Issue Brief for Congress

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Terrorism, the Future, and U.S. Foreign Policy

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Rensselaer Lee and Raphael Perl
Foreign Affairs, Defense, and Trade Division

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SUMMARY

International terrorism has long been recognized as a foreign and domestic security threat. The tragic events of September 11 in New York, the Washington, D.C., area, and Pennsylvania have dramatically re-energized the nation's focus and resolve on terrorism. This issue brief examines international terrorist actions and threats and the U.S. policy response. Available policy options range from diplomacy, international cooperation, and constructive engagement to economic sanctions, covert action, physical security enhancement, and military force.

The September 11th terrorist incidents in the United States, the subsequent anthrax attacks, as well as bombings of the U.S.S. Cole, Oklahoma City, World Trade Center in 1993, and of the U.S. embassies in Kenya and Tanzania in 1998, have brought the issue of terrorism to the forefront of American public interest. Questions relate to whether U.S. policy and organizational mechanisms are adequate to deal with both state-sponsored or -abetted terrorism and that undertaken by independent groups.

Terrorist activities supported by sophisticated planning and logistics as well as possible access to unconventional weaponry raise a host of new issues. Some analysts' long-held belief that a comprehensive review of U.S. counterterrorism policy, organizational structure, and intelligence capabilities is needed has now become a mainstream view.

U.S. policy toward international terrorism contains a significant military component, reflected in current U.S. operations in Afghanistan and (on a smaller scale) the Philippines and in planned deployments of U.S. forces to Yemen and the former Soviet republic of Georgia. President Bush has expressed a willingness to provide military aid to "governments everywhere" in the fight against terrorism. Important issues for Congress include whether the Administration is providing sufficient information about the long-term goals and costs of its military strategy and whether military force is necessarily an effective anti-terrorism instrument in some circumstances.

A modern trend in terrorism is toward loosely organized, self-financed, international networks of terrorists. Another trend is toward terrorism that is religiously- or ideologically-motivated. Radical Islamic fundamentalist groups, or groups using religion as a pretext, pose terrorist threats of varying kinds to U.S. interests and to friendly regimes. A third trend is the apparent growth of cross- national links among different terrorist organizations, which may involve combinations of military training, funding, technology transfer or political advice.

Looming over the entire issue of international terrorism is a trend toward proliferation of weapons of mass destruction (WMD). For instance Iran, seen as the most active state sponsor of terrorism, has been aggressively seeking a nuclear arms capability. Iraq is thought to be stockpiling chemical and biological agents, and to be rebuilding its nuclear weapons program. North Korea recently admitted to having a clandestine program for uranium enrichment. Also, indications have surfaced that the Al Qaeda organization attempted to acquire chemical, biological, radiological and nuclear weapons. As a result, stakes in the war against international terrorism are increasing and margins for error in selecting appropriate policy instruments or combinations of them to prevent terrorist attacks are diminishing correspondingly.

MOST RECENT DEVELOPMENTS

An audiotape attributed to Osama bin Laden was broadcast over Qatar-based al Jazeera television on November 12. The tape praised a string of recent terrorist attacks, including the Bali bombing and the hostage-taking in Moscow; comparing President George Bush to a "modern-day Pharaoh," it also promised retribution for military intervention in Iraq.

The bombing of an Israeli-owned resort hotel in Mombasa, Kenya, on November 28 killed 13 tourists plus 3 suicide bombers. Almost simultaneously, 2 shoulder-launched missiles fired by terrorists narrowly missed an Israeli aircraft taking off from Mombasa for Tel Aviv. A statement of December 2 on the Internet in the name of "The Political Office of the al Qaeda Jihad Organization" claimed responsibility for the attacks.

The Washington Times on December 4 reported the leader of the Lebanese-based Islamic group Hizballah, Sheikh Hassan Nasrallah, as saying at a rally in Lebanon's Bekaa Valley that "Martydrdom operations-suicide bombings-should be exported outside Palestine" and that "I encourage Palestinians to take suicide bombings worldwide."

According to a CIA report released in January 2003, "Documents and equipment recovered from al Qaeda facilities in Afghanistan show that bin Laden has a more sophisticated biological research program than previously discovered." The report also stated: "We assess terrorist use of radiological dispersal devices to be a highly credible threat."

BACKGROUND AND ANALYSIS

September 11th and Aftermath

On September 11, 2001, in an apparently well-financed/coordinated attack, hijackers rammed jetliners into each of the New York World Trade Center's Towers and ultimately collapsed them. A third hijacked airliner plowed into the Pentagon and a fourth hijacked airliner crashed near Pittsburgh, raising speculation that a related mission – aimed at the Capitol or the White House – had failed. In the absence of a final death toll from New York City, the U.S. State Department's *Patterns of Global Terrorism 2001* estimates that approximately 3,000 persons died in the attacks, including nationals of 78 different countries in the destruction of the World Trade Center alone. A study by the New York City Partnership and Chamber of Commerce (November 2001, revised February 2002) calculates the direct and indirect economic costs of the destruction of the World Trade Center at $83 billion in 2001 dollars.

The Administration's response to the September 11 events was swift, wide-ranging and decisive. Administration officials attributed responsibility for the attack to Osama bin Laden and the Al Qaeda organization. A full-scale campaign was launched, using all elements of national and international power, to go after Al Qaeda and its affiliates and support structures. The campaign involved rallying the international community, especially law

enforcement and intelligence components, to shut down Al Qaeda cells and financial networks. A U.S. military operation, Operation Enduring Freedom, was launched in early October 2001 against the Taliban regime – which had harbored Al Qaeda since 1996 – and against Al Qaeda strongholds in Afghanistan. A total of 136 countries offered a range of military assistance to the United States, including overflight and landing rights and accommodations for U.S. forces. As a result of Operation Enduring Freedom, the Taliban was removed from power, all known Al Qaeda training sites were destroyed, and a number of Taliban and Al Qaeda leaders were killed or detained. In March 2002, ground troops from the United States and five other nations commenced Operation Anaconda, designed to raid remote Al Qaeda hiding places and to crush the remnants of the organization. U.S. military and intelligence forces in Afghanistan and elsewhere reportedly have killed or captured more than one-third of the al Qaeda leadership. Yet top al Qaeda leaders Osama bin Laden and Ayman al Zawahiri as well as the Taliban's Mullah Mohammed Omar apparently remain at large.

 Signs point to a widening war against terrorism. In addition to the 7,000 U.S. troops currently in Afghanistan, U.S. forces have been dispatched to Yemen, the Philippines and the former Soviet Republic of Georgia to train local militaries to fight terrorists. The Administration is seeking congressional approval to use U.S. military aid to Colombia to support the Colombian government's "unified campaign against narcotics trafficking terrorist activities and other threats to its national security." Until now, such assistance has been restricted to supporting counterdrug operations in Colombia.

In the context of this campaign the United States has stepped up intelligence-sharing and law enforcement cooperation with other governments to root out terrorist cells. It is increasingly apparent that such cells are operating not just in places where they are welcomed or knowingly tolerated but in many other places, including Western Europe and the United States. (Much terrorist fund-raising and banking activity occurs in Western countries.) As of late November-early December 2002, an aggressive international law enforcement effort had resulted in detention of 3,000 terrorists and their supporters in more than 100 countries and in freezing of $121 million in terrorists' assets in some 600 bank accounts around the world, including $36 million in the United States alone.

An encouraging sign in the anti-terrorism struggle has been the evident willingness of certain state sponsors of terrorism to distance themselves from extremist groups that they had supported in the past or from international terrorism generally. For example, Libya has been "sending signals" that it wants to get out of the terrorism business and has offered to compensate the families of the victims of the bombing of Pan Am flight 103; Sudan has arrested Al Qaeda members and "by and large" shut down Al Qaeda training camps on its territory; and both Libya and Sudan have offered to share intelligence information on Al Qaeda's activities with U.S. authorities. Also, almost exactly 2 months after the September 11 attack, North Korea signed two international conventions against terrorism, albeit with reservations: the 1999 International Convention against the Financing of Terrorism and the 1979 International Convention against the Taking of Hostages.

Background

Until recently, terrorism has been primarily viewed as an international and foreign policy issue. U.S. policies, citizens, and interests are prime targets for international terrorism

— in 2001, approximately 63% of all terrorist incidents worldwide were committed against U.S. citizens or property compared to 23 % in 1995, according to the U.S. Department of State — and the vast majority of those acts have taken place on foreign soil. State Department data indicate that between 1991 and 2001 100 American nationals were killed in terrorist attacks abroad. However, U.S. public perception of terrorism as primarily an overseas issue was dramatically changed by the catastrophic events of September 2001.

On May 21, 2002 the State Department released its annual report on trends in international terrorism, *Patterns of Global Terrorism 2001*. According to the report, a total of 3,547 people were killed in international terrorist incidents in 2001, the highest death toll from terrorism ever recorded. Most of the deaths were associated with the September 11 attacks. In terms of the number of attacks by region, Latin America ranked first, as in previous years; Asia ranked second; Africa third; and the Middle East fourth. Almost 90% (191) of the 219 attacks against U.S. citizens or interests occurred in Latin America, and most of these (178) were bombings of a multinational oil pipeline by leftist guerrillas in Colombia.

International terrorism is recognized as a threat to U.S. foreign and domestic security. Both timing and target selection by terrorists can affect U.S. interests in areas ranging from preservation of commerce to nuclear non-proliferation to the Middle East peace process. Some analysts believe that radical Islamic groups seek to exploit economic and political tensions in Saudi Arabia, Egypt, Indonesia, Russia, Jordan, Pakistan and other countries. Because of their avowed goal to overthrow secular regimes in certain countries with large Moslem populations, such groups are seen as a particular threat to U.S. foreign policy objectives.

Patterns 2001 still lists 7 state sponsors of terrorism: Cuba, Iran, Iraq, Libya, North Korea, Sudan and Libya. The report indicated that, of the 7, Libya and Sudan were closest to being taken off the terrorism list. *Patterns* also noted that Iran, North Korea, and Syria have "made limited moves to cooperate with the international community's campaign against terrorism." Syria, for instance, cooperated with U.S. investigations of Al Qaeda and other terrorist groups and Iran provided certain support to the U.S.-led effort to topple the Taliban and to install the interim government of Hamid Karzai in Afghanistan. Yet Iran is still described in *Patterns* as the most active state supporter of terrorism and both Iran and Syria continue to support groups such as HAMAS and Hizballah that oppose the Middle East peace process. Hopes apparently are diminishing in Washington that Iranian President Mohammed Khatami and his reformist allies can bring about major policy shifts in Iran. Mention also can be made of Yemen and Lebanon which, though not on the terrorism list, allow several terrorist groups to operate legally on their territory. Furthermore, Lebanon views the Hizballah organization's actions that target Israel as legitimate, deeming them "resistance activities."

With respect to Iraq and North Korea, U.S. security concerns focus more on these states' WMD programs than on their support for terrorist movements. Congress in October 2002 authorized the Bush Administration to use force against Iraq to defend U.S. national security interests and to enforce relevant U.N. Security Council resolutions regarding Iraq. Iraq declared to U.N. weapons inspectors in December that it has no weapons of mass destruction; yet Bush Administration officials are skeptical and U.S. military intervention to oust the Saddam Hussein regime remains a possibility. Critics of intervention fear that such

a step could create rifts with U.S. allies and detract from the international fight against Al
Qaeda. In the case of North Korea, a 1994 agreement with the United States to freeze
nuclear weapons development appears to be unraveling. The North recently admitted to
having an uranium enrichment program and also announced that it will reactivate a nuclear
reactor facility reportedly capable of producing enough plutonium for 1 to 2 bombs each
year.

Definitions

There is no universally accepted definition of international terrorism. One definition
widely used in U.S. government circles, and incorporated into law, defines *international
terrorism* as terrorism involving the citizens or property of more than one country.
Terrorism is broadly defined as politically motivated violence perpetrated against
noncombatant targets by subnational groups or clandestine agents. For example, kidnaping
of U.S. birdwatchers or bombing of U.S.-owned oil pipelines by leftist guerrillas in Colombia
would qualify as international terrorism. A *terrorist group* is defined as a group which
practices or which has significant subgroups which practice terrorism (22 U.S.C. 2656f).
One shortfall of this traditional definition is its focus on groups and its exclusion of
individual ("lone wolf") terrorist activity which has recently risen in frequency and visibility.
To these standard definitions which refer to violence in a traditional form must be added
cyberterrorism. Analysts warn that terrorist acts will now include more sophisticated forms
of destruction and extortion such as disabling a national computer infrastructure or
penetrating vital commercial computer systems. Finally, the October 12, 2000 U.S.S. *Cole*
bombing of a U.S. military vessel raises issues of whether the standard definition would
categorize this attack as terrorist, as the Cole may not qualify as a "non-combatant" (see CRS
Report RS20721 on the *Cole* bombing). Though the definition of terrorism may appear
essentially a political issue, it can carry significant legal implications.

Current definitions of terrorism mostly share one common element: politically
motivated behavior. Such definitions do not include violence for financial profit or religious
motivation. However, the growth of international and transnational criminal organizations
and the growing range and scale of such operations has resulted in their use of violence with
financial profit as the driving motivation. Also, the high-profile activities of such groups as
Al Qaeda and Hamas underscore the significance of selective religious ideologies in driving
terrorist violence, or at least providing a pretext. To illustrate: Osama bin Laden issued a
fatwah (edict) in 1998 saying that "all those who believe in Allah and his prophet
Muhammad must kill Americans wherever they find them."

With respect to the international community: International organizations historically
have been unable to agree on a definition of terrorism, since one man's terrorist is often
another man's freedom fighter. Because of this overriding political constraint, countries have
taken the approach of creating networks of conventions, which criminalize specific acts such
as kidnaping, detonating bombs or hijacking airplanes. Still, the 1999 International
Convention for the Suppression of the Financing of Terrorism comes close to a definition,
since according to the text it is a crime to collect or provide funds with the intent of killing
or injuring civilians where the purpose is to intimidate a population or coerce a government.

U.S. Policy Response

Framework

Past Administrations have employed a range of measures to combat international terrorism, from diplomacy and international cooperation and constructive engagement to economic sanctions, covert action, protective security measures, and military force. The application of sanctions is one of the most frequently used anti-terrorist tools of U.S. policymakers. Governments supporting international terrorism (seven such countries are listed by the Department of State) are prohibited from receiving U.S. economic and military assistance. Export of munitions to such countries is foreclosed, and restrictions are imposed on exports of "dual use" equipment such as aircraft and trucks. Presence of a country on the "terrorism list," though, may reflect considerations – such as its pursuit of WMD or its human rights record or U.S. domestic political considerations – that are largely unrelated to support for international terrorism.

Generally, U.S. anti-terrorism policy from the late 1970s to the mid-1990s focused on deterring and punishing state sponsors as opposed to terrorist groups themselves. The passage of the landmark Anti-Terrorism and Effective Death Penalty Act of 1996 (P.L. 104-132) signaled an important shift in policy. The Act, largely initiated by the Executive Branch, created a legal category of Foreign Terrorist Organizations (FTOs) and banned funding, granting of visas and other material support to such organizations. The USA PATRIOT Act of 2001 (P.L.107-56) extended and strengthened the provisions of that legislation. As of October 2002, 35 groups were designated by the Secretary of State as FTOs. The Bush Administration's global diplomatic, military and economic assault against Al Qaeda and its affiliates epitomized the new U.S. focus on rooting out and dismantling self-supporting terrorist entities. At the same time, the Clinton and Bush Administrations have tried selectively to improve relations with state sponsors. The State Department's *Patterns 2000* contained promising language about the possible removal of North Korea and Sudan from the terrorism list, and *Patterns 2001* indicates that Libya and Sudan have made significant headway in renouncing terrorism.

Dilemmas

In their desire to combat terrorism in a modern political context, nations often face conflicting goals and courses of action: (1) providing security from terrorist acts, i.e., limiting the freedom of individual terrorists, terrorist groups, and support networks to operate unimpeded in a relatively unregulated environment versus (2) maximizing individual freedoms, democracy, and human rights. Efforts to combat terrorism are complicated by a global trend towards deregulation, open borders, and expanded commerce. Particularly in democracies such as the United States, the constitutional limits within which policy must operate are often seen by some to conflict directly with a desire to secure the lives of citizens against terrorist activity more effectively. This issue has come to the fore in the post-September 11 period as the federal government has acquired broad new powers to deal with threat of internal terrorism.

Another challenge for policymakers is the need to identify the perpetrators of particular terrorist acts and those who train, fund, or otherwise support or sponsor them. As the

international community increasingly demonstrates its ability to unite and apply sanctions against rogue states, states will become less likely to overtly support terrorist groups or engage in state sponsored terrorism. The possibility of covert provision of weapons, financing, and logistical support nonetheless remains, and detecting such transfers will require significantly increased deployment of U.S. intelligence assets in countries and zones where terrorists operate.

Today the U.S. policy focus is on terrorist organizations such as Al Qaeda and affiliated networks, and state supporters. But in the future, it may be that new brands of terrorists will emerge: individuals who are not affiliated with any established terrorist organization and who are apparently not agents of any state sponsor. The terrorist Ramzi Ahmed Yousef, who is believed to have masterminded the 1993 World Trade Center bombing, apparently did not belong to any larger, established, and previously identified group, although he may have had some ties to Al Qaeda operatives. Also, the worldwide threat of individual or "boutique" terrorism, or that of "spontaneous" terrorist activity, such as the bombing of bookstores in the United States after Ayatollah Khomeini's death edict against British author Salman Rushdie, appears to be on the increase. Thus, one likely profile for the terrorist of the 21st century may well be a private individual not affiliated with any established group, but drawing on other similarly-minded individuals for support. Because U.S. international counter-terrorism policy framework has been sanctions-oriented, and has traditionally sought to pin responsibility on state sponsors, changes in policy are being considered and implemented.

Another problem surfacing in the wake of the number of incidents associated with Islamic fundamentalist groups is how to condemn and combat such terrorist activity, and the extreme and violent ideology of specific radical groups, without appearing to be anti-Islamic in general. A desire to punish a state for supporting international terrorism may also conflict with other foreign policy objectives involving that nation.

Continuing Terrorist Threats

Although a number of states may be rethinking their sponsorship of terrorist organizations, such organizations are establishing operating bases in countries that lack functioning central governments or that do not exercise effective control over their national territory. Al Qaeda continues to seek new sanctuaries and base areas – most recently in mostly Moslem Indonesia, according to press reports. In general, gray area "terrorist activity not functionally linked to any supporting or sponsoring nation" represents an increasingly difficult challenge for U.S. policymakers.

Terrorists increasingly have been able to develop their own sources of financing, which range from NGOs and charities to illegal enterprises such as narcotics, extortion, and kidnaping. Colombia's Revolutionary Armed Forces of Colombia (FARC) is said to make hundreds of millions annually from criminal activities, mostly from taxing or participating in the narcotics trade. Bin Laden's Al Qaeda depends on a formidable array of fundraising operations including Muslim charities and wealthy well-wishers, legitimate-seeming businesses, and banking connections in the Persian Gulf, as well as various smuggling and fraud activities. Another source of support is bin Laden's personal wealth, estimated by some at $280 to $300 million.

Furthermore, indications have surfaced of cross-national links among different terrorist organizations. For example, reports are rife that Chechen rebels were trained in Al Qaeda terrorist camps in Afghanistan and even in Chechnya itself. Al Qaeda funding reputedly helped establish the Islamic separatist group Abu Sayyaf in the Philippines. Some intelligence reports suggest the possibility of some mid- and low-level cooperation between Al Qaeda and the Lebanese Hizballah in such areas as weapons smuggling, money laundering and training for terrorist operations. In the Western Hemisphere, members of the Provisional Irish Republican Army (IRA) are suspected of training FARC guerrillas in use of explosives to conduct urban terrorism and also of using Colombia as an experimental base for development of new weaponry.

Looming over the entire issue of international terrorism is an apparently inexorable trend toward proliferation of weapons of mass destruction (WMD), or the means to make them. All of the 7 officially designated state sponsors of terrorism, Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria, also have known or suspected programs for the development of nuclear, chemical or biological weapons. (Suspicions regarding Cuba are controversial.) Four of the states – Iran, Iraq, Libya and North Korea – have nuclear weapons programs at varying stages of development. Whether listed states have actually supplied terrorists with WMD wherewithal is not known with certainty; yet the possibility of covert transfers or leakages clearly exists. Furthermore terrorists have attempted to acquire WMD means through their own resources and connections. For instance, the Aum Shinrikyo cult was able to procure technology and blueprints for producing Sarin, a deadly nerve gas, through official contacts in Russia in the early 1990s. The gas was subsequently used in an attack on the Tokyo subway in March 1995 that killed 12 people and injured 5,000.

Media reports of varying credibility suggest that Osama bin Laden has joined the WMD procurement game. One source cites "long discussions" between bin Laden and Pakistani nuclear scientists concerning nuclear, chemical and biological weapons. Another claims that a bin Laden emissary tried to buy radioactive waste from an atomic power plant in Bulgaria. A U.S. federal indictment handed down in 1998 charges that bin Laden operatives sought enriched uranium on various occasions. Other accounts credit Al Qaeda with attempting to purchase portable nuclear weapons or "suitcase bombs" through contacts in Chechnya and Kazakhstan. Furthermore, U.S. government sources in March 2002 reported discovery of a partly-constructed laboratory in Afghanistan, in which Al Qaeda may have planned to develop biological agents, including anthrax. In April 2002, a captured Al Qaeda leader, Abu Zubaydah, told American interrogators that the organization had been working aggressively to build a so-called "dirty bomb," in which conventional explosives packaged with radioactive material are detonated to spread contamination and sow panic.

Policy Tools

Instruments used by the U.S. government to combat international terrorism are described briefly below.

Diplomacy/Constructive Engagement. Use of diplomacy to help create a global anti-terror coalition is a central component of the Bush Administration response to September 11 events. To date, the United Nations (U.N.) Security Council has condemned the attacks in a unanimous declaration, and NATO Secretary General George Robertson has characterized the attacks, in terms of Article V (mutual defense provisions) of the NATO

Treaty, as an attack on all members of the NATO alliance. Some argue that diplomacy holds little hope of success against determined terrorists or the countries that support them. However, in most cases, diplomatic measures are considered least likely to widen the conflict and therefore are usually tried first.

In incidents of international terrorism by subnational groups, implementing a policy response of constructive engagement is complicated by the lack of existing channels and mutually accepted rules of conduct between governmental entities and the group in question. In some instances, as was the case with the PLO, legislation may specifically prohibit official contact with a terrorist organization or its members. Yet for groups that are well-entrenched in a nation's political fabric and culture, engaging the group might be preferable to trying to exterminate it. Increasingly, governments appear to be pursuing policies which involve verbal contact and even direct negotiations with terrorist groups or their representatives. Colombia's on-again, off-again peace process with the Revolutionary Armed Forces of Colombia is one recent example. Some observers, though, are skeptical of the value of engaging with terrorists. As former CIA director James Woolsey has noted, "Increasingly, terrorists don't just want a place at the table, but rather to destroy the table and all sitting there, possibly with weapons of mass destruction."

On a different level, in the wake of the September 11 attacks, the Bush Administration clearly has explored the possibility of enlisting state sponsors of terrorism, such as Libya and Sudan, in a broader Islamic coalition against Al Qaeda and its followers. The United States also has held discussions with Iran concerning formation of a post-Taliban coalition government in Afghanistan. To some critics, though, such initiatives detract from the imperative of taking a principled stand against international terrorism in all its guises.

The media remain powerful forces in confrontations between terrorists and governments. Appealing to, and influencing, public opinion may impact not only the actions of governments but also those of groups engaged in terrorist acts. From the terrorist perspective, media coverage is an important measure of the success of a terrorist act or campaign. In hostage-type incidents, where the media may provide the only independent means a terrorist has of knowing the chain of events set in motion, coverage can complicate rescue efforts. Governments can use the media in an effort to arouse world opinion against the country or group using terrorist tactics. Public diplomacy and the media can be used to mobilize public opinion in other countries to pressure governments to take action against terrorism. An example would be to mobilize the tourist industry to pressure governments into participating in sanctions against a terrorist state.

Economic Sanctions. Sanctions regimes can be essentially unilateral – such as U.S. bans on trade and investment relations with Cuba and Iran – or multilateral, such as that mandated in response to the Pan Am 103 bombing. In the past, use of economic sanctions was usually predicated upon identification of a nation as an active supporter or sponsor of international terrorism. Yet sanctions also can be used to target assets of terrorist groups themselves. On September 23, 2001, President Bush signed Executive Order 13224 freezing the assets of 27 individuals and organizations known to be affiliated with bin Laden's network and giving the Secretary of the Treasury broad powers to impose sanctions on banks around the world that provide these entities access to the international financial system. By late October 2002, according to the U.S. Treasury Department, the freeze list had expanded to include 243 designated financiers of terror. In addition, on September 28, 2001 the U.N.

Security Council adopted Resolution 1373 which requires all states to "limit the ability of terrorists and terrorist organizations to operate internationally" by freezing their assets and denying them safe haven. The Security Council also set up a Counter Terrorism Committee to oversee implementation of Resolution 1373. U.N. Security Council Resolution 1390 of January 16, 2002, obligated member states to freeze funds of "individuals, groups, undertakings and entities" associated with the Taliban and Al Qaeda. As of late November 2002, approximately $121 million in terrorist funds had been frozen worldwide as a result of these initiatives, although only $19 million of these funds have been blocked since January, according to U.S. and U.N. financial data.

The effects of the above-described economic measures, though, are uncertain because much of the flow of terrorist funds takes place outside of formal banking channels (in elusive "hawala" chains of money brokers). Alternatively, a wide variety of international banks in the Persian Gulf is used to manipulate and transfer funds through business fronts owned by Osama bin Laden. Furthermore, much of Al Qaeda's money is believed to be held not in banks but in untraceable assets such as gold and diamonds. Also, some observers have noted that lethal terrorist operations are relatively inexpensive. Current estimates of the cost of carrying out the September 11 attacks range from $300,000 to $500,000.

With respect to nation-states, economic sanctions fall into six categories: restrictions on trading, technology transfer, foreign assistance, export credits and guarantees, foreign exchange and capital transactions, and economic access. Sanctions may include a total or partial trade embargo, an embargo on financial transactions, suspension of foreign aid, restrictions on aircraft or ship traffic, or abrogation of a friendship, commerce, and navigation treaty. Sanctions usually require the cooperation of other countries to be effective, and such cooperation is not always forthcoming. Furthermore, sanctions provide no effective defense against possible clandestine transfers of WMD materials, components, or finished weapons either between states or from states (or entities within them) to terrorists groups.

The President has a variety of laws at his disposal, but the broadest in its potential scope is the International Emergency Economic Powers Act. The Act permits imposition of restrictions on economic relations once the President has declared a national emergency because of a threat to the U.S. national security, foreign policy, or economy. While the sanctions authorized must deal directly with the threat responsible for the emergency, the President can regulate imports, exports, and all types of financial transactions, such as the transfer of funds, foreign exchange, credit, and securities, between the United States and the country in question. Specific authority for the Libyan trade embargo is in Section 503 of the International Trade and Security Act of 1985, while Section 505 of the Act authorizes the banning of imports of goods and services from any country supporting terrorism. (See also CRS Report RS20871, *The Iran-Libya Sanctions Act (ILSA)*.) Other major laws that can be used against countries supporting terrorism are the Export Administration Act, the Arms Export Control Act, and specific items or provisions of foreign assistance legislation.

P.L. 104-132 prohibits the sale of arms to any country the President certifies is not cooperating fully with U.S. antiterrorism efforts. The seven terrorist list countries and Afghanistan are currently on this list. The law also requires that aid be withheld to any nation providing lethal military aid a country on the terrorism list.

Economic Inducements. Possible counter-terrorism initiatives might include efforts to change economic and social conditions that provide a breeding ground for terrorists.   It has been noted that most terrorists worldwide are unemployed or underemployed with virtually nonexistent prospects for economic advancement. Some analysts believe that targeted assistance programs to reduce poverty and ignorance (which might also include supporting secular educational alternatives to the Madrassahs – Islamic religious schools) can make a difference in lifestyles and attitudes and diminish the appeal of extremist groups. A further rationale might be to project a more positive image of the United States in terrorism-prone lands.   Critics, though, argue that severe economic conditions are not the sole or even the main motivational factors driving the emergence of terrorism, stressing that resentment against a particular country or political order and religious fanaticism also are important motivations. Osama bin Laden's large personal fortune and his far-flung business empire would seem to contradict economic deprivation explanations of terrorism. Similarly, all of the 15 Saudi Arabian hijackers implicated in the September 11 attacks were from middle-class families or well-connected ones. The Basque Fatherland and Liberty organization (ETA) in Spain is a relatively well-heeled terrorist organization. Possibly, ambient economic conditions partly explain certain kinds of terrorist behavior in specific situations (such as suicide bombings in Israel), but political factors clearly play a significant role here as well.

Covert Action. Intelligence gathering, infiltration of terrorist groups, and military operations involve a variety of clandestine or so called "covert" activities. Much of this activity is of a passive monitoring nature aimed at determining the strategic intentions, capabilities and vulnerabilities of terrorist organizations. A more active form of covert activity occurs during events such as a hostage crisis or hijacking when a foreign country may quietly request advice, equipment, or technical support during the conduct of operations, with no public credit to be given the providing country. Covert action may also seek to exploit vulnerabilities of terrorist organizations, for example, by spreading disinformation about leaders, encouraging defections, promoting divisions between political and military factions, or exploiting conflicts between organizations.

Many experts believe that the events of September 11 signified an "intelligence failure" of major proportions and that better intelligence on the inner workings of terrorist organizations could have prevented the attack. Past restriction on use of informants to penetrate such organizations was cited as a factor in the failure. Addressing this concern, Section 403 of the Foreign Intelligence Authorization Act of FY2002 (P.L. 107-108) directs the Director of Central Intelligence to rescind 1995 guidelines involving "foreign assets or sources with known human rights violations" and to issue new ones facilitating intelligence-gathering from human sources relating to "indications and warnings of plans and intentions of hostile actors and events."

Some nations have periodically gone beyond monitoring or covert support activities and resorted to unconventional methods beyond their territory for the express purpose of neutralizing individual terrorists and/or thwarting preplanned attacks. Examples of activities might run the gamut from intercepting or sabotaging delivery of funding or weapons to a terrorist group to destroying a terrorist's embryonic WMD production facilities to seizing and transporting a wanted terrorist to stand trial for assassination or murder. Arguably, such activity might be justified as preemptive self-defense under Article 51 of the U.N. charter. On the other hand, it could be argued that such actions violate customary international law.

Nevertheless, a July 1989 memorandum by the Department of Justice's Office of Legal Counsel advises that the President has the authority to violate customary international law and can delegate such authority to the Attorney General level, should the national interest so require.

Assassination is specifically prohibited by U.S. executive order (most recently, E.O. 12333), but bringing wanted criminals to the United States for trial is not. There exists an established U.S. legal doctrine that allows an individual's trial to proceed regardless of whether he is forcefully abducted from another country, international waters, or airspace.

Experts warn that bringing persons residing abroad to U.S. justice by means other than extradition or mutual agreement with the host country, i.e., by abduction and their surreptitious transportation, can vastly complicate U.S. foreign relations, sometimes jeopardizing interests far more important than "justice," deterrence, and the prosecution of a single individual. For example, the abduction of a Mexican national in 1990 to stand trial in Los Angeles on charges relating to torture and death of a DEA agent led to vehement protests from the government of Mexico, a government subsequently plagued with evidence of high level drug related corruption. In November 1994, the two countries signed a Treaty to Prohibit Transborder Abductions. Notwithstanding the unpopularity of such abductions in nations that fail to apprehend and prosecute those accused, the "rendering" of such wanted criminals to U.S. courts is permitted under limited circumstances by a January 1993 Presidential Decision Directive. Such conduct, however, raises prospects of other nations using similar tactics against U.S. citizens.

Although conventional explosives — and innovative use of existing technologies — appear to be the terrorism weapon of choice, the world is increasingly moving into an era in which terrorists may gain access to nuclear, chemical or biological weaponry. Faced with the potential of more frequent incidents and higher conventional casualty levels, or a nuclear or biological attack, the Bush Administration has announced its intention to resort increasingly to covert operations to neutralize such threats.

Rewards for Information Program. Money is a powerful motivator. Rewards for information have been instrumental in Italy in destroying the Red Brigades and in Colombia in apprehending drug cartel leaders. A State Department program is in place, supplemented by the aviation industry, usually offering rewards of up to $5 million to anyone providing information that would prevent or resolve an act of international terrorism against U.S. citizens or U.S. property, or that leads to the arrest or conviction of terrorist criminals involved in such acts. This program contributed to the 1997 arrest of the recently-executed CIA personnel shooter, Mir Amal Kansi, and possibly to the arrest of Ramzi Yousef, architect of the 1993 World Trade Center bombing, in 1995. Recently the bounty for the capture of Osama bin Laden and his aide Ayman al Zawahiri was raised to $25 million, though so far with no result. The program was established by the 1984 Act to Combat International Terrorism (P.L. 98-533), and is administered by State's Diplomatic Security Service. Rewards over $250,000 must be approved by the Secretary of State. The program can pay to relocate informants and immediate family who fear for their safety. The 1994 "Crime Bill" (P.L. 103-322) helps relocate aliens and immediate family members in the United States who are reward recipients. Expanded participation by the private sector in funding and publicizing such reward programs has been suggested by some observers.

Extradition/Law Enforcement Cooperation. International cooperation in such areas as law enforcement, customs control, and intelligence activities is an essential pillar of the Bush Administration antiterrorism policy and response to the September 11, 2001 attacks on America. For example, the stationing of FBI agents overseas (in some 44 countries as of late 2000) facilitates investigations of terrorist crimes and augments the flow of intelligence about terrorist group structure and membership. One critical law enforcement tool in combating international terrorism is extradition of terrorists. International extradition traditionally has been subject to several limitations, including the refusal of some countries to extradite for political or extraterritorial offenses or to extradite their nationals. Also, the U.S. application of the death penalty (eliminated in many countries) for certain crimes can impede extradition in terrorism related cases. The United States has been encouraging the negotiation of treaties with fewer limitations, in part as a means of facilitating the transfer of wanted terrorists. Because much terrorism involves politically motivated violence, the State Department has sought to curtail the availability of the political offense exception, found in many extradition treaties, to avoid extradition. Increasingly, rendition is being employed by the United States as a vehicle for gaining physical custody over terrorist suspects. Where custody has been established, the range of law enforcement instruments includes plea bargaining – offering terrorism suspects lighter penalties in return for information about the inner workings of the target group: membership, organizational structure, weaponry, and finances, for example. Amnesty programs such as those offered in Italy and (at one time) in Colombia can influence terrorists to defect and to inform on others.

Military Force. Although not without difficulties, military force, particularly when wielded by a superpower such as the United States, can carry substantial clout. Proponents of selective use of military force usually emphasize the military's unique skills and specialized equipment. The April 1986 decision to bomb Libya for its alleged role in the bombing of a German discotheque exemplifies use of military force. Other examples are (1) the 1993 bombing of Iraq's military intelligence headquarters by U.S. forces in response to Iraqi efforts to assassinate former President George Bush during a visit to Kuwait; (2) the August 1998 missile attacks against bases in Afghanistan and an alleged chemical production facility, al-Shifa, in Sudan; (3) the successful removal of the Taliban regime in Afghanistan in 2001-2002; and (4) U.S. military operations to help fight terrorists in the Philippines, Yemen, and Georgia.

Successful use of military force for preemptive or retaliatory strikes presupposes the ability to identify a terrorist perpetrator or its state sponsor, as well as the precise location of the group, information that is often unavailable from U.S. intelligence sources. Generally, terrorists possess modest physical facilities that present few high-value targets for military strikes. Some critics have observed that military action is a blunt instrument that can cause foreign civilian casualties as well as collateral damage to economic installations in the target country. According to a *New York Times* report, a "pattern of mistakes" in the U.S. bombing campaign in Afghanistan killed "as many as 400 civilians" in 11 different locations. Others argue that such action inflates terrorists' sense of importance and facilitates their recruitment efforts. A 1999 U.S. study of the sociology and psychology of terrorism states that "counterterrorist military attacks against elusive terrorists may serve only to radicalize large sectors of the Muslim population and damage the U.S. image worldwide." Other disadvantages or risks associated with the use of military force include counter-retaliation and escalation by terrorist groups or their state sponsors, failure to destroy the principal leaders of the organization, and the perception that the United States ignores rules of

international law. In addition, the costs associated with Operation Enduring Freedom (an estimated $1.8 billion a month) and the apparently open-ended nature of the U.S. military commitment in Afghanistan have concerned some observers.

International Conventions. To date, the United States has joined with the world community in developing all of the major antiterrorism conventions. These conventions impose on their signatories an obligation either to prosecute offenders or extradite them to permit prosecution for a host of terrorism-related crimes, including hijacking vessels and aircraft, taking hostages, and harming diplomats. An important convention is the Convention for the Marking of Plastic Explosives. Implementing legislation is in P.L. 104-132. On September 8, 1999, the United States signed the U.N. Convention on the Suppression of Terrorist Bombings; and on January 12, 2000, the U.N. Anti-Terrorism Financing Convention was signed as well. Both these conventions were submitted to the Senate for advice and consent during the 106th Congress and currently remain there.

Potential Tools

An International Court for Terrorism. Many experts have urged that an international court be established, perhaps under the U.N., to sit in permanent session to adjudicate cases against persons accused of international terrorist crimes. The court would have broad powers to sentence and punish anyone convicted of such crimes. Critics point out many administrative and procedural problems associated with establishing such a court and making it work, including jurisdictional and enforcement issues. The lack of an agreed -upon international definition of terrorism also is a complicating factor. An International Court of Justice in the Hague exists, but it deals with disputes between states and lacks compulsory jurisdiction and enforcement powers.

Media Self-Restraint. For some, the term "media self-restraint" is an oxymoron; the sensational scoop is the golden fleece, and dull copy is to be avoided. The media are occasionally manipulated into the role of mediator and often that of publicist of terrorist goals. The publication of the Unabomber's "manifesto" illustrated this. Notably, there have been attempts by the media to impose its own rules when covering terrorist incidents. Standards established by the Chicago *Sun-Times* and *Daily News* include paraphrasing terrorist demands to avoid unbridled propaganda; banning participation of reporters in negotiations with terrorists; coordinating coverage through supervising editors who are in contact with police authorities; providing thoughtful, restrained, and credible coverage of stories; and allowing only senior supervisory editors to determine what, if any, information should be withheld or deferred. Such standards are far from uniformly accepted. In an intensely competitive profession consisting of a multinational worldwide press corps, someone is likely to break the story. On October 11, 2001, it was agreed by five major U.S. news organizations that they would abridge video statements by Osama bin Laden.

Policy Reform

Well before the September 11 events various legislative proposals and Congressionally-mandated panels had called for reconfiguring the federal government's strategic planning and decision processes vis a vis the global terrorist threat. For instance, a January 31, 2001 report of the bipartisan U.S. Commission on National Security recommended unifying the Coast Guard, the Customs Service, the Federal Emergency Management Agency (FEMA),

and the Border Patrol into a new Cabinet- level homeland security agency to coordinate defense against, and responses to, terrorist attacks on U.S. soil. Legislation introduced in the House and Senate (H.R. 4660 and S. 2452) in May 2002 would have created a Department of National Homeland Security combining border control and consequence management functions as well as a coordinating entity – the National Office for Combating Terrorism – with broad international responsibilities.

In the 107th Congress, the USA PATRIOT Act enacted in October 2001 (P.L.107-56) contained a number of provisions related to terrorism. It gave law enforcement increased authority to investigate suspected terrorists, including enhanced surveillance procedures such as roving wiretaps; it provided for strengthened controls on international money laundering and financing of terrorism; it improved measures for strengthening of defenses along the U.S. northern border, said to be an important conduit for terrorists; and it authorized disclosure of foreign intelligence information obtained in criminal investigations to intelligence and national security officials.

U.S. Organization and Program Response

The chain of command on antiterrorism planning is essentially twofold: one line runs from the President through the National Security Council's (NSC's) Principals Committee, through the NSC's Deputies Committee, a representative of which chairs a senior interagency Counterterrorism and National Preparedness Policy Coordinating Committee (PCC). A second chain runs through a similar hierarchy of committees under the newly created Homeland Security Council, described below. In terms of policy implementation, the State Department is designated the lead agency for countering terrorism overseas; the Justice Department's Federal Bureau of Investigation (FBI) is the lead agency for domestic terrorism; and the Federal Emergency Management Agency (FEMA) is the lead agency for consequence management. Intelligence-sharing on foreign terrorist threats is carried out through the Counterterrorism Community Terrorist Threat Warning System housed in the CIA's Counterterrorism Center. The system is a joint product of five agencies: CIA, the Defense Intelligence Agency, the National Security Agency, the State Department Bureau of Intelligence and Research, and the FBI. Warnings, advisories, and assessments are distributed from the system to other federal government agencies.

On October 8, 2001, President Bush signed Executive Order 13228 establishing the Office of Homeland Security (OHS) to lead, oversee, and coordinate a comprehensive national strategy to protect the nation against domestic terrorism as part of a complex web of new organizational structures and relationships. The OHS is chaired by former Governor Tom Ridge of Pennsylvania. A Homeland Security Council (HSC) including subordinate councils similar in structure and function to the existing NSC system was established as well. Responsibility for international counterterrorism planning still lies with the NSC. In a further reorganization in June 2002, the President announced a plan to create a single permanent government department "whose primary mission is to protect the American homeland." The proposed reorganization, which went far beyond the above-mentioned congressional initiatives, would consolidate at least 22 separate federal agencies, offices, and research centers comprising more than 169,000 employees into a new cabinet Department of Homeland Security with a budget of $37.4 billion. Major agencies affected include the Customs Service, the Coast Guard, the Immigration and Naturalization Service, the

Transportation Security Agency, the Secret Service, the Agriculture Department's Plant and Animal Health Inspection Service, and FEMA. The new structure would comprise 4 major components: chemical, biological, radiological, and nuclear countermeasures; information analysis and infrastructure protection; border and transportation security; and emergency preparedness and response. If approved by Congress, the proposal would constitute the most extensive restructuring of the federal government since the creation of a centralized defense establishment in the late 1940s to deal with Cold War threats.

Primary responsibility for combating international terrorism still rests with the Departments of State and Defense (DOD) and components of the law enforcement and intelligence communities. Several important State Department programs will be described in the following sections.

Antiterrorism Assistance and Terrorism and Crime Programs

The State Department's antiterrorism assistance (ATA) program provides training and equipment to foreign countries to help them improve their antiterrorism capabilities. More than 35,000 individuals from 152 countries have received training since the program's inception in 1983 in such skills as crisis management, VIP protection, airport security management, and bomb detection and deactivation. The Administration is requesting $52 million for FY2003 for a consolidated Center for Antiterrorism and Security Training which would "help reduce the terrorist and security risk for U.S. personnel and assets, as well as non-official Americans abroad." The TIPOFF terrorism and crime database, maintained by the State Department Bureau of Intelligence and Research, enables the use of sensitive intelligence to detect "known persons of concern" as they apply for U.S. visas overseas, and as of May 2002 had provided the names of almost 60,000 terrorists to State's Consular Lookout and Support System (CLASS). The Department requested $3.4 million for the program for FY2003.

Assistance to Victims Programs

Facilitating payment of compensation to victims of terrorism by state sponsors or their agents was the subject of legislative focus in the 106th Congress as well. P.L. 106-386, among other things, allowed victims of terrorist acts committed by Cuba and Iran to collect payment of judgments rendered from funds held by the U.S. government and clarified circumstances under which immunity from jurisdiction or attachment may not apply when victims of state sponsored terrorism seek compensation.

Counterterrorism Research and Development Program

The State Department's Counterterrorism Research and Development Program is overseen by State's Coordinator for Counterterrorism and is managed by the Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict. The program focuses on the inter-agency Technical Support Working Group (TSWG) which constitutes an R&D response to the threat posed by increasingly sophisticated equipment and explosives available to terrorist groups. TSWG's major project areas include the following: chemical, biological, radiological, and nuclear countermeasures; explosives detection and improvised device defeat; infrastructure protection; investigative support and forensics; personnel

protection; physical security; surveillance collection and operations support; and tactical operations support. State and DOD provide core funding for TSWG activities. The Administration's budget request for TSWG for FY2003 is $49 million.

Diplomatic Security Program

The Diplomatic Security Program of the State Department is designed to protect U.S. personnel, information, and facilities domestically and abroad. Constructing secure facilities abroad, providing security guards, and supporting counterintelligence are some important elements of the program. Detection and investigation of passport and visa fraud is another important component. The Diplomatic Security Program is contained in three budget accounts: the Diplomatic and Consular Programs account (which covers salaries and operating expenses such as guards and armored vehicles), the Embassy Security, Construction, and Maintenance account (which covers our overseas offices and residences), and the Protection of Foreign Missions and Officials account (which provides extraordinary protection for these purposes in the United States).

The FY2002 budget estimate for the Diplomatic Security Program included $713 million in security for the Diplomatic and Consular Programs account ($488 million for worldwide security upgrades and $226 million for ongoing operations and salaries); $665 million for worldwide security construction in the Embassy Security, Construction and Maintenance account; and $10 million in the Protection of Foreign Missions and Officials account. The FY2003 budget request includes $553 million for worldwide security upgrades in the Diplomatic and Consular programs account, $609 million in worldwide security construction in the Embassy Security, Construction and Maintenance account and $11 million for Protection of Foreign Missions and Officials.

Options for Program Enhancement

Some notable areas cited for improvement of programs to combat terrorism include information and network security; nuclear materials safeguards; detection of nuclear, chemical, and biological weapons and of conventional explosives; critical infrastructure protection and disaster/crisis consequence management, including training of first responders. Desirable in this regard is an enhanced role for the National Academies and the National Laboratories in facilitating more concerted and better coordinated involvement of the U.S. scientific community in assessing threats, developing countermeasures, and designing responses to terrorism. A 2002 study by the National Research Council of the National Academy of Sciences, *Making the Nation Safer: The Role of Science and Technology in Combating Terrorism,* exemplifies the promise of this approach.

FOR ADDITIONAL READING

CRS Report RL31119, *Terrorism, Near East Groups and State Sponsors, 2002*, by Kenneth Katzman.

CRS Terrorism Briefing Book: *State-Supported Terrorism,* by Kenneth Katzman, Rensselaer Lee, and Raphael Perl [http://www.congress.gov/brbk/html/ebter73.html].