

# CRS Issue Brief for Congress

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

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

### 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 recent terrorist incidents in the United States, as well as bombings of the U.S.S. *Cole*, Oklahoma City, World Trade Center in 1993, and the U.S. embassies in Kenya and Tanzania, and the Tokyo subway gas attack, 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.

Formal definitions of terrorism do not include terrorist activity for financial profit or terrorists motivated by religious goals. Non-traditional harm such as computer "violence" may not be included as well. Such activity may well be on the rise.

Terrorist activities supported by sophisticated planning and logistics as well as possible access to chemical, biological, or

nuclear weaponry raise a host of new issues. Faced with such prospects, governments are increasingly likely to consider using covert operations to protect their citizenry.

What, in the recent past, has been some analysts' belief that a comprehensive review of U.S. terrorism policy, organizational structure, and preparedness to respond to major terrorist incidents in the United States is needed, has by necessity become a mainstream view.

Another issue is whether PDD 62, which established a terrorism coordinator at the National Security Council (NSC), takes too much of the terrorism decisionmaking process out of the realm of congressional oversight, as NSC members do not generally testify before Congress.

Radical Islamic fundamentalist groups pose a major terrorist threat to U.S. interests and friendly regimes. Nations facing difficult challenges include Algeria, Bahrain, Egypt, Israel, Jordan, Pakistan, and, to a lesser degree, Russia and Saudi Arabia. One of the seven states on the State Department's terrorism list, Iran, is seen as the most active state sponsor. Iran has been aggressively seeking nuclear weapons technology. Sanctions have not deterred such activity to any meaningful degree. Some see utility in creation of an informal "watch-list" of nations not currently qualifying for inclusion on the terrorism list. See also: CRS Report 98-733, *Terrorism: U.S. Response to Bombings in Kenya and Tanzania: A New Policy Direction?*

## MOST RECENT DEVELOPMENTS

*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 White House – had failed. Clean-up operations and law enforcement investigations continue, and response options are being pursued. In excess of 6,700 persons are dead.*

*President Bush, in addressing the nation, stressed that the United States will make no distinction between the terrorists who committed these acts and those who harbor them. The President characterized the incidents as “acts of war.” Secretary of State Colin Powell called for a “full scale assault against terrorism” and announced plans to launch a worldwide coalition against terrorism. Secretary of State Powell in September 23 press interviews confirmed that he is “absolutely convinced” that the al-Qaida network is responsible and that a full scale campaign was underway, using all elements of national and international power, to go after Osama bin Laden and al-Qaida network affiliated groups. Administration officials have stressed that rallying the international community, especially the law enforcement and intelligence communities, and shutting down supporting financial institutions are important components of the campaign.*

*On September 20, President Bush announced creation of a new Cabinet-level Office of Homeland Security (OHS) to be headed by Pennsylvania Governor Tom Ridge. Meanwhile, the Administration is continuing to iron out details of a draft executive order directing the Federal Emergency Management Agency to establish an Office of National Preparedness to coordinate a response to biological, chemical, or nuclear attacks. Vice President Dick Cheney's new task force on terrorist threats is currently conducting a review to determine how best to respond to major terrorist incidents.*

## BACKGROUND AND ANALYSIS

In recent years, terrorism has been primarily viewed as an international and foreign policy issue. Numerous acts of state-sponsored terrorists and of foreign-based groups have given support to this notion. While U.S. policies, citizens and interests are prime targets for international terrorism — in 2000, approximately 47% of all terrorist incidents worldwide were committed against U.S. citizens or property, according to the U.S. Department of State — the vast majority of those acts took place on foreign soil. U.S. public perception of terrorism as primarily an overseas issue was dramatically changed by the September 2001 attacks.

On April 30, 2001, the Department of State released its Patterns of Global Terrorism report (*Patterns 2000*). In 2000, casualties associated with terrorism worldwide were up from 1999 data. The report indicates that worldwide deaths from terrorist incidents increased from 233 in 1999 to 405 in 2000. The number of wounded increased from 706 to 791. In terms of casualties by region, Asia ranked first; Africa, second; and the Middle East, third. In terms of number of attacks by region, Latin America ranked first; Asia, second; and Africa,

third. In 2000, the number of terrorist attacks declined significantly in Western Europe, and slightly in the Middle East and Eurasia.

Both timing and target selection by terrorist groups can have significant political and economic impact on many activities, ranging from U.S. commercial activities to the Middle East peace process. Some analysts have expressed concern that radical Islamic groups may seek to exploit economic and political instabilities in Saudi Arabia. Other potential target nations of such groups include Algeria, Bahrain, Egypt, India, Jordan, Pakistan, and Turkey. Inherent in *Patterns 2000* is concern that a decline in state sponsorship of terrorism has moved terrorism eastward from Libya, Syria, and Lebanon to South Asia. The result: more U.S. policy focus on Osama bin Laden and the alliance of groups operating out of Afghanistan with the acquiescence of the Taliban. A heavy area of focus remains the ability of terrorists to raise funds through non-state sources, often through charitable contributions, kidnaping, and drug trafficking.

*Patterns 2000* cites North Korea and Sudan as possible candidates for removal from the list of state sponsors of terrorism (see CRS Report RL30613, *North Korea: Terrorism List Removal?*). Iran, despite political changes in 2000, is again listed as the most active state sponsor of international terrorism. Iran and Syria were cited for supporting regional terrorist groups. Lebanon was again cited as a key safe haven and singled out as being unresponsive to U.S. requests to bring to justice terrorists who have conducted anti-U.S. attacks. *Patterns 2000* reflects ongoing concern by Russia and Chechnya's neighbors that increased radicalization of Islamist populations would encourage violence and spread instability elsewhere in Russia and beyond. Though not added to the list, Afghanistan and Pakistan were singled out as major sites of terrorist activity.

The destruction of the World Trade Center and the severe damage to the Pentagon, together with other incidents such as the bombings of the U.S. embassies in East Africa, of the World Trade Center in 1993, and of the Jewish cultural center in Buenos Aires, may indicate a desire to inflict higher casualties on what are generally less protected civilian targets. It may be that state-sponsored terrorism is decreasing significantly as, in a post-Cold War era, groups find it harder to obtain sponsors, and rogue states are less willing to risk exposure to broad based and severe international sanctions. In this environment, access to private sources of funding for terrorist enterprises becomes critical.

International terrorism is recognized as a threat to U.S. foreign and domestic security it also undermines a broad range of U.S. foreign policy goals. Terrorism erodes international stability, a major foreign and economic policy objective for the United States. Terrorist groups often seek to destabilize or overthrow governments, sometimes democratically elected — or friendly — governments, and such groups often draw their support from public discontent over the perceived inability of governments to deliver peace, security, and economic prosperity. Efforts by governments to enhance national or regional economic development and stability may become the object of particularly virulent attack. In this regard, and because of their avowed goals to overthrow secular regimes in countries with large Muslim populations, extremist Islamic fundamentalist groups, and Iran's support for such groups, are seen as a particular threat to U.S. foreign policy goals and objectives.

## 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. A *terrorist group* is defined as a group which practices or which has significant subgroups which practice terrorism (22 U.S.C. 2656f). One potential shortfall of this traditional definition is its focus on groups and group members and exclusion of individual (non-group organized) terrorist activity which has recently risen in frequency and visibility. Another possible weakness of these standard definitions is the criterion of violence in a traditional form. Analysts pointing to computer “virus” sabotage incidents warn that terrorists acts could include more sophisticated forms of destruction and extortion such as disabling a national infrastructure by penetrating vital computer software. 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).

Current definitions of terrorism all share one common element: politically motivated behavior. Such definitions do not include violence for financial profit or religious motivation. Additionally, the rapid growth of transnational criminal organizations and the growing range and scale of such operations could well result in their use of violence to achieve objectives with financial profit as the driving motivation. Thus, although the basic assumption today is that all terrorist acts are politically motivated, some are driven by other factors, and this number may grow in light of expanding international criminal activity and an increasing number of extremist acts carried out in the name of religious and cultural causes. A new approach might focus more on defining terrorist acts, giving less emphasis to the motivation behind the acts.

## U.S. Policy Response

### Framework

Past Administrations have employed a range of options 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 (as identified 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.

In the wake of the September 2001 World Trade Center and Pentagon attacks, President Bush, in addressing the Nation, stressed that the United States in responding to the attacks, will make no distinction between the terrorists who committed these acts and those who harbor them. The President characterized the incidents as “acts of war.” Secretary of State Colin Powell called for a “full scale assault against terrorism” and announced plans to launch

a worldwide coalition against terrorism. In a September 20 address to Congress, President Bush characterized the U.S. response as a “lengthy campaign,” which may include “dramatic strikes,” “covert operations,” starving terrorists of funding, and pursuing nations that provide “aid or safe haven to terrorism.”

Most experts agree that the most effective way to fight terrorism is to gather as much intelligence as possible; disrupt terrorist plans and organizations before they act; and organize multinational cooperation against terrorists and countries that support them. The U.N.’s role in mandating sanctions against Libya for its responsibility in the 1988 Pan Am 103 bombing was significant as the first instance when the world community imposed sanctions against a country in response to its complicity in an act of terrorism. Several factors made the action possible. First, terrorism has touched many more countries in recent years, forcing governments to put aside parochial interests. (Citizens from over 30 countries have reportedly died in Libyan-sponsored bombings.) Second, the end of the Cold War has contributed to increased international cooperation against terrorism. And third, U.S. determination to punish terrorist countries, by military force in some instances, once their complicity was established, was a major factor spurring other countries to join U.N.-sponsored action.

Technology is also an important factor in the terrorism/counterterrorism equation. Increasingly, analysts and leaders in the scientific and engineering communities stress the potential for technology to play an important role in thwarting terrorist threats; and in protecting and maximizing individual freedoms in a security conscious society.

In the past, governments have often preferred to handle terrorism as a national problem without outside interference. Some governments were also wary of getting involved in others’ battles and possibly attracting additional terrorism in the form of reprisals. Others were reluctant to join in sanctions if their own trade interests might be damaged or they sympathized with the perpetrators’ cause. Finally, there is the persistent problem of extraditing terrorists without abandoning the long-held principle of asylum for persons fleeing persecution for legitimate political or other activity.

## **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 will likely come to the fore as the United States develops its response to the September 2001 incidents.

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

Today U.S. policy focus is on terrorist organizations such as al-Qaida 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 worldwide threat of such 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 21<sup>st</sup> century may well be a private individual not affiliated with any established group. Another profile might be a group-affiliated individual acting independent of the 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 be subject to conflicting foreign policy objectives.

## Policy Tools

The U.S. government has employed a wide array of policy tools to combat international terrorism, from diplomacy and international cooperation and constructive engagement to economic sanctions, covert action, protective security measures, and military force.

**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 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. Increasingly, however, governments appear to be pursuing policies which involve verbal contact with terrorist groups or their representatives.

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. And 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. See CRS Report 97-960, *Terrorism, the Media, and the Government: Perspectives, Trends, and Options for Policymakers*.

**Economic Sanctions.** In the past, use of economic sanctions was usually predicated upon identification of a nation as an active supporter or sponsor of international terrorism. On September 24, 2001, President Bush signed an executive order (Executive Order 13324) on September 25, 2001, freezing the assets of 27 organizations known to be affiliated with bin Laden's network and giving the Treasury's secretary broad powers to impose sanctions on banks around the world that provide these organizations access to the international financial system. Previously, on August 20, 1998, President Clinton signed an executive order freezing assets owned by Saudi-born Islamic terrorist leader Osama bin Laden, specific associates, and their self-proclaimed Islamic Army Organization, and prohibiting U.S. individuals and firms from doing business with them. Earlier, the Clinton Administration had frozen the assets of 12 alleged Middle East terrorist organizations and 18 individuals associated with those organizations. On October 8, 1997, the State Department released a list of 30 foreign terrorist organizations. As of September 6, 2001, the number of organizations on this list stood at 30. The 1996 Antiterrorism and Effective Death Penalty Act makes it a crime to provide support to these organizations, and their members shall be denied entry visas into the United 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, 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 make them effective, and such cooperation is not always forthcoming.

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 require that aid be withheld to any nation providing lethal military aid a country on the terrorism list.

**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. 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.

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 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 of 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, or from international waters or airspace. For example, Fawaz Yunis, a Lebanese who participated in the 1985 hijacking of a Jordanian airliner with two Americans among its 70 passengers, was lured aboard a yacht in international waters off the coast of Cyprus in 1987 by federal agents, flown to the United States for trial, and convicted.

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. Subsequently, 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 issued under the first Bush Administration, and reaffirmed by former President Clinton. 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 was at least partly responsible for the arrest of Ramzi Ahmed Yousef, the man accused of masterminding the 1993 World Trade Center bombing, and of the CIA personnel shooter, Mir Amal Kansi. 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. A \$25-million reward has been offered by the U.S. for information leading to the apprehension of Osama bin Laden.

**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. 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 to extradite for political or extraterritorial offenses and the refusal of some countries to extradite their nationals. 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.

**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 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 and (2) the August 1998 missile attacks against bases in Afghanistan and an alleged chemical production facility in Sudan.

Concerns about the terrorist threat prompted an extensive buildup of the military's counter-terrorist organization. A special unit known as "Delta Force" at Fort Bragg, NC, has been organized to perform anti-terrorist operations when needed. Details about the unit are secret, but estimates are that it has about 800 assigned personnel.

Use of military force presupposes the ability to identify a terrorist group or sponsor and its location, knowledge often unavailable to law enforcement officials. Risks of military force include (1) military casualties or captives, (2) foreign civilian casualties, (3) retaliation and escalation by terrorist groups, (4) holding the wrong parties responsible, (5) sympathy for the "bullied" victim, and (6) perception that the United States ignores rules of international law.

P.L. 104-264 includes a sense of the Senate statement that if evidence suggests "beyond a clear and reasonable doubt" that an act of hostility against any U.S. citizen was a terrorist act sponsored, organized, condoned, or directed by any nation, then a state of war should be considered to exist between the United States and that nation.

**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 106<sup>th</sup> Congress and currently remain there.

## Potential Tools

**An International Court for Terrorism.** Each year bills are introduced urging 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. 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. See CRS Report 97-960, *Terrorism, the Media, and the Government: Perspectives, Trends and Options for Policymakers*.

## **Policy Reform**

On June 5, 2000, the National Commission on Terrorism (NTC), a congressionally mandated bipartisan body, issued its report, which included a blueprint for U.S. counterterrorism policy with both policy and legislative recommendations.

The NTC report continues to stimulate strong congressional interest in counterterrorism policy in the 107<sup>th</sup> Congress. Areas of ongoing focus are (1) a more proactive counterterrorism policy; (2) a stronger state sanctions policy; and (3) a more cohesive/better coordinated U.S. federal counterterrorism policy. (See CRS Report RS20598, *National Commission on Terrorism Report: Background and Issues for Congress*.) On September 21, 2001, the House leadership announced creation of a Terrorism and Security Subcommittee to the House Intelligence Committee. Meanwhile, the January 31, 2001, report of the U.S. Commission on National Security continues to generate intense congressional and Administration interest. The congressionally-mandated bipartisan Commission recommended unifying the Coast Guard, the Customs Service, the Federal Emergency Management Agency, and the Border Patrol into a new Cabinet status homeland security body—in effect, a national homeland security agency. Under such a proposal, the new agency would coordinate defense against, and responses to, terrorist attacks on U.S. soil. Also under the proposal, the National Guard would be given domestic security as a primary mission.

In the 106<sup>th</sup> Congress, H.R. 4210, which passed the House, would have given added attention to domestic terrorism by establishing a President's Council on Domestic Preparedness in the White House. Moreover, in the 106<sup>th</sup> Congress, S. 3205, the (Kyl-Feinstein) Counterterrorism Act of 2000, which passed the Senate, incorporated a number of recommendations of the NTC, including measures to ensure (1) enhanced policy emphasis on control of biological pathogens and terrorist funding raising; (2) better sharing of FBI intelligence; (3) easier recruitment of CIA counterterrorism informants; and (4) continuation of Syria and Iran on the list of countries that sponsor terrorism.

## **U.S. Organization and Program Response**

The chain of command on antiterrorism planning 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). The PCC oversees four working groups charged with overseeing policy in four generic areas: (1) continuity of federal operations; (2) preventing and responding to foreign terrorism; (3) preventing and responding to weapons of mass destruction (WMD) attacks; and (4) preventing and responding to cyberthreats. 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 Aviation Administration is the lead for hijackings

when a plane's doors are closed. These roles were reaffirmed by Presidential Decision Directive (PDD) No. 39 in June 1995. PDD 62 (Protection Against Unconventional Threats) and PDD 63 (Critical Infrastructure Protection) of May 22, 1998: (1) established within the NSC a National Coordinator for Security, Infrastructure Protection, and Counterterrorism who also provides "advice" regarding the counterterrorism budget; (2) established within the NSC two Senior Directors who report to the National Coordinator — one for infrastructure protection and one for counterterrorism; (3) established a new interagency working group primarily focused on domestic preparedness for WMD incidents; and (4) laid out the architecture for critical infrastructure protection.

On February 14, 2001, President Bush signed National Security Presidential Directive No. 1, which fine-tuned the existing NSC structure and replaced what were formerly referred to as interagency working groups with four groups designed as Policy Coordination Committees.

Under the current structure, intelligence information among the various agencies is coordinated by an Intelligence Committee, chaired by a representative of the CIA. An important policy question is whether current organizational structure brings excessive focus on state-sponsored actions at the expense of attention on so-called "gray area" terrorist activity (i.e., terrorist activity not clearly linked to any perpetrator, group, or supporting/sponsoring nation). In light of the recent terrorist attacks, it is likely that a comprehensive review of counterterrorism policy, organizational structure, and preparedness to respond to major terrorist incidents in the United States will be undertaken. Whether PDD 62, by establishing a national terrorism coordinator at the NSC, takes too much terrorism decisionmaking out of the realm of congressional oversight is another issue, as NSC members generally do not testify before Congress.

A number of Administration programs focus specifically on combating international terrorism. They include the Department of State's (1) Antiterrorism Assistance Program (ATA), (2) Counterterrorism Research and Development Program, and (3) Diplomatic Security Program. The DoD Authorization Act (Title XIV) for FY1997 (P.L. 104-201) seeks to ensure DoD assistance to federal, state, and local officials in responding to biological, chemical, and nuclear emergencies.

## **Antiterrorism Assistance Program**

The State Department's antiterrorism assistance (ATA) program provides training and equipment to foreign countries to help them improve their antiterrorism capabilities. More than 20,000 individuals from 100 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's FY2001 and FY2002 requests for this program were \$38 million for training each year, with \$38 million appropriated in FY2001. Also requested in FY2001 was an additional \$30 million for a training facility, which was not funded. For FY2001, \$4 million was requested and appropriated for computerized border control Terrorism Interdiction Programs (TIPs). For FY2002, \$4 million was again requested. The Senate Appropriations Committee has recommended \$38 million and \$4 million, respectively, for the ATA program and the TIPs program.

## **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 106<sup>th</sup> 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, which is jointly funded by the Departments of State and Defense, constitutes a response to combat the threat posed by increasingly sophisticated equipment and explosives available to terrorist groups. Recent projects include detectors for nuclear materials, decontaminants for chemical and biological weapons, law enforcement and intelligence database software, and surveillance technology. The State Department's internal FY2001/2002 requests for this program totaled \$3 million each year, with \$1.8 million appropriated in FY2001. DoD's FY2001 request for combating terrorism technology support totaled \$41.3 million, with \$49.3 million appropriated. For FY2002, DoD requested \$42.2 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 State Department FY2001 budget request for the Diplomatic Security Program included \$630 million in security for the Diplomatic and Consular Programs account (\$410 million for worldwide security upgrades and about \$220 million for ongoing operations and salaries), which was appropriated; \$648 million for worldwide security upgrades in the Embassy Security, Construction, and Maintenance account, with \$663 million appropriated; and \$15 million in the Protection of Foreign Missions and Officials account, which was appropriated. The FY2002 budget request 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), which was appropriated; \$816 million for worldwide security upgrades in the Embassy Security, Construction and Maintenance account and \$10 million in the Protection of Foreign Missions and Officials account, which was appropriated.

## Options for Program Enhancement

Some notable areas cited for improvement of programs to combat terrorism include contingency planning; explosives detection; joint or multinational research, operational and training programs/exercises; nuclear materials safeguarding; chemical/biological weapon detection equipment development, and disaster/crisis consequence management, including training of first responders. Some have suggested that U.S. public diplomacy/media programs could be broadened to support antiterrorism policy objectives. As such a mission involves not only “diplomacy,” but is also a form of “warfare,” some suggest removing this mission from the Department of State. Cyber security remains an important area for program enhancement. Another option includes enhancing investigative, law enforcement, and prosecution capabilities in other countries to include the area of terrorism fundraising. An option which has been recommended by a number of bipartisan congressional commissions 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 in designing responses to terrorism.

## State Supported Terrorism

An ongoing issue for Congress and the Administration is how to respond to state supported or sanctioned terrorism. Terrorists operate in an environment largely dominated by legally and geographically defined nation states. They sometimes rely on state-provided funding, bases, equipment, technical advice, and logistical and support services. In the wake of the September 2001 World Trade Center and Pentagon attacks, President Bush, in addressing the nation, stressed that the United States, in responding to the attacks, will make no distinction between the terrorists who committed these acts and those who harbor them.

## The Terrorism List

The Secretary of State maintains a list of countries that have “repeatedly provided support for acts of international terrorism.” Evidence supporting this list is drawn from the intelligence community. Listed countries are subject to strict U.S. export controls, particularly of dual-use technology, and selling military equipment to them is prohibited. Providing foreign aid under the Foreign Assistance Act is also prohibited. Section 6(j) of the 1979 Export Administration Act stipulates that a validated license shall be required for export of controlled items and technology to any country on the list. In addition, Section 509(a) of the 1986 omnibus antiterrorism act (P.L. 99-399) bars export of munitions list items to countries on the terrorism list. Indirect state sponsorship or sponsorship by proxy is addressed in a second State Department terrorist category (required by P.L. 104-132) — which is distinct from the list of state sponsors — that prohibits the sale of arms to nations not fully cooperating with U.S. antiterrorism efforts. Strong language critical of Lebanon and Pakistan in *Patterns 2000* has prompted some to question whether these countries should be included in the latter category of nations. The category of countries “not fully cooperating” includes the seven state supporters of terrorism plus Afghanistan. P.L. 104-132 also requires the withholding of foreign assistance to nations providing lethal military aid to countries on the list of state sponsors.



## Adding and Removing Countries on the List

A complex challenge facing those charged with compiling and maintaining the list is the degree to which diminution of hard evidence of a government's active involvement indicates a real change in behavior, particularly when a past history of active support or use of terrorism as an instrument of foreign policy has been well established. Removing a country from the list is likely to result in some level of confrontation with Congress, so the bureaucratically easier solution is to maintain the status quo, or add to the list, but not to delete from it.

In late January each year, under the provisions of Section 6(j) of the Export Administration Act of 1979, as amended, the Secretary of Commerce in consultation with the Secretary of State provides Congress with a list of countries supporting terrorism. Compilation of the list is the result of an ongoing process. Throughout the year the Department of State gathers data on terrorist activity worldwide, and then beginning about November, the list is formally reviewed. Each new determination under Section 6(j) of the Act must also be published in the *Federal Register*. (For removal criteria, see CRS Report RL30613, *North Korea: Terrorism List Removal?*)

Paragraph 6(j)(4) of the Export Administration Act prohibits removing a country from the list unless the President first submits a report to the House Committee on Foreign Affairs, and the Senate Committees on Foreign Relations and on Banking, Housing and Urban Affairs. When a government comes to power (i.e., a government different from that in power at the time of the last determination), the President's report, submitted before the proposed rescission would take effect, must certify that (1) there has been a fundamental change in the leadership and policies of the government of the country concerned (this means an actual change of government as a result of an election, coup, or some other means); (2) the new government is not supporting acts of international terrorism; and (3) the new government has provided assurances that it will not support acts of international terrorism in the future. When the same government is in power, the President's report — **submitted at least 45 days before the proposed rescission would take effect** — must justify the rescission and certify that (1) the government concerned has not provided support for international terrorism during the preceding 6-month period; and (2) the government concerned has provided assurances that it will not support acts of international terrorism in the future. Congress can let the President's action take effect, or pass legislation to block it, the latter most likely over the President's veto. To date, Congress has passed no such legislation or resolution, although Syria would be the likely target of such endeavors, should the Administration act soon to seek its removal from the terrorism list. *Patterns 2000* notes that "the United States is firmly committed to removing countries from the list once they have taken necessary steps to end their link to terrorism." Secretary of State Powell has suggested that a "fresh start" may well be the case for Syria and Iran, should their offered support to the United States in the wake of the September 11 events go beyond indicating that they are simply against one type of terrorism, yet still support others.

## Countries on the List

Currently seven countries are on the "terrorism list": Cuba, Iran, Iraq, Libya, North Korea, and Sudan.. (For more information on states sponsoring international terrorism, see

*Patterns of Global Terrorism (Patterns 2000)*, Department of State, April 2001.) Of the seven, five are Middle Eastern nations with predominantly Muslim populations. Of these, Iran and Iraq could currently be characterized on one extreme as active supporters of terrorism: nations that use terrorism as an instrument of policy or warfare beyond their borders. Iran, Iraq, and Libya are major oil producers, producing in 1999 about 11% of the world's oil consumption, 35% of Europe's (OECD) oil imports, and 10.8% of Japan's imports. Such dependence on oil complicates universal support for sanctions against these nations.

On the other extreme, one might place countries such as Cuba or North Korea, which at the height of the Cold War were more active, but in recent years have seemed to settle for a more passive role of granting ongoing safe haven to previously admitted individual terrorists. Sudan, which *Patterns 2000* notes continues to serve as a safe haven for members of terrorist groups, has by and large shut down their training camps and is engaged with the Department of State in ongoing dialog on antiterrorism issues. Closer to the middle of an active/passive spectrum is Libya, which grants safe haven to wanted terrorists. Syria, though not formally detected in an active role since 1986, reportedly serves as the primary transit point for terrorist operatives in Lebanon and for the resupply of weapons to groups in Syria and Lebanon to project power into Israel. Syria allows groups to train in territory under its control, placing it somewhere in the middle-to-active end of the spectrum.

**Iran.** *Patterns 2000* names Iran as the most active — and increasingly active — state sponsor of terrorism. According to the report, Iran continues to be deeply involved in the planning and execution of terrorist acts by its own agents and surrogate groups. The report indicates that it provides “increasing support” — ongoing direction, safe haven, funding, training, weapons and other support — to a variety of radical Islamic terrorist groups, including Hizballah in Lebanon, as well as Hamas and Palestinian Islamic Jihad (PIJ) to undermine the Middle East peace process. Iran has apparently offered some assistance to the United States in the wake of the September 11, 2001, attacks.

**Iraq.** On September 13, 1990, Iraq was placed once again on the terrorism list, after having been removed in 1982. Iraq's ability to support terrorist activities has been limited by U.S. and U.N. sanctions which were imposed after the Kuwait invasion. Nevertheless, *Patterns 2000* indicates that Saddam Hussein's regime continues to murder dissidents and provide a safe haven for a variety of Palestinian rejectionist groups. There are numerous claims that Iraqi intelligence is behind killings of dissidents on foreign soil during 2000. Iraq also provides active assistance to the MEK, a terrorist group opposed to the Teheran regime. In the past, Iraq has temporarily expelled terrorists, only to invite them back later.

**Libya.** Libya has a long history of involvement in international terrorism. Libya was placed on the terrorism list when it was started in December 1979. Libyan terrorism has been sharply reduced after imposition of U.N. sanctions in the wake of Libyan involvement in the bombings of Pan Am flight 103 and in the 1989 bombing of French UTA flight 772. The response of the international community seems to have been relatively effective in restraining the level of Libya's outlaw behavior and may provide one model for future international action. In April 2000, Libya took what *Patterns 1999* noted as “an important step by surrendering ... two Libyans accused of bombing Pan Am flight 103 ... in 1988” to a court in The Hague.

**Syria.** Syria was placed on the first terrorism list in December 1979. The nation has a long history of using terrorists to advance its own interests, but the United States has said that it has no evidence of Syrian government direct involvement in terrorism since 1986. According to *Patterns 2000*, many major terrorist groups are known to maintain an active presence (including training camps and operational headquarters) in Syria or in Syrian-controlled Lebanon, and Syria has allowed Iran to supply Hizballah with weaponry via Damascus. Providing such support, free movement, and safe haven has caused prominent Members of Congress to contend that Syria should remain on the terrorism list. Syria has offered the United States “assistance” in wake of the September 11, 2001, attacks.

**Sudan.** Sudan was added to the terrorism list in August 1993. Sudan continues to harbor members of some of the world’s most violent organizations and, according to *Patterns 2000*, continues to serve as a safe haven for a number of terrorist organizations, including Palestine Islamic Jihad, Hamas, and bin Laden’s al-Qaida organization. Egypt and Ethiopia have charged the Sudanese government with involvement in a failed assassination attempt against President Hosni Mubarak of Egypt while he was in Ethiopia in June 1995. Sudan, however, in mid-2000 entered into a counterterrorism dialog with the United States; it has signed all 12 international antiterrorism conventions; and has reportedly “by and large” shut down terrorist training camps on its territory, steps some observers suggest pave the way for its removal from the terrorism list. Sudan has reportedly offered use of its airspace and sharing of intelligence to the United States in the wake of the September 11, 2001 attacks.

**Cuba.** Fidel Castro’s government has a long history of providing arms and training to terrorist organizations. A Cold War carryover, Cuba was added to the 1982 U.S. list of countries supporting international terrorism based on its support for the M-19 guerrilla organization in Colombia. *Patterns 2000* does not cite evidence that Cuban officials were directly involved in sponsoring an act of terrorism in 2000, but notes that Havana remains a safe haven to several international terrorists, and U.S. fugitives as well. Implicit in *Patterns 2000* is the sense that Cuba no longer actively supports armed struggles in Latin America or elsewhere.

**North Korea.** North Korea was added to the “official” list of countries supporting terrorism because of its implication in the bombing of a South Korean airliner on November 29, 1987, which killed 115 persons. According to the State Department, North Korea is not conclusively linked to any terrorist acts since 1987. *Patterns 2000* notes that North Korea has engaged in terrorism talks with the United States, has reiterated its opposition to terrorism, and has “agreed to support international actions against such activity.”

## List Reform Options

An ongoing issue for Congress and the Administration is how to respond to state supported or sanctioned terrorism. Congress can always legislate special sanctions against a rogue regime, but a wide range of sanctions is already triggered if a nation is included on the State Department’s list of state sponsors of terrorism. Another strategy might be to “focus” the current list by signaling to the Administration a desire that the less-active nations should be removed. Although it is the executive branch that determines the composition of the state sponsors of terrorism list, the executive looks to Congress for signals — especially those that might indicate that removal of a country would be met by congressional opposition.

Critics of the current State Department list argue that it has become too politicized and that nations are retained on the list as Cold War carryovers or for other grounds not directly related to active state support of terrorism, such as religious persecution, drug trafficking, counterfeiting, or other criminal activity. One option for Congress, short of suggesting that non-active states be removed from the list, might be to consider splitting the list into an active supporters list and a passive supporters list of states that countenance terrorism or could be doing more to stop it. Supporters of this kind of move argue that it would provide support to policies targeting states that may have had an active role in the perpetration of the September 11 attacks on America, without lumping more “innocent” states into the same category as active perpetrators. A downside, however, of such an approach, is that it might be seen as a weakening of the U.S. resolve to combat more passive forms of state supported terrorism, thereby encouraging enhanced use of such activity worldwide.

Another approach available to Congress would involve changing what has been characterized as the all-or-nothing “blunderbuss” approach to sanctions against state supporters of terrorism. Congress, for example, could codify a menu or portfolio of sanctions that the executive branch could tailor to meet the level of state support as well as the level of cooperation of a particular state. Such measures could also be used to prod states to take further steps against fundraising efforts of self-financed groups such as al-Qaida.

### **An Informal Watchlist?**

Some suggest that there is utility in drawing to Congress’ attention countries that do not currently qualify for inclusion in the terrorism list but where added scrutiny may be warranted. Such a list would be similar to the Attorney General’s National Security Threat List that includes sponsors of international terrorism, the activities of which warrant monitoring by the FBI within the United States. Although informal, it would be controversial and speculative. But it would reflect legitimate concerns of those in the intelligence and policy community and might serve as an informal warning mechanism to countries that their activities are being scrutinized. For example, the State Department warned Pakistan in January 1993 that it was under “active continuing review” to determine whether it should be placed on the terrorism list. When the list came out in April 1993, Pakistan was not on it. A similar warning was issued to Pakistan in January 2000. (See CRS Issue Brief IB94041, *Pakistan-U.S. Relations*.) Sudan was also warned that it was being subjected to special review prior to its being placed on the terrorism list in August 1993.