its primary focus is on reviewing all actions through a “technical” not a political prism, and frowns upon countries bringing bilateral issues to the forum.

It is not an enforcement agency itself, but a task force composed of 39 member governments who fund the FATF and agree on its mandate. This means that FATF depends on voluntary implementation of its reports by member countries. Also, meetings of the group are carried out behind closed doors, and deliberations are not publicised. In the past, the FATF has penalised countries that have disclosed the contents of its meetings.

Decisions are made by the grouping on a consensus basis, as they conduct reviews of countries on AML/CFT parameters (called “Mutual evaluations”), and then either clear them, or use a “colour coded” reference for them, placing countries in the “increased monitoring” category or the “grey list”, or the “high risk jurisdictions” or “call for action” category, as the “blacklist” is formally known.

At present, only Iran and North Korea are on the blacklist, while 18 countries, including Pakistan, Syria, Yemen, Iceland, Jamaica and Mauritius, are on the grey list.

India became an observer in the grouping in 2006, and was inducted as a full member in 2010. It has faced three rounds of mutual evaluations and cleared them, and faces the fourth round next

year. However, it is Pakistan's performance at the FATF that most often makes news, as Pakistan has been kept on the group's radar since 2008, with one stint on the grey list from 2012-2015, and another beginning June 2018. Presently, it has until October 2019 to show that it is making progress on the FATF's report, that gave it a gruelling 27-point action plan to fulfil, or face a blacklisting, which means severe financial restrictions, a downgrading by credit agencies, and most significantly, possible loan cuts by the World Bank and the International Monetary Fund. Although the Pakistani government, which has sent ministerial-level delegations to each meeting of the FATF to ensure it is let off penalties, says it has now cleared 14 of the 27 points on the list, and has "partially" fulfilled 11 of the remainder, it is still being held strongly to account by the FATF statements, including one particularly stern statement in 2019 that said, "All deadlines given to Pakistan to check terror-funding ended; it failed to complete its action plan in line with agreed timeline."

What is significant is that while Pakistan has clearly disregarded warnings from India, the U.S. and other countries to crackdown on a number of cross-border terror groups that exist on its soil (such as Lashkar-e-Toiba (LeT), Jaish-e-Mohammed (JeM), Tehreek-e-Taliban Pakistan (TTP), the Taliban, al-Qaeda, Haqqani network, etc), it remains eager to avoid the FATF strictures. Government officials in Delhi say the difference is heartening, given India's long and sometimes lone battle over the past few decades in holding Pakistan to account for cross-border terror activities, including in Jammu and Kashmir, the IC-814 hijacking, 2008 Mumbai attacks, the Pathankot airbase attack in 2015, Uri Army base in 2016, and many others.

As a result, in the last few years, while Pakistan has been on the FATF's watch list, governments in Islamabad have gone to some length to demonstrate their compliance with the FATF demands: changing terror laws to include all UN Security Council-designated individuals and organisations, to show progress in the prosecution of leaders of LeT and JeM, including the re-arrest of Mumbai attacks mastermind Hafiz Saeed last year, as well as tightening all banking mechanisms to show that it has frozen funding to all these groups.

India's persistence

Clearly much of it is lip-service, and much more remains to be done, but New Delhi, which sends a team comprising officials from the Ministry of External Affairs, the Ministry of Home Affairs and the Finance Ministry to assist with the Indian delegation in Paris during FATF sessions, has some reason to persist with its efforts in bringing evidence it has on Pakistan's terror links to the world body.

"Unlike others, the FATF follows a principle of ostracism against members who don't comply with its strictures. The impact is amplified if the global banking system then scales up its diligence of each transaction flowing in and out of the jurisdiction named," explained an official aware of the FATF's workings. "It works despite the fact that none of this is based on any law or covenant."

Decision making

Officials say the fact that decisions are taken by consensus in the 39-member group, where any three members can exercise a "veto" on an action, has ensured that the FATF doesn't at present suffer from the same polarisation that has virtually paralysed the UNSC. While there are differences between the two main blocs at the UNSC — the U.S., the U.K., France, and Russia, China — at the FATF as well, the entire grouping's view is made to count.

This is not to mean the organisation isn't affected by geopolitical trends.

The U.S. and other countries have been able to ensure that Iran and North Korea remain on the FATF blacklist, while others are able to avoid the tag as they are able to enlist the political support of enough other countries like China, Russia and Turkey.

With the U.S. striking a deal with the Taliban this year, and efforts to take it off the UN listing, the global body may change the focus of its reviews in jurisdictions that have engaged with the Taliban in the past. It also remains to be seen how the FATF responds to new-age challenges to the global counter-terror and anti-money laundering regime: including bitcoins and cyber currencies, illegal trafficking of wildlife as a source of funding, use of artificial intelligence in terror attacks and biowarfare as part of the wider challenge of the coronavirus pandemic.

For India, however, its focus at the FATF on countering cross-border terror will be a priority for the foreseeable future.

In Focus

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