

UNITED NATIONS
COUNTER-TERRORISM COMMITTEE EXECUTIVE DIRECTORATE
and the
CENTER ON GLOBAL COUNTERTERRORISM COOPERATION
On behalf of the
UNITED NATIONS COUNTER-TERRORISM IMPLEMENTATION TASK FORCE
WORKING GROUP ON TACKLING THE FINANCING OF TERRORISM

**Regional working group meeting on preventing
terrorist abuse of the non-profit sector**

Palacio San Martín, Buenos Aires

14-16 November 2012

KEY OBSERVATIONS OF THE ORGANIZERS

1. The following summarizes and elaborates some of the key findings and recommendations from the “Regional working group meeting on preventing abuse of the non-profit sector for the purposes of terrorist financing,” held in Buenos Aires from 14 to 16 November 2012. The Center on Global Counterterrorism Cooperation prepared this summary. It is not an official or complete record of the proceedings and does not necessarily reflect all the views of the meeting sponsors or participants.
2. The meeting was the fifth in a process to discuss the risk of terrorist abuse of the non-profit sector and to share good practices and foster cooperation in responding to that risk. In light of the diversity of the sector, it is widely accepted that there can be no “one-size-fits-all” approach to regulating non-profit organizations (NPOs). As such, this initiative has been conceived as a dialogue among key international, regional, and national actors, including representatives from the non-profit sector, to share perspectives, and to gather tools and good practices to protect the sector from abuse. This dialogue, in its global component, was initiated with an expert group meeting in London from 18-20 January 2011. The key observations of the organizers from that workshop are attached. The dialogue continued with a regional working group meeting held in Bangkok (March 2011) for states from South and South-East Asia; Auckland (November 2011) for states from the Asia-Pacific; and Nairobi (March 2012) for states from East Africa.¹ Against this background, the Buenos Aires meeting provided the opportunity for experts from Latin America to advance the goals of protecting the non-profit sector from terrorist abuse while preserving its ability to provide public goods.
3. The meeting was convened by the United Nations Counter-Terrorism Committee Executive Directorate and the Center on Global Counterterrorism Cooperation on behalf of the UN Counter-Terrorism Implementation Task Force Working Group on Tackling the Financing of Terrorism. It was supported by the governments of Canada and Switzerland. The Charity Commission of England and Wales collaborated with the

¹ Documents from the previous meetings—including discussion papers and observations of the organizers—are available at: http://www.globalct.org/ourWork_projects_preventing_abuse.php.

organizers and sponsors. Participants included national-level officials with a role in counter-terrorist financing or charities regulation from governments in Latin America, as well as officials from international and regional organizations active in this field. Representatives from the non-profit sector in the region also participated, providing their perspective on the vulnerability of the sector to terrorist abuse and reflecting on the responses of states—and the sector—to the challenges that arise.

Regional context

4. Participants observed that the issue of terrorist financing has not been accorded a high level of priority in parts of the region until recently, when many countries started enacting legislation and regulations to comply with international obligations with regard to countering money laundering and the financing of terrorism. Nevertheless, it was observed that the overall level of compliance with FATF recommendations regarding the financing of terrorism remains very low in this region.
5. Participants in the workshop widely acknowledged the important role that NPOs play in the region as providers of services that states cannot provide by themselves. Therefore, participants emphasized that the primary policy objective in this area should be to strengthen and secure the sector, to build its capacity, and protect it from abuse, with minimum disruption to its many positive contributions.
6. The non-profit sector in Latin America is extremely diverse, both among different countries and within them. Cooperation between the sector and the government was therefore considered essential by many participants.
7. Legislation for the regulation of NPOs is currently being developed and adjusted in many countries. It was noted that legislation and governance practices designed to protect the non-profit sector from different kinds of abuse, such as fraud and money laundering, is also effective in combating the financing of terrorism.
8. In some states in the region, it was noted that financial intelligence units (FIUs) are requiring NPOs to alert them to suspicious activity both with regard to the possibility of money laundering and of terrorist financing. In those jurisdictions, NPOs must periodically submit information to the FIU about their activities and funding as well as donations or other transactions that exceed certain amounts. This monitoring by FIUs is additional to that by organs that are charged exclusively with the supervision of NPOs, and efforts have been deployed to establish a certain degree of cooperation among these different governmental entities.
9. It was noted that globally it is not a common practice to require NPOs to report to FIUs. Some participants questioned whether it was not duplicative to make NPOs “reporting entities” given the fact that most are already required to operate through the formal banking sector and their transactions are thus already subject to monitoring by financial institutions. It was also pointed out that NPOs are already regulated by other government agencies in most instances and that they may not be well equipped to respond to additional reporting requirements designed for financial institutions. It was noted that the

inclusion of NPOs as reporting entities was under review in certain jurisdictions and may be reversed.

10. It was noted that in some jurisdictions different state entities are tasked with registering, monitoring, and supervising the sector. In some cases, participants observed a lack of coordination and centralized authority. In countries where legislation regarding NPOs has already been enacted, participants stressed that there is a need to ensure effective implementation and functioning of existing mechanisms.
11. Outreach and dialogue with the non-profit sector were considered of vital importance for effective prevention of terrorist financing and money laundering.

Best practices and ongoing challenges

12. There was broad consensus that the issue of the prevention of money laundering and the financing of terrorism requires the cooperation and participation of all parties, e.g., FIUs, law enforcement, prosecutors, the judiciary, the financial sector, and the non-profit sector. Since this is a relatively new issue in this region, the mechanisms and modalities for such cooperation are still under development in most countries; however, there seems to be already some measure of dialogue in place.
13. Participants acknowledged the need to assess the risk of terrorist abuse of the non-profit sector throughout the region as a crucial first step towards preventing such abuse. In some countries, there are already activities under way to define possible vulnerabilities of the NPO sector, but these evaluations have not yet been finalized.
14. Participants stressed that regulatory responses to the risk should be guided by the principle of proportionality. They should seek to preserve and encourage the dynamism of the sector while mitigating the vulnerability of the sector to terrorist abuse. This may entail the utilization of risk assessment tools, which also enable regulators to deploy limited resources most effectively.
15. The need for cooperation between state regulators and the non-profit sector was acknowledged by all parties and, in some jurisdictions, such cooperation is already under way. Some states, it was noted, have formally engaged with the NPO sector in order to better understand it and to ensure the participation of NPOs in the formulation of the measures aimed at protecting the sector. There is, however, a long way to go with regard to a fluid exchange of information and opinions between the government and the NPO sector.
16. Most governments, it was noted, have recently started keeping records of NPO registration at the local or at the national level as a first step towards their regulation. While registration is normally not compulsory, many NPOs seek to be included in these registries as a way of signaling their intention to adhere to regulations and to be perceived as a transparent and trustworthy organization by potential donors and, in some countries, as a way of qualifying for tax exemptions.

17. Participants stressed the importance of sharing information with NPOs about the nature and extent of the risk of abuse of the sector. Given the recent history of the region, many NPOs are wary of being subject to close scrutiny by governments. It is therefore crucial to raise awareness about the advantages of regulation. In this regard, the establishment of mechanisms for genuine cooperation was mentioned as a way to overcome the initial mistrust of the NPO sector towards the government and to strengthen ties between them.
18. Regional and international ties and mechanisms for cooperation among FIUs were reported by the participants as very strong in Latin America. However, there were some challenges with regard to cooperation with entities outside the region and between NPO regulators within and outside the region. It was noted that regulators do not interact directly with their counterparts in other countries. The possibility of diagonal cooperation, for example between regulators in one country and law enforcement in another, was also mentioned, but that too was not commonly observed. It was noted that international cooperation in the fight against terrorist financing was still being developed and met with challenges related to the differences in national legislation and restrictions on the kind of information that could be provided.

Perspectives from the NPO sector

19. NPO representatives stressed the importance of outreach and dialogue between the non-profit sector and the government. Consultative mechanisms, where they exist, are reported to still be in the initial stages, so there is much room for development. Both state and non-profit representatives expressed their willingness to engage in a more constructive dialogue. Such interaction, it was noted, is crucial to building an effective regulatory mechanism, since NPOs possess an in-depth knowledge of the sector that the state cannot obtain in any other way and which is crucial to evaluate the sector's vulnerabilities and the main threats to which it is exposed. NPOs can also generate relevant information for governments regarding terrorist financing.
20. In that regard, participants stressed that NPOs are partners, not suspects, in the fight against money laundering and the financing of terrorism. NPO representatives stressed repeatedly their organizations' willingness to cooperate in this regard in order to defend themselves, their workers, and their good names from abusive and fraudulent practices, as well as, in some cases, from being subject to violence by armed groups.
21. Accountability and transparency, it was noted, should be the primary goals of regulation of the nonprofit sector and were recognized as key principles on which to base cooperation between the state and the non-profit sector. NPO representatives acknowledged that regulation and making information about their activities and financing publically available can have important reputational benefits and help to improve public confidence in the sector.
22. NPO representatives highlighted the importance of proportionality in the measures adopted by states to regulate non-profit organizations. The first step in the development

of such a regulatory response should be awareness-raising and training, as opposed to the application of a punitive and controlling approach.

23. In some cases, civil society has started implementing self-regulation practices to protect itself and to give publicity to its legitimate acts, increasing its level of transparency both towards the government and towards the public in general. Some NPO representatives spoke of the need for active, self-regulated accountability practices, coordinated with legal requirements.
24. A few representatives expressed concern about the possibility that regulations could be used by the government to influence NPOs for political or other motives. The need for a transparent regulatory mechanism was therefore stressed, and government representatives emphasized the need to raise awareness about the reputational benefits of regulation for NPOs.
25. Several NPO representatives expressed concern about the cost of complying with regulations. The NPO sector is very diverse, and while a few organizations have clearly defined structures and a reasonable amount of resources for their activities, others are very small operations with limited capacities. In a difficult economic climate such as the current one, NPOs stressed that increases in regulatory and reporting burdens in many cases reduce the amount of resources they are able to devote to their core social functions.

Future steps

26. The Buenos Aires meeting provided an opportunity for state and non-profit representatives to openly exchange views on the challenges and opportunities that the region faces in countering the financing of terrorism. It also served to highlight the good practices that are already being developed in the region, as well as to identify possible future measures to reduce the vulnerability of the non-profit sector to terrorist abuse.
27. Another meeting at the regional level is being planned for early 2013, and the process is to be concluded in New York later that year. The findings elaborated here will inform that meeting and will be reflected in the final report of the process.

**Expert working group meeting on preventing abuse of the
non-profit sector for the purposes of terrorist financing**

*Lancaster House, London
18-20 January 2011*

Summary of Key observations of the Organizers

- Terrorists raise and move funds in diverse ways. Across different sectors of the economy, terrorists seek to abuse legitimate organizations for operations and support. Non-profit organizations (NPOs) are vulnerable to such abuse by terrorists. The primary **policy objective** in this area should be to strengthen and secure the sector, to build its capacity, and protect it from abuse, with minimum disruption to its many positive contributions.
- In many cases NPOs already take strenuous efforts to ensure that they are not open to abuse through their own systems and procedures. Governments can learn from this experience when developing new frameworks for regulating the sector and should involve NPOs in developing new laws and regulations that affect the sector.
- Best practice approaches to NPO regulation emphasize **proportionality**. That is, they seek to preserve and encourage the dynamism of the sector while mitigating the vulnerability of the sector to terrorist abuse. This may entail the utilization of **risk assessment** tools, which also enable regulators to deploy limited resources most effectively.
- **Knowledge of the sector** is critical in regulating NPOs. The sector is remarkably diverse. NPOs have strong incentives to abide by norms of good governance. Within the sector, several initiatives have emerged to improve transparency and accountability, and to reduce fraud and corruption. These are often compatible with the recent emphasis on counter-terrorist financing.
- Different frameworks for regulating the NPO sector can be found in different regions and different jurisdictions. There can be no one-size-fits-all approach in preventing the abuse of NPOs. Some governments utilize multiple **regulatory tools** including registration and reporting requirements which provide opportunities to gather information and perform risk assessments. **Outreach** to the sector is critical to both raise awareness and underscore that NPOs are partners in this process.
- Within governments, several bodies are involved in preventing the abuse of NPOs. **Law enforcement** agencies have an important role in detecting, investigating, and disrupting abuse. Information sharing among regulators, financial intelligence units (FIUs), law enforcement, and prosecutors is vital as cases move from detection to investigation and prosecution. Different governments have evolved different mechanisms for **interagency cooperation**.
- At present, levels of compliance with **international standards** (especially the Financial Action Task Force's [FATF] Special Recommendation VIII) are low. Many states have yet to review their non-profit sector. Relatedly, while there are impediments to **international cooperation** at present, there may be opportunities to consider new mechanisms in the future.