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# **EUROMED JUSTICE**

## **Legal and Gaps Analysis Terrorist financing**



### **CrimEx**

**EuroMed Justice Group of Experts in Criminal Matters**

**ALGERIA, EGYPT, ISRAEL, JORDAN, LEBANON,  
MOROCCO, PALESTINE, TUNISIA**

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# Abbreviations

<b>AML</b>	Anti-Money Laundering
<b>ARIN</b>	Assets Recovery Interagency Network
<b>AU</b>	African Union
<b>CARIN</b>	Camden Assets Recovery Interagency Network
<b>CDD</b>	Customer Due Diligence
<b>CFT</b>	Countering Financing of Terrorism
<b>DNFBP</b>	Designated Non-Financial Businesses and Professions
<b>FATF</b>	Financial Action Task Force
<b>FI</b>	Financial Institution
<b>FIU</b>	Financial Intelligence Unit
<b>FTF</b>	Foreign Terrorist Fighter
<b>GCTF</b>	Global Counterterrorism Form
<b>ICSFT</b>	International Convention for the Suppression of the Financing of Terrorism
<b>INTERPOL</b>	International Police
<b>ISIL</b>	Islamic State in Iraq and the Levant
<b>KYC</b>	Know Your Customer
<b>LOR</b>	Letter of Request
<b>MENA</b>	Middle East and North Africa
<b>MENAFATF</b>	Middle East and North Africa Financial Action Task Force
<b>ML</b>	Money Laundering
<b>MLA</b>	Mutual Legal Assistance
<b>MS</b>	EU Member States
<b>PEP</b>	Politically Exposed Person
<b>SC</b>	United Nations Security Council
<b>SPC</b>	Southern Partner Country
<b>STR</b>	Suspicious Transaction Report
<b>TF</b>	Terrorist Financing
<b>UN</b>	United Nations
<b>UNSC</b>	United Nations Security Council
<b>UNSCR</b>	UN Security Council Resolutions
<b>UNTOC</b>	United Nations Convention against Transnational Organized Crime

# Introduction

Terrorist groups are increasingly well financed through various sources such as illicit trafficking, extortion, organised crime, selling stolen natural resources and cultural goods, kidnapping for ransom and other illicit means. These illicit activities are giving terrorist groups increased access to resources and the ability to engage new recruits who in turn can be used in terrorist acts against the EU and SPCs. The SPCs face an extremely complex and volatile security situation that presents a range of economic, political and social challenges for relevant actors in the counter-terrorism sphere.

# Methodology

This paper reviews the differences and similarities of the national legislation of Southern Partner Countries (SPCs) and maps their implementation of relevant treaties and conventions for international cooperation to counter terrorist financing (**Legal Analysis**). Secondly, recommendations on legal frameworks will be suggested (**Gap Analysis**). This paper is prepared following:

1. Responses to questionnaires on terrorist financing in each SPC
2. SPC presentations at the CrimEx session in Maastricht on 8 May 2017
3. Research completed by scientific consultants in the SPCs

## Legal Analysis

This paper will analyze the SPC legislation in relation to combatting terrorism financing with reference to the International Convention for the Suppression of Financing of Terrorism (Algeria ratified 8 November 2001, Egypt ratified 1 March 2005, Israel 10 February 2003, Jordan ratified 28 August 2003, Lebanon has not signed or ratified, Morocco ratified 19 September 2002, Tunisia ratified 10 June 2003) FATF and ME-NAFATF recommendations.

## Gap Analysis

The review of the SPC national legislation will consider the following:

1. Definition of terrorist financing
2. Criminal offences
3. FIU powers and procedures
4. Monitoring by banks, financial institutions and DNFBPs
5. Cross-border transportation of currency
6. Freezing and recovery of assets used for terrorist financing
7. Recommendations to improve cooperation between the SPCs and EU Member States

Where gaps are identified that inhibit effective and efficient investigations, prosecutions and trial, this paper will make recommendations. These are only suggested recommendations and the SPCs will have to determine the viability based on resources and priorities.



# Definitions

## Money Laundering

Money Laundering is a process by which the illicit source of assets obtained or generated by criminal activity is concealed to obscure the link between the funds and the original criminal activity. There are three stages to Money Laundering: Placement, Layering, and Integration. The first time funds derived from criminal activities are used in a legitimate money transfer is referred to as Placement. Creating a series of transactions to hide the first transaction is referred to as Layering. The return of funds to legitimate activities is referred to as Integration. Placement poses the greatest risk to businesses. Transactions may be structured to avoid record keeping or reporting thresholds. False identification and/or information may be provided. Money laundering requires an underlying, primary, profit-making crime (such as corruption, drug trafficking, market manipulation, fraud, tax evasion), along with the intent to conceal the proceeds of the crime or to further the criminal enterprise.

## Terrorist Financing

Terrorist Financing involves the raising and processing of assets to supply terrorists with resources to pursue their activities. While these two phenomena i.e. money laundering and terrorist financing differ in many ways, they often exploit the same vulnerabilities in financial systems that allow for an inappropriate level of anonymity and non-transparency in the execution of financial transactions.

Terrorist Financing involves the solicitation, collection or provision of funds with the intention that they may be used to support terrorist acts or organizations. Funds may stem from both legal and illicit sources. More precisely, according to Article 2 of the International Convention for the Suppression of the Financing of Terrorism, a person commits the crime of financing of terrorism *“if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out an offence”*.

The primary goal of individuals or entities involved in the financing of terrorism is therefore not necessarily to conceal the sources of the money but to conceal both the financing and the nature of the financed activity.

## Terrorism

The definition of terrorism that the UNSC unanimously adopted in 2004 in UNSCR 1566 condemned terrorist acts as:

*“Criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.”*

## Context<sup>1</sup>

### ALGERIA



Algeria is a member of MENA-FATF. In February 2016, the FATF removed Algeria from its list of jurisdictions subject to FATF monitoring under its ongoing global anti-money laundering/countering the financing of terrorism (AML/CFT) compliance process. The FATF cited Algeria's significant progress in improving its AML/CFT regime. Similarly, in April 2016, the MENA-FATF announced that it was moving Algeria from "bi-annual follow up" status to a biennial reporting status, and praised Algeria's compliance with international AML/CFT Standards

On June 19, the President signed a new law expanding the Algerian penal code in the areas of foreign terrorist fighters, and those who support or finance foreign terrorist fighters, in an effort to comply with UNSCR 2178. Its financial intelligence unit, known as the Financial Intelligence Processing Unit (CTRF) regularly publishes administrative orders signed by the Minister of Finance, directing the immediate freezing and seizure of the assets of persons and entities listed by the UNSC, ISIL (Da'esh) and Al-Qaida sanctions regime. Although the system for freezing and seizure is in place, to date these orders have not yet resulted in the actual freezing or seizure of assets of listed persons. The scale of the informal market has made its eradication extremely difficult, and multiple fiscal initiatives by the government have failed to co-opt illegal traders into formalizing their businesses. Reportedly, a network of informants and Algerian undercover officers monitor significant unregulated cash transactions, but given the informal nature of the system, it is difficult to police adequately.

In 2015, Algeria amended the law to expand the definition of the financing of terrorism to include the criminalization of financing an individual terrorist or terrorist organization for any purpose. By amending the AML/CFT law, progress was also made on addressing customer due diligence, requiring all financial institutions to not allow the opening of anonymous or numbered bank accounts. Further, financial institutions were obligated to report to the CTRF suspicious transactions when funds are suspected of being associated or connected with a crime or suspected of being related to terrorism or used by terrorists, terrorist organizations, or terrorist financiers.

### EGYPT



Egypt is a member of MEN-AFATF and also a member of the Coalition's Counter-ISIL Finance Group. Egypt's Financial Intelligence Unit, the Egyptian Money Laundering and Terrorist financing Combating Unit, is a member of the Egmont Group. During 2015, Egypt enacted a number of laws to strengthen measures to counter terrorist financing to align with international standards and to enhance its legal framework to identify terrorists and terrorist organizations. This included a criminalization system for terrorist financing, in accordance with international standards, and has comprehensive procedures to implement financial sanctions pursuant to the UNSC ISIL (Da'esh) and Al-Qaida sanctions regime. Egypt remains vulnerable to

1. Country Reports on Terrorism 2016 U.S. Department of State

terrorist financing, however, because of the large informal cash-based economy, undocumented small scale financial transactions, an estimated 90 percent of the population that does not have formal bank accounts, and the proximity to several terrorist organizations such as ISIL-Sinai. The Central Bank of Egypt and the Federation of Egyptian Banks have aimed to promote financial inclusion by incentivizing individuals and small and medium size enterprises to enter the formal financial sector. Additionally, Egypt enacted measures including digitization of government payments, introduction of smartcards, and increased banking services with mini-branches, more ATMs, and mobile phone applications. Despite legislative efforts, smuggling of antiquities and narcotics remained a concern, and exploitation of banking technologies and social media for terrorism funding also remained an issue. For example, ISIL-SP solicited funds using Twitter to finance terrorist activities in Egypt, relying on anonymous prepaid value cards.

## ISRAEL



Israel is an observer in the FATF, since February 2016 and is also an active observer in MONEYVAL. Israel is currently undergoing a mutual evaluation by the FATF, as part of the country's full membership and accession process to the FATF.

Israel's Financial Intelligence Unit, the Israel Money Laundering and Terror Finance Prohibition Authority (IMPA) is a member of the EGMONT group, as part of its strategy to enhance international cooperation as well as promoting the exchange of information. IMPA takes an active part of the EGMONT group meetings and its committees and has co-led projects within this framework.

IMPA has a substantial role in the money laundering and terror financing investigations. IMPA has strong analysis abilities, employs a proactive approach, and has developed high professional expertise. Subsequently, IMPA has become a significant player within the LEAs activity and ML/TF investigations.

**Prohibition on Money Laundering Law, 2000 (PMLL)** - After having undergone a cultural change with regard to combating Money Laundering and terror financing after the enactment of the Prohibition of Money Laundering Law, 2000 (hereinafter: the PMLL), Israel now shares a culture of AML/CFT compliance by financial institutions and other stakeholders that is reinforced by government policies and strategies for combating serious and economic crime. Prevention and countering domestic as well as foreign ML/TF are given high priority by all law enforcement authorities and supervisory agencies. Additionally, necessary legislative measures have been adopted and implemented for this purpose.

The law deals with the 4 key elements of the AML regime: prevention, criminal sanctions, confiscation and the FIU. Financial institutions and several types of DNFBPs are subject to AML/CFT obligations, under the various Orders, enacted under the PMLL.

**Counter Terrorism Law, 2016** (hereinafter: the CTL): After being regulated under a variety of different pieces of legislation, Israel has enacted the Counter Terrorism Law, 2016. The law replaced several legislative instructions that were repealed when the Counter Terrorism Law came into force.<sup>2</sup> The law improves

2. The Defense Regulations (State of Emergency) (1945), The Prevention of Terrorism Ordinance (1948), The Prohibition on Terrorist Financing Law, 2005.

the legal tools available for combatting terrorism and terrorism financing and provides a complete and unified legal framework including criminal, administrative and civil components. The new law primarily sets forth CFT criminal offences and designation mechanisms to replace those that existed in the previous CFT legislative framework. The law amends the definition of a “terrorist organization”, *inter alia*, so it will also include facilitating organizations – peripheral organizations that while they do not commit terror offences directly, they support terror organizations (by funding them or by other means).

In addition, the new law specifies a range of terror and terror financing criminal offences including additional offences of management and membership of a terror organization, leading a terror organization, fulfilling a managing role in a terror organization, identifying with a terror organization, providing training, recruitment, not preventing terror and more.

The law further includes other means to combat terrorism, other than the criminal procedure, including different broad administrative warrants and civil and criminal confiscation.

The law also sets forth parallel reporting obligations – to IMPA and to the Israeli National Police – related to the dealing with property of a designated terrorist organization.

The new counterterrorism law significantly reduced the time it takes to adopt international designations. It establishes the automatic and immediate implementation of UNSCR 1267 and successor resolutions into Israeli law for a temporary period of up to 3-6 months - for a terror organization and 30 days - for an individual - by which time a permanent designation must be determined the Minister of Defense. This will facilitate rapid implementation and freezing actions by the financial institutions and DNFBPs.

## JORDAN



The Government of Jordan adopted its first counterterrorism law in 2006, in the wake of the 2005 Amman hotel bombings. This law was subsequently amended in 2014 in response to increasing threats to Jordan from violent extremist organizations operating domestically and across the border in Iraq and Syria. The new amendments enacted harsher sentences in terrorism cases and broadened the scope and definition of activities considered terrorism to facilitate the Government of Jordan's ability to prosecute material and ideological support for terrorism. Following passage of the 2014 amendments, Jordan's counterterrorism law broadly defined terrorism to include speech-related offenses deemed to “*harm relations with a foreign state, undermine the regime, or expose Jordan to harmful acts.*” Human Rights-focused NGOs criticized the law's implementation on the grounds it restricts freedom of expression and peaceful dissent against the government.

Jordan is a member of MENAFATF and also a member of the Coalition's Counter-ISIS Finance Group. Jordan's financial intelligence unit, the Anti Money Laundering and CounterTerrorist financing Unit (AMLU Jordan), has been a member of the Egmont Group since 2012.

AMLU Jordan routinely receives and responds to requests for information from counterpart units. Under the obligations of the UN Security Council ISIL (Da'esh) and Al-Qaida sanctions regime, other relevant resolutions regularly disseminate the names of designated individuals and entities to financial institutions.

## LEBANON



Lebanon does not have a comprehensive counterterrorism law, but several articles of Lebanon's criminal code are used to prosecute acts of terrorism.

Lebanon is a member of MENAFATF and Lebanon's financial intelligence unit, the Special Investigation Commission (SIC), is a member of the Egmont Group. Lebanon also participates in the Coalition's Counter-ISIS Finance Group.

In October, Lebanon's parliament passed a new tax law strengthening Lebanon's Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) regime. The Central Bank issued a circular that directed Lebanese financial institutions to comply with the HIFPA. The Central Bank's Special Investigation Committee (SIC) issued additional HIFPA-related circulars and AML/CFT controls at designated non-financial businesses and professions. The SIC also issued "freezing without delay" regulations in compliance with the UN Security Council ISIL (Da'esh) and Al-Qaida sanctions regime.

## MOROCCO



Morocco enacted comprehensive counterterrorism legislation in 2003. In 2015, Morocco expanded existing legislation to address the foreign terrorist fighter threat by widening the definition of terrorist offenses to cover terrorist acts or attempts to join a terrorist group and involvement in recruitment and training activities, making it compliant with UN Security Council resolution UNSCR 2178.

Morocco is a member of MENAFATF and its financial intelligence unit, the Unité de Traitement du Renseignement Financier (UTRF), is a member of the Egmont Group. Morocco criminalizes money laundering violations in accordance with international standards and actively uses the statutes to detect terrorist financing. UTRF has signed memoranda of understanding facilitating information exchange with regional FIUs. The UTRF is also working to update current legislation to better implement UNSCR 1373 2001 and the UN Security Council ISIL (Da'esh) and Al-Qaida sanctions regime. Finally, in alignment with the 2012 FATF Recommendations, the UTRF is preparing a national risk assessment to plan and execute more effective counter measures against terrorist financing.

## PALESTINE



In 2015, Palestine) became a full member of MENAFATF, and later the same year became a member of the MENAFATF's mutual evaluation working group. Effective December 30, 2015, President Abbas issued Anti-Money Laundering and Terrorism Financing Decree #20. Among the many improvements it made over the inadequate 2007 AML law (the Anti-Money Laundering Decree Law #9) was to make terrorism financing a criminal offense and to define terrorists, terrorist acts, terrorist organizations, foreign terrorist fighters, and terrorism financing. It also makes terrorism and terrorist acts predicate money laundering offenses, although the decree does not fully meet international standards as it does not criminalize all forms

of material support or the financing of an individual terrorist in the absence of a link to a specific terrorist act. The legislature has not convened since 2007 and prospects are dim that one will be seated in the foreseeable future. Consequently, Palestine remained unable to make legislative improvements (without decree) that were required to bring it up to international standards.

The Palestinian Financial Follow-Up Unit (FFU) is a fully functional financial intelligence unit with 12 employees and a computer system linking it with all 16 banks licensed to operate in the West Bank. Seven banks are local and nine are foreign, operating through a network of 274 branches in the West Bank and Gaza. There are also 306 money changers. The banks file both STRs and currency transaction reports electronically through this system. Although the FFU has adequate staffing, authority, and equipment, it has been unable to realize its full operational effectiveness due, in part, to restrictions in the law. The 2007 law restricted information sharing between the FFU and any law enforcement agency, with the exception of the Attorney General's Office (AGO). While the FFU may pass information, including analysis, to any requesting competent authority according to the 2015 Decree, the AGO is still the recipient for case dissemination. Moreover, Palestine has no effective control outside of Area A in the West Bank. The absence of Palestinian law enforcement and regulatory power in Areas B and C increased vulnerability.

## TUNISIA



Parliament passed a counterterrorism law in 2015 that modernized Tunisia's security legislation, striking a better balance between the protection of human rights and fighting terrorism, and implemented obligations under UN Security Council resolution (UNSCR) 2178 and the UN Security Council (UNSC) ISIL (Da'esh) and Al-Qaida sanctions regime.

Human rights organizations objected to the law for its vague definition of terrorism and the broad leeway it gives to judges to admit testimony by anonymous witnesses. On June 1, 2016, a new criminal procedure code intended to decrease pre-trial detentions and prison overcrowding entered into force.

Tunisia is a member of MENAFATF, and also of the Counter-ISIS Finance Working Group. Tunisia underwent a MENAFATF mutual evaluation in 2016. Its financial intelligence unit, the Tunisian Financial Analysis Committee, is a member of the Egmont Group. Over the past three years, Tunisia has endeavoured to implement and promote anti-money laundering/counterterrorist finance efforts with its institutional partners. As a result, banks regularly report suspicious transactions and have done so increasingly since the 2011 revolution. Other DNFBPs, including real estate agents, lawyers, accountants, and notaries, have lagged behind in reporting suspicious transactions primarily due to a lack of awareness of anti-money laundering/countering the financing of terrorism (AML/CFT) laws and regulations. Tunisia's 2015 law on combating terrorism and money laundering created a unit of judges specialized in terrorism cases and sends investigations to the Criminal Investigation Department of Tunis, rather than to units at the governorate level. The Penal Code provides for the seizure of assets and property tied to narcotics trafficking and terrorist activities. Tunisia has a mechanism to implement the UNSC ISIL (Da'esh) and Al-Qaida sanctions regime, including requiring entities subject to AML/CFT provisions to consult lists on the Ministry of Finance website and to freeze listed individual and group assets.

## EU CONTEXT<sup>3</sup>

Countering the financing of terrorism is a core component of the EU's strategy in the fight against terrorism. As terrorists and their supporters constantly modify their ways to collect, move and gain access to funds, the EU has developed a range of measures that aim at cutting off terrorists' access to funding. For instance, the Third Anti-Money Laundering Directive expressly extends the scope of the anti-money laundering regime to terrorist financing and the Fourth Directive adopted in 2015 will make it ever more difficult for terrorists to use the financial system for funding their activities. As part of the Action Plan to Strengthen the Fight against Terrorist Financing of February 2016, the Commission undertook to cut off the sources for financing crime and terrorists through the recognition of a confiscation and freezing order from one EU country to another. The Regulation<sup>4</sup> facilitates cross-border recovery of criminal assets and leads to more efficient freezing and confiscation of funds from illicit origin in the EU without cumbersome formalities. The mutual recognition principle means that a judicial decision taken in one EU Member State is recognised, and where necessary, enforced by another EU Member State without being assessed again.

AML/CFT efforts are governed by the recommendations of FATF. The Commission is a member of the FATF and actively contributes to its work as well as to the implementation of the FATF Recommendations in the EU. In addition, relevant UNSCRs such as UNSCR 1373, UNSCR 1455 and UNSCR 2178 as well as and Council of Europe instruments, such as the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds from Crime and on the Financing of Terrorism, play an important role in this context; the Commission supports EU Member States in implementing these.

Council Conclusions on the topic were adopted by the Justice and Home Affairs Council on 20 November 2015 and the Council underlined the importance of accelerating the implementation of counter- terrorism measures. The Council invited the Commission to present proposals to strengthen the powers of, and cooperation between FIUs, to ensure their fast access to information to combat money laundering and terrorist financing in conformity with FATF, to strengthen controls of non-banking payment methods as well as freeze terrorist assets throughout the Union. In its Action Plan on Terrorist Financing, the Commission announced that it will make proposals in those fields, especially to reinforce preventative measures tackling terrorist financing risks, strengthen controls on cash movements and enhance the legal framework on customs and trade in order to fight against illegal trade and trafficking of cultural goods.

The EU has a long-standing commitment to the countries in the MENA region. In 1995, the EU negotiated a Euro-Mediterranean Partnership with twelve Mediterranean Partner Countries with the ambitious objective of creating a regional free trade agreement by 2010 and carrying out corresponding governance reforms under the Barcelona Declaration launching the Euro-Mediterranean partnership. The commitments are embodied in a variety of on-going initiatives including the European Neighbourhood Policy which offers support for political and economic reform in each individual country in due respect for its specificities; and support for the Union for the Mediterranean initiative to encourage regional cooperation among the countries of the MENA region themselves and with the EU. CFT/AML is the key area of CT cooperation between the EU and the Gulf Cooperation Council.

3. EU Annual Action Programme 2016 for Article 5 of the Instrument contributing to Stability and Peace

4. DIRECTIVE 2014/42/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0042&from=EN>



In the Commission's 2016 Action Plan to strengthen the fight against terrorist financing the external relations chapter foresees to "Strengthen support to third countries in complying with UNSCRs legal requirements and FATF recommendations" as well as to "support countries in the MENA .... regions to monitor, disrupt and deny the financing of terrorism".

## UNSCR 1267

UNSCR 1267 was adopted unanimously on 15 October 1999 when the UNSC designated Osama bin Laden and associates as terrorists and established a sanctions regime to cover individuals and entities associated with Al-Qaida, Osama bin Laden and/or the Taliban wherever located. The regime has since been reaffirmed and modified by further UNSCRs and is composed of a consolidated list a UN Security Council Committee determines as being associated with Al-Qaida or the Taliban. The Committee receives reports from each nation as to how the work is proceeding, and is able to vary the conditions imposed on any individual as it sees fit.

## UNSCR 1373

This resolution calls on all states to adjust their national laws so that they can ratify all of the existing international conventions on terrorism. It provides that all States "should also ensure that terrorist acts are established as serious criminal offences in domestic laws and regulations and that the seriousness of such acts is duly reflected in sentences served". Further, UNSCR 1373 requires all States to criminalize "the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts" and to "freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts."

## UNSCR 2178

The United Nations estimates that 30,000 people from about 100 countries have travelled to countries including Iraq, Syria, Afghanistan, Libya, and Yemen since 2011 to join extremist armed forces, particularly ISIS.<sup>5</sup> UNSCR 2178 of September 24, 2014, requires all UN member

States to take urgent action to stem the "acute and growing threat posed by foreign terrorist fighters" both at home and abroad. It compels all UN member States to prosecute, as "serious criminal offenses," any travel or intended travel abroad to join or train with a terrorist organization. "Foreign terrorist fighters" are defined in UNSCR 2178 as "individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or

5. "Top UN counter-terrorism official urges cohesive response to 'persistent' threat of terrorism," UN News Centre, July 22, 2016, <http://www.un.org/apps/news/story.asp?NewsID=54537#.WHa3DxsrKUI>

receiving of terrorist training, including in connection with armed conflict.” It names the Islamic State, Al-Qaida, and the Nusra Front (a Syria-based Al-Qaida affiliate now calling itself the Front for the Conquest of the Levant) but leaves it to individual governments to determine which other groups they should target. Of relevance for this paper, UNSCR 2178 requires member States to criminalize any direct or indirect fund-raising or recruitment for foreign terrorist groups.

The following SPCs have enacted FTF legislation:

1. Algeria: Article 87 bis (6) of the Algerian Penal Code specifically criminalizes the involvement of Algerian citizens with any terrorist groups outside the country, even when the relevant acts are not directed against Algeria. The Law No. 16-02 of 19 June 2016 supplementing the order No. 66-156 on the criminal code was adapted to UNSC resolution 2178 on foreign terrorist fighters (articles 87 bis 11, 87 bis 12 and 394 bis (8)).
2. Egypt: Under Article 11 of Law 95 of 2015 for Confronting Terrorism, individuals joining terrorist organizations would be punished with imprisonment and if the individual received any military training by those organizations, the punishment would be a term of imprisonment of not less than ten years. The new Law 95 of 2015 for Confronting Terrorism has been criticized<sup>6</sup> for maintaining the overbroad definition of terrorism in Egypt’s Penal Code. Under this definition, a “terrorist act” encompasses any “use of force or violence or threat or terrorizing” that aims, among other things, to:

*“Disrupt general order or endanger the safety, interests or security of society; harm individual liberties or rights; harm national unity, peace, security, the environment or buildings or property; prevent or hinder public authorities, judicial bodies, government facilities, and others from carrying out all or part of their work and activity.”*

3. Law 95 of 2015 for Confronting Terrorism affects any person or group designated under Egypt’s Terrorist Entities Law, issued in February 2015, which created a procedure for courts to approve prosecutors’ nominations of individuals or groups as officially designated terrorists.<sup>7</sup>
4. Israel: Section 29 of the Counter Terrorism Law determines that providing/receiving training for terror purposes, is a criminal offence liable to 9 years of imprisonment. Any person financing the training (the terrorist act) can be prosecuted as an accessory offence according to sections 31 and 32 of the Israel Criminal Code.
5. Jordan: Article 3(c) of Law 55 of 2006, amended by Law 18 of 2014, prohibits Jordanian citizens from joining military groups and terrorist organizations inside the country or abroad. It also bans individuals from receiving any military training by those organizations. Article 7 of the law punishes individuals for committing the aforementioned offenses with a term of imprisonment.<sup>8</sup>
6. Morocco: Fighting with terrorist groups in other States would constitute one or more of the crimes designated as terrorist crimes under section 1 of Article 218–I of the Penal Code.<sup>9</sup> In 2015, Morocco expanded existing legislation to address the foreign terrorist fighter threat by widening the definition of terrorist offenses to cover terrorist acts or attempts to join a terrorist group and involvement in recruitment and training activities, making it compliant with UNSCR 2178. This law also

6. Egypt: Counterterrorism Law Erodes Basic Rights Broad ‘Terrorist Acts’ List May Criminalize Civil Disobedience <https://www.hrw.org/news/2015/08/19/egypt-counterterrorism-law-erodes-basic-rights>

7. See critique from the Cairo Institute for Human Rights Studies: <http://www.cihrs.org/?p=11031&lang=en>

8. Law 18 of 2014, 5289 al-Jaridah al-Rasmiyah (June 1, 2014)

9. Penal Code of Morocco (2014 consolidated ed.)

extended the jurisdiction of national courts to allow the prosecution of foreign nationals who commit terrorist crimes outside Morocco if they are present on Moroccan soil.<sup>10</sup>

## FATF RECOMMENDATIONS

The Financial Action Task Force (FATF) is an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The mandate of the FATF is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and the financing of proliferation, and other related threats to the integrity of the international financial system. In collaboration with other international stakeholders, the FATF also works to identify national-level vulnerabilities with the aim of protecting the international financial system from misuse.

The FATF Recommendations set out a comprehensive and consistent framework of measures which States should implement in order to combat money laundering and terrorist financing, as well as the financing of proliferation of weapons of mass destruction. States have diverse legal, administrative and operational frameworks and different financial systems, and so cannot all take identical measures to counter these threats. The FATF Recommendations, therefore, set an international standard, which States should implement through measures adapted to their particular circumstances.

The 2013 FATF Methodology addresses the effectiveness of AML/CFT systems, jurisdictions and will be a reference point for this legal and gap analysis.

The FATF Recommendations set out the essential measures that States should have in place to:

1. Identify the risks, and develop policies and domestic coordination;
2. Pursue money laundering, terrorist financing and the financing of proliferation;
3. Apply preventive measures for the financial sector and other designated sectors;
4. Establish powers and responsibilities for the competent authorities (e.g., investigative, law enforcement and supervisory authorities) and other institutional measures;
5. Enhance the transparency and availability of beneficial ownership information of legal persons and arrangements; and
6. Enhance international cooperation

An effective AML/CFT framework is important for addressing terrorist financing, and most measures previously focused on terrorist financing are now integrated throughout the Recommendations. However, there are some Recommendations that are unique to terrorist financing. These are:

1. **Recommendation 5 (the criminalisation of terrorist financing)**  
SPCs should criminalise terrorist financing on the basis of the ICSFT, and should criminalise not only the financing of terrorist acts but also the financing of terrorist organisations and individual terrorists even in the absence of a link to a specific terrorist act or acts. SPCs should ensure that such offences are designated as money laundering predicate offences.

10. Country Report on Terrorism <http://www.refworld.org/docid/5981e428a.html>

2. **Recommendation 6 (targeted financial sanctions related to terrorism and terrorist financing)**  
UNSCRs relating to the prevention and suppression of terrorism and terrorist financing should be implemented in the SPCs. The UNSCRs require States to freeze without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either:
  - a. Designated by, or under the authority of, the UNSC under Chapter VII of the Charter of the United Nations, including in accordance with UNSCR 1267 and its successor resolutions; or
  - b. Designated by that SPC pursuant to UNSCR 1373 (2001).
3. **Recommendation 8 (measures to prevent the misuse of non-profit organisations)**  
SPCs should review the adequacy of laws and regulations that relate to non-profit organisations which the State has identified as being vulnerable to terrorist financing abuse. SPCs should apply focused and proportionate measures, in line with the risk- based approach
  - a. By terrorist organisations posing as legitimate entities;
  - b. By exploiting legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset-freezing measures; and
  - c. By concealing or obscuring the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.
4. **(Recommendation 7) aimed at ensuring consistent and effective implementation of targeted financial sanctions when these are called for by the UNSC**  
UNSCRs relating to the prevention, suppression and disruption of proliferation of weapons of mass destruction and its financing. These resolutions require SPCs to freeze without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the UNSC under Chapter VII of the Charter of the United Nations.

## MENAFATF

The MENAFATF is voluntary and co-operative organisation, established by agreement between the governments of its members.<sup>11</sup> It sets its own work, regulations, rules and procedures and co-operates with other international bodies, notably the FATF, to achieve its objectives.

MENAFATF conducts mutual evaluations and follow-up reports, recognizing the FATF 40 Recommendations on Combating Money Laundering and Financing of Terrorism and Proliferation, the related UN Conventions and UNSCRs, as the worldwide-accepted international standards in this regard, in addition to any other standards that are adopted by the Arab States to enhance the fight against money laundering and the financing of terrorism and proliferation in the region. The MENAFATF Mutual Evaluations and Follow-Up Reports will be used as a reference point for this paper.

<sup>11</sup> Includes Algeria, Egypt, Lebanon, Morocco and Tunisia

## EGMONT<sup>12</sup>

The Egmont Group is a united body of 156 Financial Intelligence Units (FIUs). The Egmont Group provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering and terrorist financing (ML/TF). This is especially relevant as FIUs are uniquely positioned to cooperate and support national and international efforts to counter terrorist financing and are the trusted gateway for sharing financial information domestically and internationally in accordance with global Anti Money Laundering and Counter Financing of Terrorism (AML/CFT) standards.

The Egmont Group continues to support the efforts of its international partners and other stakeholders to give effect to the resolutions and statements by the United Nations Security Council, the G20 Finance Ministers, and FATF. The Egmont Group is able to add value to the work of member FIUs by improving the understanding of ML/TF risks amongst its stakeholders. The organisation is able to draw upon operational experience to inform policy considerations; including AML/CFT implementation and AML/CFT reforms.

The Egmont Group recognises sharing of financial intelligence is of paramount importance and has become the cornerstone of the international efforts to counter ML/TF. Financial Intelligence Units (FIUs) around the world are obliged by international AML/CFT standards to exchange information and engage in international cooperation. As an international financial intelligence forum, the Egmont Group both facilitates and prompts this amongst its member FIUs.

## CARIN

CARIN is an informal network of law enforcement and judicial practitioners, specialist in the field of asset tracing, freezing, seizure and confiscation. Each Member State is represented by a law enforcement officer and a judicial expert (prosecutor, investigating judge, etc. depending on the legal system).

CARIN contacts support the complete asset recovery process, from the starting point of the investigation involving the tracing of assets, to freezing and seizure, management and finally the forfeiture/confiscation, including any necessary asset sharing between jurisdictions. The representatives of the member states are called “*national contact points*”.

CARIN currently has 54 registered member jurisdictions, including 28 EU Member States and nine international organisations. Israel is an observer – none of the other SPCs are members or observers. CARIN is also linked to the other five regional asset recovery inter-agency networks (ARINs) across the globe.

12. See <https://egmontgroup.org/content/about>

# Legal and Gap Analysis

A legal analysis is provided in this section of current national laws and a gap analysis with recommendations for each SPC.

ALGERIA		
Measure	National Legislation	Comments
<b>Terrorist Financing Offence</b>	<p><b>Law No. 05-01 dated February 6, 2005 on AML/CFT</b></p> <p><b>Ordinance No. 12-02 dated February 13, 2012</b></p> <p><b>Law No. 15-06 dated February 15, 2015</b></p> <p><b>Law No. 14-01 dated February 4, 2014 amending and completing Law No. 66-156 dated June 8, 1966</b></p>	<p><b>Legal Analysis</b></p> <p>The Penal Code criminalizes the collection, provision, and management of funds for the purpose of using them, totally or partially, in committing acts of terrorism; using them by a terrorist or terrorist organization to commit crimes described as acts of terrorism; or using them by or for the benefit of a terrorist or terrorist organization.<sup>13</sup></p> <p>Law No. 05-01 dated February 6, 2005 on AML/CFT which was amended by Ordinance No. 12-02 dated February 13, 2012 and Law No. 15-06 dated February 15, 2015 criminalized a number of crimes related to financing of terrorism and made the legal person criminally liable.</p> <p>The crime is considered committed whether the terrorist act was committed or not, and whether such funds were used to commit it or not. Thus, the criminalization in the law would include providing or collecting funds for a terrorist or terrorist organization.</p> <p>Article 3 bis (2) of Law No. 15-06 dated February 15, 2015 amending and concluding Law No. 05-01 dated February 6, 2005 regarding AML/CFT allows Algerian courts to consider FT acts committed abroad or the terrorist or terrorist organization was abroad, whether the act was committed by an Algerian or a foreigner or the terrorist or terrorist organization receiving the funds were present in Algeria. Moreover, Algerian courts are responsible for considering FT acts when the terrorist act, directed to FT, is against the interests of Algeria abroad or the victim is Algerian.<sup>14</sup></p> <p>TF offences include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training in compliance with UNSCR 2178 - by the publication of Act No. 16-02 of 19 June 2016 supplementing Ordinance No. 66-156 of 8 June 1966 on the Penal Code (Articles 87 bis 11, 87 bis 12 and 394 bis 8).</p>

13. Page 5 MENA-FATF 7th Follow-Up Report 27 April 2016

14. Page 18 ibid

ALGERIA		
Measure	National Legislation	Comments
		<p>According to article 3 of law No. 15-06 15/02/2015 amending and supplementing the law 05-01 on the prevention of and the fight against money laundering and the financing of terrorism: "A person commits the offence of terrorist financing if that person, by any means, directly or indirectly, lawfully or unlawfully, wilfully provides, collects, or manages, funds with the intention that they should be used personally, in full or in part, in order to commit or attempt to commit the offences qualified as terrorist acts, or in the knowledge that they are to be used:</p> <ul style="list-style-type: none"> <li>• by a terrorist or a terrorist organization in order to commit or attempt to commit the offences qualified as terrorist acts;</li> <li>• by or in the interest of a terrorist or a terrorist organization.</li> </ul> <p>The offence is established regardless of the existence of a link between the financing and a specific terrorist act.</p> <p>The offence is committed regardless of whether or not the terrorist act occurred, or whether or not the funds were used to commit a specific terrorist act."</p> <p>It should be mentioned that this definition of terrorist financing acts is in line with the relevant international and regional instruments. Besides the provisions of the above-mentioned law on the prevention of and the fight against money laundering and terrorist financing, Act No. 16-02 of 19 June 2016 supplementing Ordinance No. 66-156 of 8 June 1966 on the Penal Code, criminalises in article 87 bis 11 the financing of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts, or the providing or receiving of terrorist training, in accordance with UNSC res 2178.</p>

ALGERIA		
Measure	National Legislation	Comments
Asset Recovery	<p><b>Law No. 15-06 dated February 15, 2015</b></p> <p>Article 18 bis (2)</p>	<p><b>Legal Analysis</b></p> <p>The amendment included stipulating on the penalty of confiscation in ML/FT crimes. The penalty of confiscation now includes all things, funds, and properties used or intended to be used for ML/FT purposes, in addition to the means used in committing such crimes or funds with corresponding value.<sup>15</sup></p> <p>Article 18 bis (2) of the Law issued in 2015 stipulated the immediate freezing of the funds of persons, groups, and entities registered in the consolidated United Nations Security Council Sanctions List updated by virtue of UNSCR 1267. Article 18 bis of the Law sets out the mechanism of freezing funds belonging to terrorists and terrorist organizations according to the requirements of UNSCR 1373. The Executive Decree No. 113-15 dated May 12, 2015 on the procedures of seizing and/or freezing funds stipulated in Law No. 05-01 dated February 6, 2015 on AML/CFT and the Decision dated May 31, 2015 on freezing and/or seizing the funds of persons, groups, and entities registered in the consolidated United Nations Security Council Sanctions List to implement UNSCR 1267 and its successor resolutions and UNSCR 1373. The Executive Decree provided for referring the names and entities identified in accordance with UNSCR 1267 and successor resolutions from the Minister of Foreign Affairs to the Minister of Finance in order to take the procedures on freezing their funds and assets; as well as to identify the related mechanism in accordance with a special resolution issued by the Minister of Finance consistent with the provisions of the laws and the international conventions and agreements in force.<sup>16</sup></p>

15. Page 5 ibid

16. Page 25 ibid



ALGERIA		
Measure	National Legislation	Comments
		<p>Article 4 of the Executive Decree No. 15-113 dated May 12, 2015 related to the procedures of seizing and/or freezing funds within the framework of preventing and combating FT; and Article 6 of the Decision dated May 31, 2015 related to seizing and/or freezing the funds of persons, groups, and entities on UNSC consolidated list, both provide for mandating the judicial agency of the treasury to ensure the management of frozen and/or seized funds which require administrative tasks. On the other hand, Article 7 of the abovementioned decision stipulated transferring the former funds on the level of postal and bank accounts from the financial authorities, institutions, and the relevant DNFBPs to the central treasurer in order to accurately record them in their books. The same procedure is followed with the frozen/seized funds which are included in the open special fund accounts in the treasury books. Such funds remain deposited in the central treasurer's books until unfreezing the funds and/or lifting the seizure by the Sanction Committee of the United Nations Security Council.<sup>17</sup></p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The creation of a fund for confiscated assets where all or a part of the confiscated properties are deposited to be used by relevant State agencies involved in combatting and preventing ML/TF. This should supplement rather than substitute existing budgets.</li> <li>2. A SPC wide mechanism to mutually recognize freeze orders and confiscation orders from other SPCs or EU MS</li> <li>3. Implementation of appropriate measures at the national level to carry out the sanctions contained in the list of UN sanctions</li> <li>4. Appropriate national measures have been implemented to carry out the sanctions contained in the list of the UNSC following the publication of Law 15-06, Decree 15-113, Decree of May 2015, and the guidelines of the Financial Intelligence Unit (CTRF) and of the Bank of Algeria;</li> <li>5. In addition, freezing orders of the Minister of Finance are published regularly on the website of the FIU (CTRF).</li> <li>6. Moreover a targeted financial sanctions guide was published and distributed to all concerned national institutions<sup>18</sup></li> </ol>

17. Page 30 ibid

18. Recommendations 2 to 6 were proposed by Algeria.

ALGERIA		
Measure	National Legislation	Comments
Financial Intelligence Unit	Executive Decree no. 02-127 of 7 April 2002 on the establishment, organisation and functioning of the Financial Intelligence Processing Unit (CTRF), as amended and supplemented by Executive Decree no. 08-275 of 6 September 2008, Executive Decree no. 10-237 of 10 October 2010, and Executive Decree no. 13-157 of 15 April 2013 Act no. 05-01 of 6 February 2005 in relation to preventing and combating money laundering and terrorist financing, as amended and supplemented by Order no. 12-02 of 13 February 2012 and Act no. 15-06 of 15 February 2015.	<p><b>Legal Analysis</b></p> <p>The Algerian FIU, the Financial Intelligence Processing Unit (CTRF), sits under the Ministry of Finance (Article 4a of the Act and Article 2 of the Decree) and has been a member of Egmont since 3 July 2013, during the Egmont Group's plenary meeting, which was held in July 2013, in South Africa.</p> <p>The CTRF has access, on a timely basis, to financial, administrative and law enforcement information to achieve its objectives in assessing the suspicious transaction pursuant to Act no. 05-01 of 6 February 2005 in relation to preventing and combating money laundering and terrorist financing, as amended and supplemented by Order no. 12-02 of 13 February 2012 and Act no. 15-06 of 15 February 2015.</p> <p>Act no. 05-01 of 6 February 2005 also requires investigators to cooperate with the CTRF on AML/CFT investigations.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. CTRF and the Bank of Algeria issue guidelines covering the obligation of financial organisations to perform due diligence and report any suspicious financial and non-financial transactions. These guidelines would apply to financial organisations (e.g. banks, mutual insurance companies, bureaux de change, crowdfunding platforms, sellers of antiques or works of art) and would cover the due diligence requirements in relation to clients and the requirement to report any suspicious transactions to the CTRF</li> <li>2. As non-profit organisations may often be potential channels (often involuntary) for terrorist financing, consider drafting a Guide to raise awareness and inform them of the risks of terrorist financing</li> <li>3. As a portion of terrorist financing comes from the illicit trade in works of art, Director of CTRF could send a letter to antiques unions or representatives to remind them of any bans currently in force and their due diligence obligations and highlighting sales of cultural goods via the supply of a certificate of authenticity or payments made in cash for works of art.</li> </ol> <p>The FIU (CTRF) published in April 2015 the guidelines on the due diligence measures applicable to the customers of non-financial professions (including works of art)</p> <ol style="list-style-type: none"> <li>4. A hybrid unit with a public prosecutor assigned with a fiat to apply for freezes, prosecute and any other ancillary orders (the FIU – the CTRF also comprises two (2) members representing the Judiciary (judges)).</li> </ol>

ALGERIA		
Measure	National Legislation	Comments
Suspicious Transaction Reports	Act No. 05-01 of 6 February 2005 in relation to preventing and combating money laundering and terrorist financing, as amended and supplemented by Order no. 12-02 of 13 February 2012 and Act no. 15-06 of 15 February 2015	<p><b>Legal Analysis</b></p> <p>Reporting entities, including banks are required to report suspicious transactions pursuant to Article 4, 7 and 12. Following of the Bank of Algeria regulation no. 12-03 of 28 November 2012 this specifically applies to preventing and combating money laundering and terrorist financing.</p> <p>STRs must be filed applying</p> <ol style="list-style-type: none"> <li>1. Act no. 05-01 of 6 February 2005 in relation to preventing and combating money laundering and terrorist financing, as amended and supplemented by Order no. 12-02 of 13 February 2012 and Act no. 15-06 of 15 February 2015.</li> <li>2. Executive Decree no. 02-127 of 7 April 2002 on the establishment, organisation and functioning of the CTRF, as amended and supplemented by Executive Decree no. 08-275 of 6 September 2008, Executive Decree no. 10-237 of 10 October 2010, and Executive Decree no. 13-157 of 15 April 2013.</li> <li>3. Bank of Algeria regulation no. 12-03 of 28 November 2012 in relation to preventing and combating money laundering and terrorist financing</li> </ol> <p>The CTRF and the Bank of Algeria have issued guidelines on customer due diligence measures, particularly to verify the origin of funds, the reasons for the transactions and the identity of the recipients for transactions involving the “abnormally high” amounts. Anonymity is forbidden under national legislation (in particular Regulation of the Bank of Algeria of 28 November 2012).</p>

ALGERIA		
Measure	National Legislation	Comments
Cross-border transportation of currency	<p><b>Customs Code</b></p> <p><b>Bank of Algeria regulation no. 16-01 of 6 March 2016</b></p> <p><b>Bank of Algeria regulation no. 16-02 of 21 April 2016</b></p> <p><b>Article 7a of Act 05-01, as amended and supplemented, as well as Bank of Algeria regulation 12-03 of 28 November 2012</b></p>	<p><b>Legal Analysis</b></p> <p>The Bank of Algeria regulation no. 16-01 of 6 March 2016 in relation to regular foreign transactions and currency accounts</p> <p>The Bank of Algeria regulation no. 16-02 of 21 April 2016 sets the reporting threshold</p> <p>Article 7a of Act 05-01 is the mechanism to report cash investments or transfers made by foreign nationals and for an exchange of information with the countries of origin of such funds. This includes taxable persons that do not belong to financial professions, (judicial officers, lawyers, auctioneers etc.), requiring them to report transactions involving foreign nationals.</p> <p>FIs are mandated to disclose the originator and the beneficiary with the electronic transfers from and to abroad exceeding USD/Euros 1000, or its equivalent in other currencies. Such information includes the following: originator and beneficiary names, title, and address; transaction account number; national identification number; customer identification number; birth date and place; and beneficiary name, title, and account number. In the event of absence of the account number, it shall be replaced by a reference number to track the transaction based on the same source. With regards to electronic transfers which do not exceed USD/Euros 1000 or its equivalent in other currencies, banks simply obtain the originator and beneficiary names and titles and the account number or unified reference number of the transaction. Information verification is not necessary unless there is suspicion of ML/FT. In such case, FI should verify the information related to their customer.<sup>19</sup></p>

<sup>19</sup>. Page 46 ibid

ALGERIA		
Measure	National Legislation	Comments
		<p>Law No. 15-18 dated December 30, 2015 includes the financial law of 2016 published in the Algerian Official Gazette, issue No. 72 of 50th year dated December 31, 2015 and Bank of Algeria Regulation no. 16-02 dated 21 April 2016 which identified the reporting threshold of importing and exporting currencies and/or bearer negotiable instrument by residents and non-residents. Article 3 of the above regulation requires resident and non-resident passengers arriving and /or leaving Algeria to declare at the Customs office cash and/or any other bearer negotiable tool in convertible foreign currencies if the amount is equal to or exceeds Euros 1000.<sup>20</sup></p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. This should relate not only to cash but to gold, money, shares or securities and various payment methods (cheques, promissory notes, money orders, pre-paid cards and bitcoins (and other cryptocurrencies etc.).</li> <li>2. The Bank of Algeria Regulation applies to cash, but also to banknotes, gold, and other values.</li> <li>3. It should also apply to transfers by post and transfers by freight including transfers of capital by freight (normal and express transfers).</li> <li>4. Transfers by post and transfers by freight are also concerned. The Algerian Post Office is a taxable entity subject to the same measures of due diligence. As for freight, the customs authorities are subject to diligence measures and must submit a report to the CTRF on any suspicious transaction.</li> <li>5. Consider a ban on the transport, transit, and trade of movable cultural heritage goods illegally removed from certain States (i.e. Libya).</li> <li>6. Algeria ratified by Presidential Decree the UNIDROIT convention on stolen or illegally exported cultural objects.</li> </ol>

20. Page 47 ibid

ALGERIA		
Measure	National Legislation	Comments
Measures implemented by banks and financial institutions to deter and detect money-laundering	<p><b>Act no. 05-01 of 6 February 2005 in relation to preventing and combating money laundering and terrorist financing, as amended and supplemented by Order no. 12-02 of 13 February 2012 and Act no. 15-06 of 15 February 2015.</b></p> <p><b>Executive Decree no. 02-127 of 7 April 2002 on the establishment, organisation and functioning of the Financial Intelligence Processing Unit (CTRF), as amended and supplemented by Executive Decree no. 08-275 of 6 September 2008, Executive Decree no. 10-237 of 10 October 2010, and Executive Decree no. 13-157 of 15 April 2013.</b></p> <p><b>Bank of Algeria regulation no. 12-03 of 28 November 2012 in relation to preventing and combating money laundering and terrorist financing</b></p> <p><b>Presidential Decree no. 02-55 of 5 February 2002, ratifying the United Nations Convention against Transnational Organised Crime, adopted by the United Nations General Assembly on 15 November 2000</b></p>	<p><b>Legal Analysis</b></p> <p>Measures are in place to establish a regime for banks and financial institutions to deter and detect ML (Act no.05-01 of 6 February 2005 and Executive Decree no.02-127 of 7 April 2002 on the establishment, organisation and functioning of the CTRF). Further, there are special provisions to counter ML in relation to offences related to organized crime (see Presidential Decree no.02-55 of 5 February 2002)</p> <p>Algeria has developed legislation and guidance on targeted financial sanctions, such as the provisions found in the government's action plan which are dedicated to preventing and combating money laundering and terrorist financing.</p> <p>The Central Risk Division at the Bank of Algeria supervises risk assessments.</p> <p>With regard to supervising the entities subject to the law, Bank of Algeria's Regulation No. 05-05 dated December 15, 2005, amended by virtue of Regulation No. 12-03 of 2012 stipulates measures for customer and transaction identification, document keeping, correspondent banks, alarm devices, STRs, electronic transfers, making funds available, the role of the external control authorities of banks and financial institutions, information and staff training, and the duties of Bank of Algeria inspectors. Moreover, the Regulation includes guidelines No. 160/Diwan/2015 dated May 3, 2015 for stock brokers with regard to CDD measures within the framework of combating and preventing ML/FT. This is in addition to Regulation No. 11-08 dated November 28, 2011 issued by the Bank of Algeria with respect to internal supervision on banks and FIs, the guidelines for banks and FIs No. 966/2013 dated September 3, 2013, and those issued on February 8, 2015 with regards to CDD measures.<sup>21</sup></p>

21. Page 9 ibid

ALGERIA		
Measure	National Legislation	Comments
		<p>The amended Law obligated the FIs to obtain information on the transfer originator (originator name, account number or unique identification number and address) to be included in the transfer letter or payment form accompanying the wire transfer. Article 16 of Regulation No. 05-05 of 2005 with regards to the electronic transfers and placing funds under disposal indicated that banks and FIs shall be subject to the Bank of Algeria and Algerian financial post services within the framework of the electronic transfers and/or placing funds under disposal in order to accurately identify the customer and the beneficiary (name, address, and account number or unique reference number in case there is no account number) regardless of the means used. Such procedures are taken throughout the transaction; and in case of refusal, the transaction is not conducted.<sup>22</sup></p> <p>Article 7 of Law No. 05-01 and Article 5 of the Bank of Algeria Regulation of 2012, the guidelines of the Bank of Algeria obligates FIs to control the elements of structuring the ownership of the legal person; in the case of refusing to comply, the banks may refuse to open the account and conduct the transaction. Such pressure exercised by the banks on the legal persons aims to making such persons to voluntarily comply with the Articles of Commercial Law which encourage the companies on prohibiting the issuance of anonymous bearer shares or at least to report to banks and major shareholders in the capital of companies.<sup>23</sup></p> <p>Besides the guidelines of the CTRF and the Bank of Algeria on customer due diligence measures, Algeria has adopted regulations:</p> <ul style="list-style-type: none"> <li>• on the rules applicable to routine transactions with foreign countries and foreign currencies accounts (No. 16-01 March 6, 2016)</li> <li>• setting the reporting threshold for import and export of banknotes and/or negotiable instruments denominated in freely convertible foreign currencies by residents and non-residents (No. 16-02 of April 21, 2016)</li> <li>• a decree of 2015 setting the threshold for payments to be made by scriptural means through banking and financial circuits.</li> </ul>

22. Page 46 ibid

23. Page 44 ibid

ALGERIA		
Measure	National Legislation	Comments
Measures to CFT for DNFBPs	<p><b>Law No. 05-01 dated February 6, 2005 on AML/CFT</b></p> <p><b>Virtue of Order No. 12-02 dated February 13, 2012</b></p> <p><b>Law No. 15-06 dated February 15, 2015</b></p>	<p><b>Legal Analysis</b></p> <p>The CTRF issued guidelines dated February 14, 2015 on CDD measures for DNFBPs and some FIs, insurance companies and Algiers Stock Exchange, which are not subject to the authority of the Bank of Algeria. These guidelines are in line with the FATF recommendations in the field. Furthermore, Bank of Algeria issued a guide on electronic transfers dated 23 December 2015, addressed to banks, FIs, and the Algerian financial post services subject to the supervision of the Bank of Algeria.<sup>24</sup></p> <p>The amended Law includes the obligation of all DNFBPs to report all transactions related to funds suspected to be proceeds of a crime, or seem to be directed to ML/FT, to the specialized body (CTRF); according to Article 20 of Law No. 05-01 dated February 6, 2005 amended and concluded by Order No. 12-02 of 2012. This Article also includes the real estate agents; real estate brokerage offices; traders of high value commodities such as jewelry, precious stones, gold, and precious metals; and other non-financial institutions specified by the CTRF. This is in addition to lawyers, legal draftsmen, and independent accountants.<sup>25</sup></p>

24. Page 9 ibid  
25. Page 39 ibid



ALGERIA		
Measure	National Legislation	Comments
		<p>Article 4 of Law No. 05-01 of 2005 amended and concluded by Order No. 12-02 of 2012 on AML/CFT included the definition of the beneficial owner as follows: <i>The natural person or persons who own or have actual control over the customer and/or the person on whose behalf a transaction is being conducted. The definition also includes the persons who exercise full and ultimate control over a legal person.</i></p> <p>Article 2 of Law No. 04-08 of 2004 related to conditions of practicing commercial activities stipulate the necessity of developing a commercial register held by the National Center for Commercial Register to be numbered and countersigned by the judge who qualifies public officers who shall register each natural or legal person in the local commercial register on the level of National Center branches found in all states of Algeria, according to what Article 10 of Law No. 04-08 stipulated. This is in addition to sending the records to the National Center within a week. Moreover, Article 19 of the amended Order No. 75-59 dated September 26, 1975 which includes the commercial law obligates each legal person which is commercial in form or in subject and located in Algeria or has an office, a branch, or any institution registered in the commercial register.<sup>26</sup></p> <p><b>Gap Analysis</b>  <b>Recommendations:</b></p> <p>I. CTRF shall clarify beneficial ownership obligations in order that reporting entities and DNFPBs are fully conversant.</p> <p>The CTRF guidelines specifically recall beneficial owner obligations in accordance with the recommendations of the FATF.</p>

26. Page 44 ibid

ALGERIA		
Measure	National Legislation	Comments
International Cooperation	Act no. 05-01 of 6 February 2005 in relation to preventing and combating money laundering and terrorist financing, as amended and supplemented by Order no. 12-02 of 13 February 2012 and Act no. 15-06 of 15 February 2015.	<p><b>Legal Analysis</b></p> <p>Algeria exchanges information with other states pursuant to Act no. 05-01 of 6 February 2005.</p> <p>Article 30 of the 2012 law expands the scope of international cooperation to include mutual legal assistance requests and extradition of the wanted persons as well as requests on searching for, freezing, seizure, confiscating laundered funds or funds directed to ML and their proceeds; funds used or intended to be used for FT purposes and instrumentalities used in committing such crimes; or funds with corresponding value.</p> <p>Mutual legal assistance includes searching for, freezing, seizing, confiscating laundered funds or funds directed to ML and their proceeds; funds used or intended to be used for FT purposes and means used in committing such crimes; or funds with equivalent value, without prejudice to the rights of bona fide third parties.<sup>27</sup></p> <p>With regard to financial information, Articles 25 and 26 of the same Law require CTRF to provide foreign States with the required information</p> <p>Algeria joined the EGMONT group in July 2013, and the CTRF has developed a policy of negotiating administrative agreements of bilateral cooperation, facilitating the sharing of information between financial intelligence units and concluded 21 memoranda of understanding and exchange of intelligence with peer cells in Africa, the Middle East, Europe and Asia.</p>

27. Page 30 ibid

ALGERIA		
Measure	National Legislation	Comments
		<p>Algeria has been a founding member of the Middle East and North Africa Financial Action Task Force (MENA-FTAF or GAFI-MOAN). Algeria has ratified the OAU Convention on the Prevention and Combating of Terrorism and is a member of the Global Counterterrorism Forum, the Organization of Islamic Cooperation, and the Arab League. Algeria is also a founding member of the International Institute for Justice and the Rule of Law</p> <p>Algeria raised concern in its questionnaire that some SPCs do not share information since they do not consider these acts to be crimes due to issues with dual criminality.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Establishment of a SPC 24/7 network or single points of contact (SPOCs) that allows for the sharing of information and receiving information from other States to liaise with relevant authorities in Algeria to investigate and freeze assets. For example, establishment of a SPC ARIN. This would also allow freezing without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 and its successor resolutions; or designated by that SPC pursuant to resolution 1373</li> <li>2. Implement provisions to prevent the suppression and disruption of proliferation of weapons of mass destruction and its financing. To ensure freezing without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations</li> </ol>

## Egypt

No Response to questionnaire – so this analysis based on desk review of available online sources

EGYPT		
Measure	National Legislation	Comments
<b>Terrorist Financing Offence</b>	<p><b>AML Law No. 80/2002 and its amendments</b></p> <p><b>Executive Regulations of the Law</b></p> <p><b>Presidential Decree-Law No. 128 of year 2014 on amending article No. 78 of the Penal Code</b></p> <p>Article 78</p> <p><b>Penal Code</b></p> <p>Article 78</p>	<p><b>Legal Analysis</b></p> <p>The Penal Code criminalizes the wilful collection and provision of funds, by any means, directly or indirectly, with the unlawful intention that they would be used or are to be used by a terrorist and / or for terrorist purposes.<sup>28</sup></p> <p>The definition of TF was amended by Article 78 of Law No. 128 2014 to include the collection or provision of funds including: the request, acceptance, receipt of funds, even indirectly, or the promise to provide, give, or offer funds, whether liquid funds or movable property, with the unlawful intention for use by others (individual terrorist or others) to commit aggressive acts or for terrorist purposes.<sup>29</sup></p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <p>TF offences should include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training</p>

28 Page 4 MENAFATF 7th Follow-Up Report 19 November 2014

29 Page 12 ibid

EGYPT		
Measure	National Legislation	Comments
Asset Recovery	<b>AML Law No. 80/2002 and its amendments</b> Article 19 re Freezing Article 20 re Confiscation	<p><b>Legal Analysis</b></p> <p>Article 19 of the AML Law ensures that judicial authorities can trace, freeze or seize funds subject to ML and TF offences, without prejudice to the rights of bona fide third parties.</p> <p>Article 20 provides for the enforcement of confiscation orders arising from ML or TF offences from foreign judicial authorities. Disposal of the funds will be subject to bilateral or multilateral treaties.</p> <p>Article 21 of the AML Law stipulates the implementation of UNSCRs 1373 and 1267 through the Egyptian FIU (EMLCU) taking the necessary procedures to implement Egypt's obligations in accordance with international agreements, treaties, and conventions relevant to the financing of terrorism and financing of proliferation of weapons of mass destruction<sup>30</sup></p> <p>EMLCU issued procedures on 11 June, 2014 mandating the Ministry of Foreign Affairs (MFA) to receive the freezing lists from the Security Council under UNSCR 1267. EMLCU, circulates such procedures among the supervisory authorities who send to the FIs under their supervision. Competent authorities are required to define the legal or natural customers who are on the list, and to freeze, immediately and without any prior notice, any funds or assets related to the customers on the lists. EMLCU, in cooperation with the supervisory authorities, ensures the commitment of financial and non-financial institutions to the freezing orders.<sup>31</sup></p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The creation of a fund for confiscated assets where all or a part of the confiscated properties are deposited to be used by relevant State agencies involved in combatting and preventing ML/TF. This should supplement rather than substitute existing budgets</li> <li>2. A SPC wide mechanism to mutually recognize freeze orders and confiscation orders from other SPCs or MS</li> </ol>

30. Page 14 ibid

31. Page 15 ibid

EGYPT		
Measure	National Legislation	Comments
Financial Intelligence Unit	AML Law No. 80/2002 and its amendments Article 3	<p><b>Legal Analysis</b></p> <p>The Egyptian FIU, is the Money laundering and Terrorist Financing Combating Unit (EMLCU) and was created pursuant to Article 3 of the AML Law. Article 3 provides that EMLCU is an independent unit established at the Central Bank of Egypt.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. As non-profit organisations may often be potential channels (often involuntary) for terrorist financing, consider drafting a Guide to raise awareness and inform them of the risks of terrorist financing.</li> <li>2. To address the informal cash based economy as a SPC wide issue and determine best practices to tackle through Egmont Group or establishing an ARIN – including increased efforts to formalize i.e. production of ID for all manual currency exchange transactions over a threshold amount and to focus intelligence/investigation efforts to enforce</li> <li>3. As a portion of terrorist financing comes from the illicit trade in works of art, Director of EMLCU could send a letter to antiques unions or representatives to remind them of any bans currently in force and their due diligence obligations and highlighting sales of cultural goods via the supply of a certificate of authenticity or payments made in cash for works of art</li> </ol>

EGYPT		
Measure	National Legislation	Comments
Suspicious Transaction Reports	<b>AML Law No. 80/2002 and its amendments</b>  Article 8	<p><b>Legal Analysis</b></p> <p>Article 8 of the AML Law stipulates that FIs and DNFBPs shall report, without delay, to EMLCU any transactions that are suspected to constitute proceeds or involve ML/TF offences or any attempts to proceed with such transactions regardless to their value. The law does not stipulate on the obligation to report suspicious cases of funds connected or related to terrorism, terrorist acts, or being used by terrorist organizations. However, it can be said that these crimes are included under the broad definition of ML predicate offence which includes any predicate crime, by virtue of the Egyptian law.<sup>32</sup></p> <p>EMLCU has provided guidelines for reporting suspicious transactions circulated and sent to DNFBPs and FIs, including STR templates.<sup>33</sup></p> <p><b>Gap Analysis Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider enhanced due diligence (whereby businesses check the source of funds, the grounds for the transaction and the recipient's identity) for transactions involving "unusually high" sums.</li> <li>2. Too much cash in circulation and anonymous means of payment in general make it harder to carry out checks and encourage trafficking. Anonymity must be rolled back in the economy to improve the monitoring of suspicious transactions. To this end, limit the cash payment options available.</li> </ol>

32. Page 11 ibid

33 Page 21 ibid

EGYPT		
Measure	National Legislation	Comments
Cross-border transportation of currency	<b>AML Law No. 80/2002 and its amendments</b>  Article 12	<p><b>Legal Analysis</b></p> <p>Article 12 of the amended law requires that every person, upon entering into or exiting from Egypt, shall declare to the competent customs authorities any amounts or any bearer negotiable instrument.</p> <p>The Central Bank, Banking Sector, and Money Law No.88/2003, states in Article 116 that “Passengers arriving in or departing from the country may hold Egyptian banknotes, not exceeding five thousand Egyptian pounds. The entry or exit of Egyptian banknotes via postal consignments and parcels shall be prohibited”<sup>34</sup></p> <p>Seizure reports are sent by Customs to EMLCU.<sup>35</sup></p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <p>This should relate not only to cash but to gold, money, shares or securities and various payment methods (cheques, promissory notes, money orders, pre-paid cards and bitcoins (and other cryptocurrencies etc.).</p> <p>It should also apply to transfers by freight including transfers of capital by freight (normal and express transfers)</p> <p>Consider a ban on the transport, transit, and trade of movable cultural heritage goods illegally removed from certain countries (i.e. Libya).</p>

34. Page 23 ibid

35. Page 24 ibid



EGYPT		
Measure	National Legislation	Comments
Measures implemented by banks and financial institutions to deter and detect money-laundering	AML Law No. 80/2002 and its amendments Executive Regulations of the Law	<p><b>Legal Analysis</b></p> <p>Article 3, paragraph 13, of the Executive Regulations of the AML Law stipulates that EMLCU should set the rules used for verifying the identity and legal status of the customer and beneficial owner, whether they were natural or legal persons through legal identification documents. The EMLCU Board of Trustees issued amended KYC rules for banks, mortgage companies and leasing entities, insurance companies, foreign exchange companies, National Post Authority when it provides financial services, money transmission companies, securities companies, companies specialized in receiving funds for investment and securitization companies. The KYC Rules amended the definition of beneficial owner to: the natural person who ultimately owns or controls a customer or the person on whose behalf a transaction is being conducted, including those persons who exercise ultimate effective control over the customer; whether a legal person or a legal arrangement.<sup>36</sup></p> <p>KYC Rules oblige FIs to implement CDD measures first, when the bank has suspicion on the accuracy of the previously obtained data for customer identification, or secondly when reaching a conclusion that such data are insufficient and needs to be completed, and thirdly when carrying out any occasional bank transfer transaction regardless of its value.</p> <p>The KYC Rules obliged FIs to take reasonable measures for identification of customers who were beneficial owners using information or data from reliable sources, to ensure that the institution has reached a conclusion on the identification of the beneficial owner. In addition, FIs are obliged to take reasonable procedures for collecting adequate information to verify the identity of the customer representative.<sup>37</sup></p> <p>The KYC Rules require FIs to identify customers when they carry out any occasional transaction that exceeds EGP 30.000 or its equivalent in foreign currency.</p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider a limit on cash payments from for individuals and companies resident in Egypt that applies to both business-to-business and business-to-consumer transactions. This limit would force businesses making payments above the threshold to use payment methods that are easy to trace (e.g. cheque, transfer, or credit card).</li> <li>2. For individuals or legal entities not resident in Egypt, retailers must check the identity of the buyer for transactions equal to or greater than a threshold amount.</li> <li>3. Deposits and withdrawals of large amounts of cash should be systematically reported to the EMLCU. No regulatory limit is stipulated even though it is vital to monitor these types of transactions for early detection of attempts to break the law.</li> </ol>

36. Page 7 ibid

37. Pages 7 and 8 ibid

EGYPT		
Measure	National Legislation	Comments
Measures to CFT for DNFBPs	AML Law No. 80/2002 and its amendments	<p><b>Legal Analysis</b></p> <p>The mechanism for implementing UNSCRs 1267 and 1373 included the circulation of the list to the DNFBPs (see above re Measures implemented by banks and financial institutions to deter and detect money-laundering).<sup>38</sup></p> <p>According to the amended law, DNFBPs shall: report any transactions that are suspected to constitute proceeds or involve ML/TF or any attempts to proceed with such transactions regardless of their value, establish a system for implementing CDD measures; provide EMLCU with the data, information, and statistics necessary for EMLCU to assume its functions, keep records and documents for recording executed local and international transactions including data sufficient for identifying customers and transactions, keep records, documents, and data records of customers and beneficial owners of natural and legal persons for five years at least as of the date the transaction ends or the closing of the account, update such data periodically, provide the records and documents to the judicial authorities upon request. DNFBPs must also pay special attention when dealing with cases that represent high risks, such as the large and complex transactions, or the PEPs. They must classify the customers and transactions as per the level of risk, and prevent the misuse of technological developments in ML/TF.<sup>39</sup></p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>I. EMCLU could provide Guidelines on beneficial ownership obligations in order that reporting entities and DNFBPs are fully conversant.</li> </ol>

38. Page 17 ibid

39. Page 18 ibid

EGYPT		
Measure	National Legislation	Comments
International Cooperation	<b>AML Law No. 80/2002 and its amendments</b>  Article 18	<p><b>Legal Analysis</b></p> <p>Article 18 of the AML Law provides that the Judicial Authorities shall cooperate with foreign judicial authorities with respect to mutual legal assistance and extradition as stipulated in bilateral or multilateral treaties applying the principle of reciprocity. Egypt has ratified the OAU Convention on the Prevention and Combating Terrorism</p> <p>Article 19 allows freezing and Article 20 enforcement of confiscation orders from foreign judicial authorities.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. <i>Establishment of a SPC 24/7 network or single points of contact (SPOCs) that allows for the sharing of information and receiving information from other States to liaise with relevant authorities in Egypt to investigate and freeze assets. For example, establishment of a SPC ARIN. This would also allow freezing without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 and its successor resolutions; or designated by that SPC pursuant to resolution 1373.</i></li> <li>2. <i>Implement provisions to prevent the suppression and disruption of proliferation of weapons of mass destruction and its financing. To ensure freezing without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.</i></li> </ol>

ISRAEL		
Measure	National Legislation	Comments
<b>Terrorist Financing Offence</b>	<b>Counter Terrorism Law – 2016 (CTL)</b> Sections 31, 32	<p>TF is criminalised under the CTL. Under section 31(a) - One who performs a transaction in property<sup>40 41</sup> with the intention of assisting, advancing or financing the commission of a grave terrorist offence<sup>42</sup> or rewarding its commission,<sup>43</sup> or with the intention of assisting, advancing or financing the activity of a terrorist organization, is liable to ten years' imprisonment or a fine twenty-times the fine prescribed in section 61(a)(4) of the CC.</p> <p>According to section 32(a)(1) – one who performs one of the following is liable to seven years' imprisonment or a fine ten times the fine prescribed in section 61(a)(4) of the CC:</p> <ol style="list-style-type: none"> <li>1. A property transaction<sup>44</sup> that is capable of assisting, advancing or financing the commission of a grave terrorist offence<sup>45</sup> or rewarding its commission, even if the recipient of the reward is not the person who committed the terrorist offence or the person who intended to commit it. For the purpose of this paragraph, it is sufficient to prove that the person who carried out the transaction was aware that one of the aforementioned possibilities existed even if it is not proven which one of them;</li> <li>2. A transaction in property of a terrorist organization or property connected to grave terrorist offence;</li> <li>3. Transfer of property to a terrorist organization.</li> </ol>

40. *Property* is defined in section 1 as: "land, moveable property, money and rights, including property that is consideration for the aforementioned property, and any property that grew or derived from that property or its profits"

41. *Property Transaction* is defined in Section 1 as: the granting or receipt of ownership or some other property right, whether proprietary or not, whether with consideration or without, as well as an action involving property that constitutes fund-raising, delivery, receipt, possession, conversion, a banking-related action, investment, an action involving securities or their possession, brokerage, the granting or receipt of credit, import, export or creation of a trust, or the mixing of terrorist property with other property, even if the latter is not terrorist property;

42. *Grave Terrorist Offence* is defined in section 1 as: any of the following:

(1) An offence Set forth in Sections 20, 21, 22(b) and (c), 23, 25, 28, 29, 30 or 31;

(2) An offence constituting a terrorist act that is punishable by five years' imprisonment or more, after applying the aggravated penalty according to Article 2 in Chapter 3;

43. According to section 31(b)(2): "To reward the commission of a terrorist offence" – even if the recipient of the reward is not the person who committed the terrorist offence or the person who intended to commit it.

44. According to section 32(b): One who performs a transaction in property of a person whom he knows to be a terrorist operative as defined in paragraph (1) of the definition of a "Terrorist Operative" in Section 10, or he knows that that person or the organization in which he takes an active part is subject to a designation pursuant to Section 11, [he] will be presumed to have done so knowing that that act is capable of assisting, advancing or financing the commission of a grave terrorism offence or rewarding its commission, as the case may be, unless he proves that he did not know so.

According to section 32(d):

(1) The section shall not apply to types of property transactions, or to a particular transaction, whose execution has been permitted in advance by the Minister of Finance, in consultation with the Minister of Defense and the Minister of Public Security.

(2) Notice that permission has been granted pursuant to this subsection, that is designated for a non-particular Public, shall be published in Reshumot [The Official Gazette]. The Minister of Finance may determine additional methods of bringing the fact that permission has been granted to the attention of the Public.

45 See definition of *Grave Terrorist Offence* above

ISRAEL		
Measure	National Legislation	Comments
		<p>In addition, according to section 23 of the CTL, one who provides a service or resources to a terrorist organization, where doing so may assist or promote the organization's activity, is liable to five years' imprisonment, unless he proves he was unaware that the organization is a terrorist organization; here, "was aware" includes having a suspicion and failing to verify it.</p> <p>According to section 25 of the CTL, one who provides a service or makes resources available to another, as specified below, in circumstances in which doing so may facilitate, directly or indirectly, the commission of an offence that is a terrorist act<sup>46</sup>; ease its commission; or [facilitate] escape from justice following the commission of such an offence, is liable to five years' imprisonment:</p> <ol style="list-style-type: none"> <li>1. Providing another with transportation service or a place to sleep, stay or hide, or with the means to obtain a place to sleep, stay or hide;</li> <li>2. Providing another with money, food, clothing, information, means of communication, documents, vehicles, gasoline, land, a structure, or any other resource.</li> </ol> <p>Additionally, financing the execution of terrorist act can be considered as an accessory offence according to sections 31 and 32 of the Israel Criminal Code.</p> <p>Sections 31 and 32 of the CTL, extend to any person who willfully provides or collects funds by any means, directly or indirectly, with the unlawful intention that they should be used, or in the knowledge that they are to be used to carry out a terrorist act or be used by a terrorist organization<sup>47</sup> (whether designated or not) or by an individual terrorist.</p> <p>Under section 29 the provision/receipt of training for terror purposes is a criminal offence liable to 9 years of imprisonment. Any person financing the training (the terrorist act) can be prosecuted as an <b>accessory</b> offence according to sections 31 and 32 of the Criminal Code.</p>

46. A *Terrorist Act* is defined in **Section 2** of the **Counter Terrorism Law** as: an act that constitutes an offence, or a threat to carry out such an act, which meets all of the following:

- (1) It was carried out with a political, religious, nationalistic or ideological motive;
- (2) It was carried out with the intention of provoking fear or panic among the public or with the intention of compelling a government or other governmental authority, including a government or other governmental authority of a foreign country, or a public international organization, to do or to abstain from doing any act
- (3) The act carried out or threatened to be carried out, involved one of the following, or posed an actual risk of one of the following
  - (a) Serious harm to a person's body or freedom;
  - (b) Serious harm to public health or safety;
  - (c) Serious harm to property, when in the circumstances in which it was caused there was an actual possibility that it would cause the serious harm mentioned in sub-paragraphs (a) or (b) and that was carried out with the intention of causing such harm;
  - (d) Serious harm to religious objects; here, "religious objects" means a place of worship or burial and holy objects;
  - (e) Serious harm to infrastructure, systems or essential services, or their severe disruption, or serious harm to the State's economy or the environment;

47. According to section 2 of the CTL - *Activity of a Terrorist Organization* includes legal activity or activity for legal purposes;

ISRAEL		
Measure	National Legislation	Comments
Asset Recovery	<ol style="list-style-type: none"> <li>1. <b>The Prohibition on Money Laundering Law, 2001 (PMLL)</b></li> <li>2. <b>Sections 21-22</b></li> <li>3. <b>Combating Terror Financing Law, 2016 (CTL)</b></li> <li>4. <b>Criminal Procedure Ordinance</b></li> </ol> <p>Sections 32 -39 (CPO)</p>	<p><b>Legal Analysis</b></p> <p>The Asset Recovery &amp; Forfeiture Management Office (ARFO) is an independent Office under the Administrator General and Official Receiver. The ARFO is responsible for preserving, management and realization of seized assets derived from crime designated for forfeiture at all stages of the criminal proceedings and maintains statistics on seizures, forfeiture of assets and their management. The ARFO provides professional (legal, financial and economic) counselling to the investigation entities throughout the procedure.</p> <p>Sections 21 of the PMLL sets out the confiscation of property in criminal proceedings following a conviction in section 3 or 4 of the PMLL. Section 22 sets out the confiscation of property in civil proceedings when the person suspected of committing the crime is not in Israel on a regular basis or he cannot be located, and therefore an indictment cannot be filed against him, or the property was discovered after the conviction.</p> <p>Under Section 21 (a) of the PMLL, confiscation of property of equivalent value is possible as the provision is a value based provision rather than one requiring confiscation of actual proceeds. Property of the convicted person which may be forfeited extends to any property found in his possession, control or account (Section 21 (b), PMLL) and accordingly includes pre-acquired property. Where no property of the convicted person is found to implement the confiscation order in full, the court may direct that the order be implemented from the property of another person, the acquisition of which was financed by the convicted person or which he transferred to the other person without consideration; the court shall not order as stated with respect to property which the convicted person financed or transferred to the same person prior to the commission of the offence for which he was convicted and with regard to which the confiscation order was made.</p>

ISRAEL		
Measure	National Legislation	Comments
		<p>Terror financing offences are predicate offences according to sub-section 18 of the first schedule of the PMLL and therefore sections 21, 22 aforementioned apply to this offence as well.</p> <p>Criminal Procedure Ordinance (Arrest and Search) [New Version], 1969 (CPO)</p> <p>Under section 32 of the CPO, the police may seize an item there is a reason to believe that the item was used or is about to be used for the commission of an offence, that it is likely to serve as evidence in a legal proceeding, or that it was given as payment for the commission of an offence or as means of committing it.</p> <p>According to section 34 of this Ordinance, with respect of a police officer or a person who claims a right in the item, the court may order how to deal with this item. According to section 39 of this Ordinance the court may, in addition to any penalty imposed by it, order the forfeiture of the item.</p> <p><u>Combating Terror Financing Law, -2016 (CTL)</u></p> <p>Section 53 specifies with regard to the confiscation of property of a person convicted of a terrorist offence, that sections 21, 23 and 26(a) of the PMLL shall apply with several changes.</p> <p>Sections 54-55 provide additional confiscation powers, with regard to property of the terrorist organization in connection with a conviction of managing of a terrorist organization; and confiscation of property discovered after the sentence was delivered.</p>

ISRAEL		
Measure	National Legislation	Comments
Financial Intelligence Unit	<b>Prohibition on Money Laundering Law (PMLL)</b> Sections 28 - 31	<b>Legal Analysis</b> <p>Israel Money laundering and Terror financing Prohibition Authority (IMPA), the Israeli FIU see website at: <a href="http://www.impa.justice.gov.il">www.impa.justice.gov.il</a></p> <p>IMPA is an administrative FIU within the Ministry of Justice, authorised to receive, centralise, analyse and disseminate information of both currency transaction reports (CTRs) specified by size and type and unusual activity reports (UARs) concerning suspected ML or TF activities (Section 29(b) of the Prohibition on Money Laundering Law).</p> <p>IMPA became operational in February 2002. Section 29(a) of the PMLL establishes IMPA as the competent authority responsible for the management and maintenance of the database, the processing of the data, the analysis of the information, and protecting the data stored therein.</p> <p>IMPA acts to assist the Israeli LEAs, Security Agencies and the supervisors of the private sector in performing their duties according to the Israeli AML/CFT regime. IMPA is an administrative FIU, established as such for the purpose to protect the right to privacy on the one hand and on the other to prevent the misuse of financial institutions and DNFBPs for ML/TF. IMPA disseminates financial information to LEAs, security agencies and foreign FIU after applying strict scrutiny and only in accordance with the law. IMPA's duties includes managing the database of financial reports filed by the private sector and from various other sources; promoting the AML/CFT regime in Israel in accordance with international standards; safeguarding and analysing the data in its database; disseminating information to LEAs and security agencies to assist them in detecting ML/TF offences; creating a barrier between LEAs and financial institutions with the purpose of promoting compliance and protecting the privacy of the citizens; representing Israel in various international organizations; cooperating with its foreign counterparts; cooperating with other agencies within the framework of the fusion centre and the various "task forces" led by the Israeli Police; promoting legislation, together with the Ministry of Justice and other authorities; providing ML/TF typologies and knowledge; acting as member in the administrative sanctions committees established by the PMLL.</p>



ISRAEL		
Measure	National Legislation	Comments
		<p>IMPA has a substantial role in the money laundering and terror financing investigations. In recent years, IMPA strengthened its analysis abilities and proactive approach, along with organizational change, and became a more significant player within LEAs activity and ML/TF investigations. IMPA has developed high professional expertise is conducting operative and strategic analysis, and it frequently produces useful financial intelligence to the other LEAs, proactively or by responding to requests for information, while focusing on high risk phenomena. Moreover, IMPA conducted an organizational change and improved its internal processes in order to improve its modes of operation and the quality and validity of its analysis. Consequently, IMPA is now involved in the vast majority of AML/CFT investigations, including initiating quite a few cases.</p> <p>Sections 30 and 31 of the PMLL enable IMPA to exchange information directly with the Israeli Police (IP), Israel Tax Authority (ITA) and security agencies (specified in the sections) and under the conditions stipulated. IMPA may both initiate the exchange and do so upon request. Section 30(f) enables IMPA to exchange information directly with a foreign counterpart FIU. IMPA may also independently sign MOUs with counterpart FIUs.</p> <p>IMPA is a member of the EGMONT group since 2002, as part of its strategy to enhance international cooperation as well as promoting the exchange of information. IMPA takes an active part at the EGMONT group meeting and its committees.</p> <p>IMPA proactively acts to reinforce and improve the relationship and collaboration with reporting entities. Among other things, IMPA is committed to assist reporting entities to comply with the AML/ CTF regime, and to improve the quality of the reports. For that purpose, IMPA shares its professional knowledge, expertise and insights with reporting entities and provides ongoing guidance and feedback meetings to the different sectors.</p> <p>IMPA publishes Red Flags, and ML/TF typologies documents, targeted at reporting entities, supervisors, LEAs and the security agencies. The publications, among other things, aim to expand professional knowledge and understanding of the ML/ FT risks and trends. Such publications include red flags regarding FTFs, red flags for real estate, diamond dealers, NPOs, and guidelines on the prevention of TF and proliferation, risk based approach for financial institutions, risk based approach for MVTs, etc.</p>

ISRAEL		
Measure	National Legislation	Comments
Suspicious Transaction Reports	Prohibition on Money Laundering Law Section 7	<p><b>Legal Analysis</b></p> <p>The power to determine reporting obligations is specified under Section 7(a)(2) of the PMLL and applies also to transactions which were not yet completed. Section 7(b), refers to the Third Schedule which enumerates all financial institutions covered by the PMLL and accordingly, are obligated to report IMPA regarding any suspicious activity<sup>48</sup>.</p> <ul style="list-style-type: none"> <li>• A Member of the Stock Exchange;</li> <li>• A Portfolio Manager;</li> <li>• A Trading Platform Company;</li> <li>• An Insurer or Insurance Broker as defined in section 1 of the Supervision of Financial Services (Insurance) Law, 5741-1981 (L32);</li> <li>• A Management Company as defined in the Supervision of Financial Services (Provident Funds) Law, 5765-2005 (L33) with regard to the provident funds under its supervision;</li> <li>• A Money Services Business;</li> <li>• A credit service provider or a credit and deposit service provider;</li> <li>• The Postal Bank.</li> </ul>

48. In June 2017, Amendment No. 4 to the SFSL (L4) was approved. The Amendment is intended to promote competition in the consumer credit market by regulating the activity of On-Line Platforms. The bill includes an indirect amendment to the PMLL, in order to apply obligations concerning ML and TF to said platforms. The bill will take effect in February 2018.

ISRAEL		
Measure	National Legislation	Comments
		<p>All supervised entities are obligated to report IMPA regarding any transaction which appears, in view of the information they possess, as being connected with activities prohibited under the PMLL or the Counter Terrorism Law. To that end, the AML/CFT orders provide indicative list of transactions which may appear to be unusual<sup>49</sup>.</p> <p>According to section 2-6 of the Prohibition on Money Laundering (Modes and Times for Transmitting Reports to the Database by Banking Corporations and the Entities Specified in the Third Schedule to the Law) Regulations, the Head of IMPA is authorised after consultation with the Supervisors to give instructions pertaining to modes of reporting, structure, times and place of submission. Accordingly, IMPA provided Guidelines to each of the financial institutions, regarding the manner of reporting, including specification of reporting forms, and the procedures that should be followed when reporting. The Head of IMPA has issued guidelines to the financial institutions for reporting CTRs and UARs. Financial institutions are obligated by law to report to the FIU through periodic reports (CTR – Once a week/month, UAR – Immediate). Other financial institutions send the CTRs on a monthly basis.</p> <p>Reporting procedures and time frames are prescribed by binding regulations under the Prohibition on Money Laundering Regulations (Methods and Times for Reporting to the Data Base by Banking Corporations and entities specified in the Third Schedule), 5762-2002. According to regulation 4(a) (2), all financial institutions are required to report “promptly”.</p> <p>Section 31(c) of the Prohibition of Money Laundering Law, IMPA has the right to request additional information from any reporting entity that is necessary to complete a report received or which is connected with such a report and relates to a person in relation to whom the report was received.</p> <p>The Prohibition on Money Laundering (Modes and Times for Transmitting Reports to the Database by Banking Corporations and the Entities Specified in the Third Schedule to the Law) Regulations, 5762-2002, provides the reporting financial institutions are obliged to accompany their reports with all the relevant required documents.</p>

49. Section 9(a) of the Banking order (O1); Section 13 of the Stock Exchange Members and Trading Platforms orders (O3 and O5 respectively); Section 10 of the Portfolio Managers order (O4); Section 12 of the Postal Bank order (O6); Section 11 of the Insurers order (O7); Section 8(b) of the MSBs order (O2).

ISRAEL		
Measure	National Legislation	Comments
Cross-border transportation of currency	Prohibition on Money Laundering Law Section 9	<p><b>Legal Analysis</b></p> <p>Section 9 of the PMLL requires any person (including a legal entity) entering or leaving the country to declare “funds” in his possession which exceed the amount stipulated in the 4<sup>th</sup> schedule. The requirement extends to mail and cargo and includes cash couriers.</p> <p>The term “funds” is defined in section 1 of the PMLL as cash, travellers’ checks, cashier checks and a wide range of bearer negotiable instruments such as bearer shares, pre-paid cards etc.</p> <p>Under the 4<sup>th</sup> schedule of the PMLL, all persons and legal entities leaving or entering the country with an amount exceeding NIS 50,000 (approximately EUR 10,200) are required to submit a declaration under section 9. A lower threshold of NIS 12,000 applies to all other land border crossings.</p> <p>The money laundering (means of reporting on currency on entering and leaving Israel) regulations, 2001 provide further instructions with regard to section 9.</p> <p>The PMLL provides both criminal and administrative sanctions which may be imposed on an offender:</p> <p>1. <u>Criminal Sanctions</u>: According to section 10 a criminal indictment can be served for a violation of the obligation to report under section 9. The court may impose a penalty of up-to six months imprisonment or a fine equal up to NIS 226,000 or up to 10 times the threshold, whichever is higher.</p> <p>Under section 3(b) a court may impose up to 10 years imprisonment for conducting a property transaction (under section 3(a)) or giving false information in order to circumvent or prevent</p> <p>2. <u>Administrative Sanctions</u>: Section 13 of the PMLL empowers the TA to establish an administrative financial sanction committee for violations of the law. Under section 15 the committee may impose a fine of up to NIS 113,000 or up to 5 times the amount that was not reported, whichever is higher. Section 12 of the money laundering (administrative sanction) regulations, 2001, provides that on account of a first violation, the committee may impose a fine of up to half the amount stipulated in section 15 of the PMLL, if the prescribed threshold is not high.</p>

ISRAEL		
Measure	National Legislation	Comments
Measures implemented by banks and financial institutions to deter and detect money-laundering	<b>Prohibition on Money Laundering Law (PMLL)</b> Section 7  <b>Counter Terrorism Law (CTL)</b> Section 32	<b>Legal Analysis</b>  Under sections 7 and 32 of the PMLL and 95 of the CTL, all financial institutions are subject to the AML/CFT regime. Section 11M(a) of the PMLL sets out the supervisors for the obliged entities under the PMLL with regard to the AML/CFT regime in Israel. Under section 11N(a)(1) the supervisors are responsible for regulating and supervising the compliance of financial institutions' with AML/CFT provisions and for this purpose are obliged to appoint inspectors to exercise their powers in relation to the supervised body.  The AML/CFT regulatory framework is envisaged in the different orders <sup>50</sup> for each of the obliged entities that are enacted, under section 32(c) of the PMLL.  Under these orders, financial intuitions are subject to a wide range of obligations including CDD (KYC, identification and verification including specific provisions regarding beneficial owner information and politically exposed persons), reporting, record keeping, wire transfers, higher risk countries, tipping off instructions, monitoring obligations, including enhanced monitoring, CFT obligations and risk based approach.

50. Prohibition on Money Laundering (Obligations of Banking Corporations regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) Order; 5761-2001; Prohibition of Money Laundering (Obligations of Money Service Businesses regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) Order; 5774-2014; Prohibition of Money Laundering (Obligations of Stock Exchange Members regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) order; 5770-2010; Prohibition of Money Laundering (Obligations of Portfolio Managers regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) order; 5770-2010; Prohibition of Money Laundering (obligations of Trading Platforms regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) order; 5775-2015; Prohibition of Money Laundering (Obligations of the Postal Bank regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) order; 5776-2016; Prohibition of Money Laundering (Obligations of Insurers, Insurance Agents and Managing Companies regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) order; 5776-2016

ISRAEL		
Measure	National Legislation	Comments
Measures to CFT for DNFBPs	<b>Prohibition on Money Laundering Law (PMLL)</b> Sections 8A, 8B <b>Counter Terrorism Law (CTL)</b> Section 32	<b>Legal Analysis</b> <p>Lawyers and accountants and dealers in precious stones are subject to supervision and monitoring for compliance with AML/CFT obligations</p> <p>On July 30, 2014, The Israeli parliament approved Amendment No. 13 of the PMLL which applies the AML/CFT regime to lawyers and accountants (Business Service Providers (BSPs)) according to international standards including requirements regarding PEPs.</p> <p>The BSP sector is supervised by the BSP Supervisor under the Ministry of Justice and is subject to administrative sanctions. The 13<sup>th</sup> amendment was followed by the enactment of the BSP order, which came into force on September 2, 2015.<sup>51</sup></p> <p><u>The BSP Order imposes CDD (KYC, identification and verification, including beneficial owner and ongoing monitoring), record keeping, and countries at high risk obligations.</u></p> <p><u>In September 2015, The Dealers in Precious Stones order came into force.<sup>52</sup> The order defines a “dealer in precious stones” as anyone undertaking precious stones transactions as the vendor, even if it's not his sole vocation, providing that during the past year, he conducted one or more precious stones transactions for an overall sum of at least 50,000 NIS. The sector is supervised by the Supervisor under the Ministry of Economy.</u></p> <p><u>The Order subjects the sector to CDD, Unusual Activity Reporting, record keeping, ongoing monitoring and countries at high risk obligations.</u></p> <p>Although TCSPs are not supervised or regulated under the AML/CFT regime, in Israel, most providers of these services are lawyers or accountants.</p>

51. Prohibition of Money Laundering (Obligations of Business Service Providers Regarding Identification and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) order, 5775-2014.

52. Prohibition of Money Laundering (Obligations of Dealers in Precious Stones regarding Identification, Reporting and Record-Keeping for the Prevention of Money Laundering and the Financing of Terrorism) order, 5774-2014.

ISRAEL		
Measure	National Legislation	Comments
International Cooperation	International Legal Assistance Law, 1998	<p><b>Legal Analysis</b></p> <p>Israel is a party to the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters as well as several relevant bilateral instruments. Israel may also seek and provide mutual legal assistance in the absence of a treaty nexus with a third country. As a matter of domestic law this area is governed primarily by the International Legal Assistance Law. Responsibility for mutual legal assistance in Israel is, in essence, divided between the Department of International Affairs in the State Attorney's Office and the Legal Assistance Unit of the Israeli Police. The former is responsible for the drafting and submission of requests to third countries on behalf of the State of Israel. The latter is responsible for incoming requests for assistance unless they are of a nature requiring investigation by a specialised body such as the Israel Securities Authority.<sup>53</sup></p> <p>The Israeli Police is a member of Interpol and uses this channel to collect and supply information. Requests for investigative acts are facilitated through the MLA procedure and intelligence can be exchanged freely through Interpol, as long as it is not intended to be used as evidence and it does not entail coercive measures.</p> <p>Israel is also a member in CARIN, in which it has two contact points for CARIN, one from the INP and the other from the ITA. The representatives are responsible for the contact with other CARIN contact points and to handle the requests for information than being delivered through the CARIN network.</p> <p>The INP closely cooperates and shares intelligence with a large number of countries and has signed MOUs with 39 countries.</p>

53. Page 14 ibid

ISRAEL		
Measure	National Legislation	Comments
		<p>The ITA has a range of measures to facilitate international cooperation in the various areas of operation including on customs issues for criminal and civil matters, the National Anti-Drug and ML Unit for information exchange and international cooperation pertaining to narcotic trafficking or ML, Cooperation within the framework of the World Customs Organisation (WCO) and international cooperation on issues of income tax and for the application of the international conventions regarding double taxation</p> <p>The Bank of Israel, has established relationships (formally and informally) with its counterparts in the main countries where the Israeli banking sector operates and has signed several agreements for the exchange of information.<sup>54</sup></p> <p>The International Legal Assistance Law enables the enforcement of foreign forfeiture orders in Israel according to requests of another state and the enforcement of forfeiture orders according to requests on behalf of the state of Israel.</p> <p>IMPA actively seeks and exchanges financial intelligence with its foreign counterparts. The PMLL specifically permits IMPA to transmit information that falls within its remit of combating ML/TF, from its database to a foreign authority of its kind (Section 30(f) of the PMLL).</p> <p>Although IMPA signs MOUs with foreign FIUs, IMPA has no restriction under the law to exchange information with any FIU and the MOU is signed to reinforce the cooperation between the countries in the aspect of exchanging information and sometimes even promoting joint projects.</p>

54. Page 14 ibid



JORDAN		
Measure	National Legislation	Comments
<b>Terrorist Financing Offence</b>	<p><b>Law No. (46) for the year 2007 Anti Money Laundering Law, published in the Official Gazette in volume No. (4831) dated 17/6/2007 on page (4130), amended by the Temporary Law No. (8) for the year 2010 the Law Amending the Anti Money Laundering Law, published in the Official Gazette in volume No. (5028) dated 2/5/2010 on page (2383) and the Temporary Law No. (31) for the year 2010 Law Amending the Anti Money Laundering and Counter Terrorist Financing Law, published in the Official Gazette in volume No. (5057) dated 21/9/2010 on Page. No. (5521).</b></p> <p>Article 3 and 24</p>	<p><b>Legal Analysis</b></p> <p>The FATF Mutual Evaluation Report of 2009 confirms that the AML law is in conformity to UNTOC.<sup>55</sup></p> <p>Article 4(b) of Law No. 46 of 2007 and its amendments provides that conviction in a predicate offence is not required to prove that funds are illicit.</p> <p>Article 3(b) and Article 24 criminalizes terrorist financing</p> <p>Law No. 46 was amended in 2010 to include forms of collecting and providing funds to a terrorist organization, association or agency or group of terrorists or an individual terrorist in the criminalization, even if such funds derive from legitimate sources so that the criminalization is largely aligned with the International Convention for the Suppression of the Financing of Terrorism (ICSFT).</p> <p>The definition of funds in the context of terrorist financing includes any kind of assets, and electronic and digital documents to be consistent with the definition set out in the ICSFT.</p> <p><b>Gap Analysis Recommendations:</b></p> <p>I. TF offences should include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training</p>

55. Page 5 MENAFATF 3rd Follow-Up Report for Jordan 30 April 2013

JORDAN		
Measure	National Legislation	Comments
Asset Recovery	<p><b>Law No. (46) for the year 2007 Anti Money Laundering Law, published in the Official Gazette in volume No. (4831) dated 17/6/2007 on page (4130), amended by the Temporary Law No. (8) for the year 2010 the Law Amending the Anti Money Laundering Law, published in the Official Gazette in volume No. (5028) dated 2/5/2010 on page (2383) and the Temporary Law No. (31) for the year 2010 Law Amending the Anti Money Laundering and Counter Terrorist Financing Law, published in the Official Gazette in volume No. (5057) dated 21/9/2010 on Page. No. (5521).</b></p>	<p><b>Legal Analysis</b></p> <p>Article 27(a) of Law No. 46 grants powers to the public prosecutor competent in AML/CFT crimes in verifying the real sources of funds belonging to the perpetrators. This includes tracing and knowing the source of such funds. The court was also granted the power to verify the sources of funds belonging to the accused persons, tracing properties and seizing and confiscating funds.</p> <p>Article 24 of Law No. 46 provides for confiscation in terrorist financing crimes. The amended law also granted powers to the public prosecutor competent in ML/TF crimes in verifying the real sources of funds belonging to the perpetrators of ML/TF crimes including tracing and knowing the source of such funds. The court was also granted the power to verify the sources of funds belonging to the accused persons, tracing properties and seizing and confiscating funds.</p> <p>A National Committee issues instructions on compliance with United Nations Security Council Resolutions (UNSCRs) 1267 and 1373. Article 6(a)(2) established the legal basis for the implementation of these resolutions where Article 6(a)(2) of Law No. 46. Article 37(c) of Law No. 46 stipulated that the Committee prepares instructions to execute the provisions of this law including those in Article 6(a)(2).</p> <p><b>Gap Analysis</b></p> <p><b>Recommendation:</b></p> <p>I. A SPC wide mechanism to mutually recognize freeze orders and confiscation orders from other SPCs or MS</p>

JORDAN		
Measure	National Legislation	Comments
Financial Intelligence Unit	<p><b>Decree Law No. (20) of the year 2015 on combating money laundering and financing terrorism</b></p> <p>Article 23</p>	<p><b>Legal Analysis</b></p> <p>The Jordan FIU, the Anti-Money Laundering Unit (AMLU) and is the only entity authorized to receive reports about suspicious transactions that are suspected to be connected to money laundering and terrorist financing. AMLU is required law to provide the reporting entities with feedback regarding the receipt of reports<sup>56</sup></p> <p>The work procedure no. (44) of 2008 of the AML National Committee was issued and specified the work framework of the National Committee with regard to its meetings, quorum and decision- making mechanism. The AML Unit regulation no. 40/2009 sets out the powers and tasks of the AML Unit and the powers and tasks of the Chief of the Unit. In 2011, this regulation was amended as well as the AML National Committee Regulation passed in 2008 in line with the AML/CFT Law. The amended Unit regulation set out its tasks and powers with regard to investigation and analysis of the reports suspected to be connected to AML/CFT, requesting the necessary information for analysis and building the necessary databases in this regard. The regulation also tackled coordination with the regulatory and supervisory entities and competent entities with regard to AML/CFT and preparing training and awareness programs in AML/CFT. The regulation also gave full power to Chief of the Unit to manage and supervise the Unit affairs including the designation of departments and determining their functions.</p>

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JORDAN		
Measure	National Legislation	Comments
		<p><b>Gap Analysis Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. AMLU issue guidelines covering the obligation of financial organisations to perform due diligence and report any suspicious financial transactions. These guidelines would apply to financial organisations (e.g. banks, mutual insurance companies, bureaux de change, crowdfunding platforms, sellers of antiques or works of art) and would cover the due diligence requirements in relation to clients and the requirement to report any suspicious transactions to the AMLU</li> <li>2. To address the informal cash based economy as a SPC wide issue and determine best practices to tackle through Egmont Group or establishing an ARIN – including increased efforts to formalize i.e. production of ID for all manual currency exchange transactions over a threshold amount and to focus intelligence/investigation efforts to enforce</li> <li>3. As non-profit organisations may often be potential channels (often involuntary) for terrorist financing, consider drafting a Guide to raise awareness and inform them of the risks of terrorist financing</li> <li>4. As a portion of terrorist financing comes from the illicit trade in works of art, AMLU Chief could send a letter to antiques unions or representatives to remind them of any bans currently in force and their due diligence obligations and highlighting sales of cultural goods via the supply of a certificate of authenticity or payments made in cash for works of art</li> </ol>
Suspicious Transaction Reports	<p><b>Law No. 46</b></p> <p>Article 33</p>	<p><b>Legal Analysis</b></p> <p>AMLU receives STRs on ML/TF and instructions issued to the financial institutions confirm the need to notify the Unit of the suspicion. Law No. 46 Article 33 stipulates that no provision related to AML/CFT offences set out in any other legislation is in conflict with the provisions of Law No.46</p> <p><b>Gap Analysis Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider enhanced due diligence (whereby businesses check the source of funds, the grounds for the transaction and the recipient's identity) for transactions involving “<i>unusually high</i>” sums</li> <li>2. Too much cash in circulation and anonymous means of payment in general make it harder to carry out checks and encourage trafficking. Anonymity must be rolled back in the economy to improve the monitoring of suspicious transactions.</li> </ol> <p>To this end, limit the cash payment options available</p>

JORDAN		
Measure	National Legislation	Comments
Cross-border transportation of currency	<b>Law No. 46</b> Article 25(c)	<p><b>Legal Analysis</b></p> <p>Article 25(c) of Law No. 46 imposes a penalty of confiscation of cross border transportation of funds related to terrorist financing.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. All private individuals carrying a threshold amount must declare the sum being transferred to Customs. This requirement also applies to private individuals bringing the same sum into Jordan, from outside Jordan, or vice versa</li> <li>2. This should relate not only to cash but to gold, money, shares or securities and various payment methods (cheques, promissory notes, money orders, pre-paid cards and bitcoins (and other cryptocurrencies etc.)</li> <li>3. It should also apply to transfers by post and transfers by freight including transfers of capital by freight (normal and express transfers)</li> <li>4. Consider a ban on the transport, transit, and trade of movable cultural heritage goods illegally removed from certain countries</li> </ol>

JORDAN		
Measure	National Legislation	Comments
Measures implemented by banks and financial institutions to deter and detect money-laundering	Law No. 46 Article 13	<p><b>Legal Analysis</b></p> <p>Law No. 46 requires due diligence measures towards high-risk customers or transactions through a number of procedures.</p> <p>This includes:</p> <ol style="list-style-type: none"> <li>1. AML/CFT risk management systems and classifying customers into categories according to the risk degrees</li> <li>2. Setting necessary procedures; and</li> <li>3. Revising such classification periodically when changes occur that require so</li> </ol> <p>Instructions to banks were issued with regard to PEPs and the measures that must be taken in their regard.</p> <p>The Central Bank of Jordan, Securities Commission and Insurance Commission conduct inspection visits to the financial institutions subject to their supervision to verify that the concerned financial institutions comply with AML/CFT instructions in all aspects.</p> <p>Article 13 of Law No. 46 also requires DNFBPs and lawyers and accountants to comply with the AML/CFT framework.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider a limit on cash payments from for individuals and companies resident in Jordan that applies to both business-to-business and business-to-consumer transactions. This limit would force businesses making payments above the threshold to use payment methods that are easy to trace (e.g. cheque, transfer, or credit card)</li> <li>2. For individuals or legal entities not resident in Jordan, retailers must check the identity of the buyer for transactions equal to or greater than a threshold amount</li> <li>3. Deposits and withdrawals of large amounts of cash should be systematically reported to the AMLU. No regulatory limit is stipulated even though it is vital to monitor these types of transactions for early detection of attempts to break the law</li> <li>4. Consider production of ID for all manual currency exchange transactions over a threshold amount</li> </ol>

JORDAN		
Measure	National Legislation	Comments
International Cooperation	<p><b>Law No. 46</b></p> <p>Article 22 and 23</p>	<p><b>Legal Analysis</b></p> <p>Law No. 46 and amendments thereto addressed the legal basis governing the field of providing mutual legal assistance for AML/CFT. Article 22 confirms that MLA can be provided through bilateral or multilateral agreements ratified by Jordan and applying the principle of reciprocity.</p> <p>Jordan has ratified UNTOC, ICSTF, the Arab Convention for combating money laundering and terrorism financing and the Arab Convention against Transnational Organized Crime and is a founder member of the GCTF.</p> <p>Article 23 allows for the confiscation of the proceeds of money laundering or terrorist financing crimes.</p> <p>AMLU has the power to exchange information with counterpart units based on the principle of reciprocity and provided such information is used for AML/CFT purposes. Article 19 of Law No. 46 allows AMLU to sign Memoranda of Understanding (MOUs) with counterpart units to regulate such cooperation.</p> <p>Jordan joined the Egmont Group on 13 July 2012.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Establishment of a 24/7 network or single points of contact (SPOCs) that allows for the sharing of information and receiving information from other States to liaise with relevant authorities in Jordan to investigate and freeze assets. For example, establishment of a SPC ARIN. This would also allow freezing without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 and its successor resolutions; or designated by that SPC pursuant to resolution 1373</li> <li>2. Implement provisions to prevent the suppression and disruption of proliferation of weapons of mass destruction and its financing. To ensure freezing without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.</li> </ol>

## Lebanon

No Response to questionnaire – so this analysis based on desk review of available online resources

LEBANON		
Measure	National Legislation	Comments
<b>Terrorist Financing Offence</b>	<p><b>AML/CFT law No. 44 issued on 24/11/2015 (amending law no 318 of April 20, 2001 on fighting money laundering)</b></p> <p><b>Law No. 77</b></p> <p><b>Law No. 53</b></p>	<p><b>Legal Analysis</b></p> <p>The 9<sup>th</sup> Follow-Up Report dated April 2017 confirms the AML/CFT Law No. 44 increased the list of predicate offenses and defining illicit funds as tangible or intangible and movable or immovable assets, including legal documents or instruments evidencing title to, or interest in, such assets, resulting from the commission of, or the punishable attempted commission of, or the participation in any of the predicate offenses, whether those crimes occurred in Lebanon or not.<sup>57</sup></p> <p>Law No. 77 which was published in the official Gazette on 3 November 2016 amending Article 316 bis of the Lebanese Penal code which stipulates that: the crime of financing terrorism applies to whoever willingly undertakes or attempts to undertake or directs or participates, intentionally and by any means, directly or indirectly, in financing totally or partially, or contributes to the financing of terrorism or terrorist acts, or the financing of an individual terrorist or terrorist organizations or any other related acts, including legitimate or illegitimate sources in Lebanon or abroad whether the funds were used or not used, and whether the terrorist act took place or not in Lebanon or abroad. The TF crime also includes travel, attempt to travel, recruitment, planning, preparation, organizing, facilitation, participation, providing or receiving training, and any other related act with the intention of committing terrorist acts, without being linked to a specific terrorist act.</p> <p>Article 2 of the AML/CFT Law No. 44 issued on 24/11/2015 stipulates that money laundering is a separate offense that does not necessitate the offender to be charged with the underlying predicate offense and charging the offender with an underlying predicate offense shall not preclude the pursuing of any legal proceedings against him for a money laundering offence.<sup>58</sup></p> <p>Article 3 of the AML/CFT Law No. 44 punishes whoever undertakes or attempts to undertake or incites or facilitates or intervenes or participates in money-laundering operations.<sup>59</sup> Lebanon issued the Expedited Law No.53 (which was published in the official Gazette on 26/11/2015) which authorizes the Lebanese Government to accede to the ICSTF.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendation:</b></p> <p>A FTF offence to include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training</p>

57. Page 1 MENAFATF 9th Follow-Up Report April 2017

58. Page 8 ibid

59. Page 10 ibid



LEBANON		
Measure	National Legislation	Comments
Asset Recovery	AML/CFT law No. 44 issued on 24/11/2015 (amending law no 318 of April 20, 2001 on fighting money laundering)	<p><b>Legal Analysis</b></p> <p>Law No. 44 (Article 6(5)) authorizes the SIC to request from individuals and competent authorities (public and private) to take the required measures to prevent the use of movable or immovable funds belonging to names designated or to be designated on the national lists issued by the Lebanese competent authorities or any other lists circulated concerning terrorism and terrorism financing and any acts related thereto; the individuals and competent authorities (public and private) must comply without any delay to such request. Therefore, the law has established a foundation for the SIC to request from individuals and official competent authorities (public and private) to prevent the use of movable or immovable funds; the law prohibits disposing of movable or immovable funds belonging to any names listed or to be listed on the national lists or any other lists circulated by the Lebanese competent authorities on terrorism and terrorism financing and any acts related thereto.<sup>60</sup></p> <p>Law No. 53 which was published in the official Gazette on 26/11/2015 on joining and ratifying the International Convention for the Suppression of Terrorism Financing, taking the necessary procedures to execute the obligations set out in the Convention and the subsequent resolutions by the National Committee on Suppressing Terrorism Financing that adopted mechanisms for implementing UNSCR 1267 and 1373.</p> <p>The National Committee on Suppressing Terrorism Financing adopted mechanisms for implementing UN Security Council resolutions regarding the freezing of terrorist funds or other terrorist assets of the persons designated as related to Al-Qaeda by the UN Commission of Sanctions established by virtue of the Security Council Resolution No. 1267 and the other related resolutions, or those designated under the Security Council Resolution No. 1373 and the other related resolutions. As well as placing publicly-known procedures for considering de-listing requests and un-freezing the funds or other assets of de-listed persons or entities.</p> <p>The Prime Minister issued letter No. 1861/S dated 11 December 2015 to the effect that the mechanism of implementing UNSCR 1267 and the subsequent resolutions; the mechanism on implementing UNSCR 1373 and the subsequent resolutions became applicable in Lebanon as of the date they were approved by the National Committee on Suppressing Terrorism Financing on 10 December 2015.</p> <p><b>Gap Analysis</b> <b>Recommendation:</b></p> <p>I. A SPC wide mechanism to mutually recognize freeze orders and confiscation orders from other SPCs or MS</p>

60. Page 17 ibid

LEBANON		
Measure	National Legislation	Comments
Financial Intelligence Unit	AML Law No. 318	<p><b>Legal Analysis</b></p> <p>The Lebanon FIU is the Special Investigations Committee (SIC) – see website: <a href="http://www.sic.gov.lb">http://www.sic.gov.lb</a></p> <p>The SIC receives, analyzes, investigates suspicious transaction reports (STRs) and ensures compliance of banks, financial institutions and other reporting entities with the AML/CFT regulations.</p> <p>AML Law No.318 in 2001, which allowed for the establishment of the Special Investigation Commission as the Lebanese FIU, was the cornerstone to launching the serious and structured fight against money laundering and terrorism financing in Lebanon.</p> <p>The SIC joined the Egmont Group in 2003 and in January 2015 the SIC General Secretary was elected as the MENA Regional Representative.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. As non-profit organisations may often be potential channels (often involuntary) for terrorist financing, consider drafting a Guide to raise awareness and inform them of the risks of terrorist financing.</li> <li>2. To address the informal cash based economy as a SPC wide issue and determine best practices to tackle through Egmont Group or establishing an ARIN – including increased efforts to formalize i.e. production of ID for all manual currency exchange transactions over a threshold amount and to focus intelligence/investigation efforts to enforce</li> <li>3. As a portion of terrorist financing comes from the illicit trade in works of art, SIC Secretary General or Chairman could send a letter to antiques unions or representatives to remind them of any bans currently in force and their due diligence obligations and highlighting sales of cultural goods via the supply of a certificate of authenticity or payments made in cash for works of art</li> </ol>

LEBANON		
Measure	National Legislation	Comments
Suspicious Transaction Reports	AML/CFT law No. 44 issued on 24/11/2015 (amending law no 318 of April 20, 2001 on fighting money laundering)	<p><b>Legal Analysis</b></p> <p>AML Law No. 44 confirms suspicious transactions reporting from banks, FIs, finance leasing companies, institutions that issue credit or charge cards, institutions that perform money transfers electronically, exchange institutions, financial intermediation institutions, collective investments schemes, and any other institution requiring a license or supervised by Banque du Liban, (as well as the DNFBPs) are sent to the Chairman of the SIC. STRs are required when details of any operations that come to their knowledge in the course of their business are suspected to be related to money laundering and terrorist financing (including attempted transactions). The Regulations on the Control of Financial and Banking Operations also require the banks and FIs to immediately notify the Governor of Banque du Liban in his capacity as Chairman of the Special Investigation Commission, when they hold evidence or doubts that the performed or attempted banking operation involves money laundering or terrorist financing or terrorist acts or terrorist organizations</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider enhanced due diligence (whereby businesses check the source of funds, the grounds for the transaction and the recipient's identity) for transactions involving "unusually high" sums</li> <li>2. Too much cash in circulation and anonymous means of payment in general make it harder to carry out checks and encourage trafficking. Anonymity must be rolled back in the economy to improve the monitoring of suspicious transactions.</li> <li>3. To this end, limit the cash payment options available</li> </ol>

LEBANON		
Measure	National Legislation	Comments
Cross-border transportation of currency	Law No. 42	<p><b>Legal Analysis</b></p> <p>Parliament has approved in its legislative session held on 13/11/2015 Law No. 42 (Declaring the cross-border transportation of money) which comprises special provisions on the application of both systems of declaration and disclosure of cross-border negotiable funds, where all the persons are obliged to declare the (in or out of the border) funds transported across the borders to the customs authorities. In cases exempted from the obligation of declaration, it may be sufficient to declare the funds which are transported abroad and the threshold designated for declaration or disclosure is 15,000 US Dollars. The law included powers to request additional information on transported funds in case of false declaration or disclosure and sanctions on false declaration or disclosure and when failing to make a declaration/ disclosure.<sup>61</sup></p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. This should relate not only to cash but to gold, money, shares or securities and various payment methods (cheques, promissory notes, money orders, pre-paid cards and bitcoins (and other cryptocurrencies etc.)</li> <li>2. It should also apply to transfers by post and transfers by freight including transfers of capital by freight (normal and express transfers)</li> <li>3. Consider a ban on the transport, transit, and trade of movable cultural heritage goods illegally removed from certain States (i.e. Syria)</li> </ol>

61. Page 5 ibid

LEBANON		
Measure	National Legislation	Comments
Measures implemented by banks and financial institutions to deter and detect money-laundering	AML/CFT law No. 44 issued on 24/11/2015 (amending law no 318 of April 20, 2001 on fighting money laundering)	<p><b>Legal Analysis</b></p> <p>All FIs are subjected to control measures in the AML/CFT field and required not to open anonymous, numbered or shell accounts, to identify and assess the risks, to update the information of their customers annually and ensure that it is continuously updated, to identify the object and nature of the customer's business, to determine the identity of permanent customers, whether natural or legal persons or a special legal entity, to implement CDD measures on transient customers if the amount of a single operation or series of operations exceeds the threshold set, to determine the identity of the economic right owner based on reliable documents or information or data, to retain copies of related documents of all operations for at least five years after performing the operations or terminating the relationship, to conduct ongoing monitoring of the business relationship and to take into account the indicators on the likelihood of a money laundering or terrorist financing operations, as well as the due diligence principles to detect suspicious operations. In addition, the amended law required banks, financial institutions, finance leasing companies, institutions that issue credit or charge cards, institutions that perform money transfers electronically, exchange institutions, financial intermediation institutions, collective investments schemes, and any other institution requiring a license or supervised by Banque du Liban, to comply with the CDD obligations as imposed by the law.<sup>62</sup></p>

62 Page 2 ibid

LEBANON		
Measure	National Legislation	Comments
		<p>The amended Regulations on the Control of Financial and Banking Operations for Fighting Money Laundering and Terrorist Financing subjected all the banks and financial institutions to the AML/CFT control measures and required them to apply CDD measures when establishing a relation with the customers and to prohibit dealing with customers with shell or fictitious names or anonymous customers. The said Regulations also required the banks and the FIs to verify the identity of their permanent and occasional customers, whether resident or non-resident, to determine the purpose of the transaction or of the account opening, the source of funds and the economic right owner. According to the regulations, when due diligence measures towards customers and actual beneficiaries cannot be fully applied, no account must be opened or relation started or operation performed and notification of the Special Investigation Commission must be considered.</p> <p><b>Gap Analysis</b>  <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider a limit on cash payments for individuals and companies resident in Lebanese that applies to both business-to-business and business-to-consumer transactions. This limit would force businesses making payments above the threshold to use payment methods that are easy to trace (e.g. cheque, transfer, or credit card)</li> <li>2. Deposits and withdrawals of large amounts of cash should be systematically reported to the SIC. No regulatory limit is stipulated even though it is vital to monitor these types of transactions for early detection of attempts to break the law</li> <li>3. Consider production of ID for all manual currency exchange transactions over a threshold amount</li> </ol>

LEBANON		
Measure	National Legislation	Comments
International Cooperation		<p><b>Legal Analysis</b></p> <p>The Ministry of Justice issued legal measures adopted in relation to international assistance requests which comprise provisions on dealing with the mutual legal assistance requests and the implementation of the foreign judicial decisions. With regard to implementation, authorities provided judicial assistance in many cases, as a commitment of the country to the principles of international common law on international cooperation, according to the principle of reciprocity and international courtesies.<sup>63</sup></p> <p>In addition, the Ministry of Justice issued on 14/04/2016 the legal procedures it has adopted regarding the international legal assistance requests. Such procedures comprise a number of key provisions: Provisions related to the offering of MLA to foreign countries in terms of recovering funds derived from corruption, money laundering or terrorism financing, and MLA requests with foreign countries in terms of determining, freezing, seizing or confiscating laundered property or property intended to be laundered, and the assets used or intended to be used in financing terrorism, along with tools used in committing these crimes, and confiscating property of corresponding value, providing legal assistance in a timely manner and adopting clear arrangements to coordinate the seizure and confiscation measures.</p> <p>The SIC has the task of collecting and keeping information received from Lebanese and foreign official authorities and granted it the right to decide on the final freezing of accounts and/or operations, to attach an encumbrance on the records and entries pertaining to movable and immovable assets indicating that such funds are under investigation and such encumbrance shall be kept until doubts are erased or until a final ruling is taken.</p>

63. Page 3 ibid

LEBANON		
Measure	National Legislation	Comments
		<p>Lebanon is a member of the Organization of Islamic Cooperation and the Arab League.</p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Establishment of a 24/7 network or single points of contact (SPOCs) that allows for the sharing of information and receiving information from other States to liaise with relevant authorities in Lebanon to investigate and freeze assets. For example, establishment of a SPC ARIN. This would also allow freezing without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 and its successor resolutions; or designated by that SPC pursuant to resolution 1373</li> <li>2. Implement provisions to prevent the suppression and disruption of proliferation of weapons of mass destruction and its financing. To ensure freezing without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.</li> </ol>



MOROCCO		
Measure	National Legislation	Comments
Terrorist Financing Offence	AML Law No. (43-05)	<p><b>Legal Analysis</b></p> <p>The ML Act includes the proceeds derived from predicate offences directly or indirectly, even if predicate offences are committed outside Morocco. It is noteworthy that the offence of acquisition, possession and use requires concealment or disguise of the real nature or illicit source of property, which does not accord with international conventions.<sup>64</sup></p> <p>The AML Law includes all forms of money laundering in compliance with UNTOC, namely “conversion or transfer of property”, “concealing or disguising the real nature, source, location, disposition, movement or ownership of property or rights thereof” and “acquisition or possession of property”<sup>65</sup></p> <p>ML includes any type of property regardless of its value and constitutes directly or indirectly proceeds of a crime. According to Article 2(1) of Law No. 43-05, property is defined as any kind of tangible and intangible, movable and immovable assets owned by one person or jointly as well as legal contracts or documents that prove the ownership of such property or rights related thereof. Proceeds are defined to include all properties derived directly or indirectly from the commission of one of the predicate offences</p> <p>All forms of collecting and using funds or properties with the intention to be fully or partially used by a terrorist or a terrorist organization or to commit a terrorist act whether or not the act took place are considered TF.<sup>66</sup> Specifically the AML law prohibits “Providing, offering, collecting or acquiring funds or properties”, “directly and indirectly”, “knowing that whole or part of it is or would be used”, as well as “providing funds for committing terrorist acts or by a terrorist group or person”.</p> <p>In addition, a definition of funds includes all elements set out in international conventions: “any type of funds and assets, tangible or intangible, movable or immovable, owned by one person or common property, as well as all the agreements or legal documents evidencing the ownership of such assets and the rights related to them, in any form, including soft copy documents”.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendation:</b></p> <ol style="list-style-type: none"> <li>TF offences should include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training</li> </ol>

64. Page 2 MENAFATF 8th Follow-Up Report for Morocco 27 November 2013

65. Page 6 ibid

66. Page 3 ibid

MOROCCO		
Measure	National Legislation	Comments
Asset Recovery	<b>Penal Code</b> Section 574-5	<b>Legal Analysis</b> <p>Confiscation is a criminal sanction in case of conviction of a terrorist financing crime. The confiscation sanction for all objects, funds and properties used or would have been used in the crime, its derived proceeds or equivalent value are able to be confiscated for ML/TF crimes. Assets subject to confiscation also include proceeds of crimes and tangible property.</p> <p>Article 574-5 (amended by Law No. 13-10) states “<i>in case of conviction of a money laundering crime, all things, tools and property used, or would have been used in the crime and the proceeds from the crime should always be subject to confiscation or payment of an amount equal to the value of such things, tools, property and proceeds, without prejudice to the rights of good faith third party.</i>”</p> <p>Article (218-4-1) of the Penal Code (amended by Law No. 13-10) provides that confiscated property includes criminal proceeds related to terrorism financing crimes. Article (218-4-1) provides that in case of conviction, confiscation shall include things, tools and property that have been or would have been used in committing the crime and resulted proceeds. Article (218-4-2) of the Penal Code defines proceeds as all property resulted directly or indirectly from committing a crime provided for in Article (218-4) and (218-4-1).</p>

MOROCCO		
Measure	National Legislation	Comments
		<p>Article 19 of the AML Law authorizes the King's representative to order (during the intelligence period) and for a maximum period of one month (to be renewable only once) freezing by temporary banning of transfer, replacement, disposal or movement of property. Article 1, Chapter 2, defines "Property" as any sort of funds and property, whether tangible or intangible, movable or immovable, individually or jointly owned, and contracts or instruments that prove the title to such property or associated rights, of whatsoever nature, including electronic or digital. Accordingly, the temporary freezing now includes all property that may be confiscated in a money laundering crime. Definition of Property in Article (218-4-2) on terrorism financing crimes is similar to the above definition in Article 1 of Chapter 2.</p> <p>The UTRF can order freezing of properties and on 16 August 2013, issued decision no. (6) related to the procedures of freezing properties linked to a terrorist crime. The decision aims to determine the procedures of applying the freezing of properties in compliance with UNSCR 1267. UNSCR 1373, has not been implemented.<sup>67</sup></p> <p><b>Gap Analysis Recommendation:</b></p> <ol style="list-style-type: none"> <li>1. Confirm if adopted a legal mechanism that enables a court or competent authority to designate persons or entities in accordance with Resolution 1373</li> <li>2. A SPC wide mechanism to mutually recognize freeze orders and confiscation orders from other SPCs or MS</li> </ol>
Financial Intelligence Unit	Decree no. 2-08-572 AML Law No. (43-05)	<p><b>Legal Analysis</b></p> <p>Article 14 of the AML Law envisaged the Financial Information Processing Unit (UTRF), which was created by Decree no. 2-08-572 of 24 December 2008 and proclaimed by the Prime Minister on 10 April 2009.</p> <p>The UTRF, has an administrative nature comprising the Unit's president and members representatives of the Ministries of Justice, Interior and Finance, Bank Al-Maghrib, the General Directorate for National Security, the Royal Moroccan Gendarmerie and the Customs and Indirect Taxation Department, CDVM and the exchange office. The internal law for the FIU (No. (05-10)) was issued by the Prime Minister, confirms the competencies of the FIU and its president, its administrative and financial systems and method of operation. The FIU also issued a number of decisions in framework to implement the AML/CFT law, which included rules for freezing properties because of a terrorist crime and rules, conditions and method of reporting a suspicion by the persons subject to the law.</p>

67. Page 4 ibid

MOROCCO		
Measure	National Legislation	Comments
		<p>Pursuant to Article 13(2) of the AML Law, the UTRF has jurisdiction over non-profit organizations and entities to ensure that non-profit organizations and entities are not used for the purposes of terrorism financing or money laundering are identified. Morocco has exerted considerable efforts to regulate this sector. This includes the Minister of Interior and the General Secretary of the Government issuing a joint circular No. 1/2010 on raising charity funds from the public without obtaining prior authorization from the General Secretariat of the Government.</p> <p>The UTRF was officially admitted as member of the Egmont Group in the plenary meeting held in Armenia from 11 to 15 July 2011</p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. UTRF issue guidelines covering the obligation of financial organisations to perform due diligence and report any suspicious financial transactions. These guidelines would apply to financial organisations (e.g. banks, mutual insurance companies, bureaux de change, crowdfunding platforms, sellers of antiques or works of art) and would cover the due diligence requirements in relation to clients and the requirement to report any suspicious transactions to the UTRF</li> <li>2. To address the informal cash based economy as a SPC wide issue and determine best practices to tackle through Egmont Group or establishing an ARIN – including increased efforts to formalize i.e. production of ID for all manual currency exchange transactions over a threshold amount and to focus intelligence/ investigation efforts to enforce</li> <li>3. As a portion of terrorist financing comes from the illicit trade in works of art, UTRF Head could send a letter to antiques unions or representatives to remind them of any bans currently in force and their due diligence obligations and highlighting sales of cultural goods via the supply of a certificate of authenticity or payments made in cash for works of art</li> </ol>

MOROCCO		
Measure	National Legislation	Comments
Suspicious Transaction Reports	AML Law No. (43-05)	<p><b>Legal Analysis</b></p> <p>The amendment of Law No. 43-05 by virtue of Law No. 13-20 obliges suspicious transaction reports to be transmitted to the FIU regarding any amount or transaction linked to one or more of the crimes in Articles 574-1 (ML offences) and 574-2 (predicate offences) of the Penal Code, or any transaction of which the identity of the originator or beneficiary is suspicious.</p> <p>Article 4 of Law No. 43-05 requires STRs for any attempt to perform transactions suspected to be related to ML. Article 32 requires STRs where the origin of such properties or revenues is connected to a terrorist crime or financing terrorism as stipulated in Article 1 (refined) of Volume 3 of the Penal Code.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider enhanced due diligence (whereby businesses check the source of funds, the grounds for the transaction and the recipient's identity) for transactions involving "unusually high" sums</li> <li>2. Too much cash in circulation and anonymous means of payment in general make it harder to carry out checks and encourage trafficking. Anonymity must be rolled back in the economy to improve the monitoring of suspicious transactions.</li> <li>3. To this end, limit the cash payment options available</li> </ol>

MOROCCO		
Measure	National Legislation	Comments
Cross-border transportation of currency		<p><b>Legal Analysis</b></p> <p>The range of disclosure includes incoming and outgoing foreign currencies and bearer negotiable instruments for residents and others whether they are Moroccans or non-Moroccans. The Customs Department developed an information system to maintain passengers' data carrying amounts exceeding the national applicable limit and notifies the FIU of any breach.</p> <p>The Office Circular of changes no. 1743 of 23/05/2011 lays down the conditions for the importing and exporting of bank notes and bearer securities. The note by the Customs and Indirect Tax Administration no. 9630/411 of 18 July 2011 requires a declaration of import for bank notes in foreign currencies, bearer securities worth one hundred thousand (100,000) dirhams (equivalent to €9300).</p> <p>The UTRF entered into an Agreement of Cooperation and Exchange of Information with the Customs and Indirect Tax Department and the Exchange Office to provide the UTRF with all of the information they have in relation to anti-money laundering and terrorism financing.</p> <p>It should be noted that there are no penalties for false disclosures of currency or bearer negotiable instruments in the possession of foreign travellers besides the penalty of confiscation.</p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. All private individuals carrying a threshold amount must declare the sum being transferred to Customs. This requirement also applies to private individuals bringing the same sum into Morocco, from outside Morocco, or vice versa</li> <li>2. This should relate not only to cash but to gold, money, shares or securities and various payment methods (cheques, promissory notes, money orders, pre-paid cards and bitcoins (and other cryptocurrencies etc.))</li> <li>3. It should also apply to transfers by post and transfers by freight including ... transfers of capital by freight (normal and express transfers)</li> <li>4. Consider a ban on the transport, transit, and trade of movable cultural heritage goods illegally removed from States</li> </ol>

MOROCCO		
Measure	National Legislation	Comments
Measures implemented by banks and financial institutions to deter and detect money-laundering	AML Law No. (43-05)	<p><b>Legal Analysis</b></p> <p>The AML Law covers the main obligations related to due diligence measures such as the requirement to gather all elements of information enabling the identification of customers by all subject persons, refraining from opening anonymous or shell accounts, identifying regular or occasional customers and beneficial owners, classifying customers according to the degree of risk, adding a definition of the beneficial owner, verifying the subject and nature of the business relationship, obliging the subject persons to update their customers' files continuously and terminating the business relationship in case of failure to apply due diligence measures by the subject persons. Bank Al-Maghrib issued instructions to the credit institutions regarding the due diligence obligations imposed on them. The Social Security Directorate also issued its circular regarding due diligence requirements. The CDVM issued a circular to companies under its control and the exchange office issued a circular to the foreign currency stores in this regard.</p> <p>Article 3 of the AML law stipulated that the subject persons must gather all elements of information enabling the <i>identification and verification of their regular and occasional clients and beneficial owners</i>.</p> <p>The Central Bank of Morocco (Bank-Al-Maghreb), which was designated by Article 13-I of Law no. 34-05 as the authority responsible for controlling and supervising the persons subject within its scope of competences, has implemented a regulatory regime relative to compliance with the provisions of anti-money laundering law, namely:</p> <ol style="list-style-type: none"> <li>1. Circular no. 2/G/2012 on the obligation to supervision lying with banks;</li> <li>2. Circular no. 40/G/2007 relative to internal control;</li> </ol>

MOROCCO		
Measure	National Legislation	Comments
		<p>Supervision of banks by the bank supervisory management also assigns great importance to AML/CFT matters. In the same way for supervisory and control authorities of other financial institutions that have prepared regulatory texts in order to comply with applicable legal provisions:</p> <ol style="list-style-type: none"> <li>1. The Social Security and Insurance Supervisory Authority, which is in charge of supervising and controlling the activity of insurance, reinsurance and capitalisation organisations, has adopted Circular No. DAPS/EA I I on the fight against money laundering</li> <li>2. In December 2010, the Moroccan Capital Markets Authority adopted a circular on the duty to vigilance and internal monitoring.</li> <li>3. In 2013, the Exchange Office adopted its circular no. 9 on the obligations lying with the exchange offices.</li> </ol> <p>Pursuant to Article 13(1) of the AML Law DNFBPs are under the same obligations re due diligence, STRs and other obligations. Without prejudice to the more serious criminal sanctions and sanctions envisaged by applicable legislation, the persons subject and, if applicable, their managers and agents, failing to fulfil their obligations, may be sentenced to a pecuniary fine running from 100,000 to 500,000 dirhams, charged them by the body under whose control they have been placed and according to the procedure applicable to them for failure to fulfil their duties or comply with rules of professional ethics. When the person subject does not have supervisory and control authority, the pecuniary sanction is issued by the Unit. Decisions taken by the Unit may be appealed against before the competent administrative court.</p>



MOROCCO		
Measure	National Legislation	Comments
		<p>The managers or agents of persons subject who have been knowingly made aware of the events by the person in question or a third party, either through the report of suspicion involving them or information on follow-up reserved to this report or who have knowingly used the information collected for purposes other than those envisaged by this chapter, are subject to the sanctions envisaged by section 446 of the Penal Code, except where the events demand more severe punishment. If, as a result of a serious lack of vigilance or failure in an internal control device, a person subject has not fulfilled the obligations stemming from this chapter, the Unit shall contact the authority with the power of control and sanction over said person, to see sanctions issued against him, in accordance with the applicable legislation.</p> <p><b>Gap Analysis Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider a limit on cash payments for individuals and companies resident in Morocco that applies to both business-to-business and business-to-consumer transactions. This limit would force businesses making payments above the threshold to use payment methods that are easy to trace (e.g. cheque, transfer, or credit card)</li> <li>2. For individuals or legal entities not resident in Morocco, retailers must check the identity of the buyer for transactions equal to or greater than a threshold amount</li> <li>3. Deposits and withdrawals of large amounts of cash should be systematically reported to the UTRF. No regulatory limit is stipulated - it is vital to monitor these types of transactions for early detection of attempts to break the law.</li> <li>4. Consider production of ID for all manual currency exchange transactions over a threshold amount</li> </ol>

MOROCCO		
Measure	National Legislation	Comments
International Cooperation	<b>AML Law No. (43-05)</b> Article 37	<p><b>Legal Analysis</b></p> <p>Article 37, allows the FIU to receive and process requests for freezing properties linked to a terrorist crime. On an international level, under Law no. 43-05, the UTRF can exchange financial information connected with money laundering and the financing of terrorism with foreign authorities of similar competence, under the scope of international conventions to which Money laundering has adhered or in application of the principle of reciprocity. The UTRF also exchanges information with its foreign counterparts, based on the principles of the Egmont group, in accordance with the memorandum of understanding or on the basis of the principle of reciprocity. Morocco is a founding member of GAFIMOAN, a regional FATF type group operating in MENA. On a regional level, Morocco has also ratified conventions on the fight against terrorism adopted by:</p> <ol style="list-style-type: none"> <li>1. The League of Arab States.</li> <li>2. The Organisation of Islamic Cooperation</li> <li>3. The OAU Convention on the Prevention and Combating of terrorism.</li> </ol> <p>Morocco is a founding member of the GCTF</p> <p><b>Gap Analysis</b>  <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Establishment of a 24/7 network or single points of contact (SPOCs) that allows for the sharing of information and receiving information from other States to liaise with relevant authorities in Morocco to investigate and freeze assets. For example, establishment of a SPC ARIN. This would also allow freezing without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 and its successor resolutions; or designated by that SPC pursuant to resolution 1373</li> <li>2. Implement provisions to prevent the suppression and disruption of proliferation of weapons of mass destruction and its financing. To ensure freezing without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.</li> </ol>

PALESTINE		
Measure	National Legislation	Comments
Terrorist Financing Offence	Decree No. 20 of 2015 on Countering Money Laundering and Combating Financing of Terrorism	<p><b>Legal Analysis</b></p> <p>The Anti-Money Laundering and Countering Financing Terrorism no. (20) of 2015 was ratified in 2016. The decree defines the money laundering as: “Any conduct intended to conceal or alter the identity of funds acquired through a predicate offense by disguising the actual source of funds to make the funds appear to derive from a legal source”.</p> <p>The Decree no. 20 of 2015 on Countering Money Laundering and Combating Financing of Terrorism defines terrorism as follows:</p> <p>“Anyone commits any of the following acts:</p> <ol style="list-style-type: none"> <li>1. Commits or attempts to commit, or participates as an accomplice in any terrorist act by any means directly or indirectly; and organizes terrorist acts or directs people to commit terrorist acts</li> <li>2. Contributes in terrorist acts with a group of persons acting with a common purpose, such contributions shall be willfully made with the aim of enhancing terrorist acts to be made with knowledge of the intention of the group to commit any of the terrorist acts.”</li> </ol> <p>Foreign Terrorist Fighters are defined as:</p> <p>“The foreign individuals who travel to a country other than their residence or nationality country, for the purpose of committing, or planning or preparing or participating in terrorist acts or providing or receiving terrorist training.”</p> <p>Money laundering and financing of terrorism was criminalized for the first time in the Jordanian Penal Law no. 16 of 1960, which is still applied in the West Bank, in general provisions (Articles 147-148). When contradiction occurs between articles 147-148 of the Penal Law and the provisions of the Decree of 2015 and its amendments, the latter will prevail under the principle ‘when contraction occurs between a public provision of law and a special provision of law the latter will be applied’.</p> <p>According to the Decree no. 20 of 2015 on Combating Money Laundering and Countering Financing of Terrorism and its amendments, the criminalization of money laundering and financing of terrorism is, for some extent, comprehensive because the crime of money laundering is applicable to all the serious offenses, with a view to including the widest range of predicate offenses, including tax crimes.</p> <p>ML/FT does not rely upon conviction of a predicate offence.</p>

PALESTINE		
Measure	National Legislation	Comments
		<p>It does not matter if the ML/FT was committed in the same country where the predicate offence was committed, or in any other country, but under the condition of double criminalization.</p> <p>The Decree criminalizes the attempt of committing ML/FT as a crime, despite that there is no attempt in ancillary crimes according to the general rules of the penal law.</p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Having an all crimes approach rather than limiting to 26 offences</li> <li>2. The Decree considered the illicit trade in narcotics and psychotropic substances as a predicate offence without including the following relevant crimes: planting, manufacturing and extracting such materials; possession, transfer, and preparing the space for drug abuse; the storage of the drugs and psychotropic substances (as mentioned in Article 3 paragraph 4 of the Vienna Convention, 1988)</li> <li>3. The Decree considers trafficking in human beings, smuggling of migrants and piracy as predicate offences without defining any of these offences. Albeit, the Palestinian legislature has not criminalized any of these acts. Therefore, the Palestinian legislator needs to criminalize the abovementioned conducts and define them before including them in the Decree as predicate offences to the ML/FT</li> <li>4. The Palestinian legislature did not stipulate the dual criminalization of the predicate offences between Palestine and the foreign countries, concerning the financing of terrorism. According to the Palestinian people, this matter is very sensitive because they consider the Palestinian fractions established for the aim of the liberation of Palestine from the Israeli occupation as legal fractions. Therefore, supporting the fractions financially does not mean financing of terrorism. However, Article 2 paragraph 3 of the Decree should be amended by including the condition that the criminalization of financing of terrorism in a foreign country must be criminalized according to the Palestinian legislation as well</li> </ol>

PALESTINE		
Measure	National Legislation	Comments
		<p>5. The Decree does not oblige any person who knows about ML/FT transaction to disclose to the competent authorities</p> <p>6. Some relevant laws, including penal law, anti-corruption law, banks law, monetary authority law, narcotics and psychotropic law, customs law, capital market law, income tax law, etc. are old and inconsistent with the Palestinian legislative policy intending to countering money laundering and financing of terrorism, especially the penal law, which dates back to 1960. Therefore, a new penal law should be enacted</p> <p>7. There are some points of inconsistency between the Decree on Countering Money Laundering and Financing of Terrorism and the Anti-Corruption Law:</p> <p>Article 1 of the anti-corruption law defines corruption as any crime, including others, resulted from money laundering offence as stipulated in the Decree on Money Laundering and Financing of Terrorism. Such a definition contradicts with the nature of the money laundering offence. Article 1 of the anti-corruption law should be amended taking into consideration that the corruption crimes stand as predicate offences to the money laundering crime not vice versa, i.e. not resulted from the money laundering crime</p> <p>8. There are no statistics available to assess the effectiveness of the ML/FT crime definition and the proportionality and dissuasiveness of the criminal sanctions. Such statistics would disclose how many people were convicted for ML/FT, how many convicted people received criminal penalties and what were those penalties? how many people received criminal fines, and what was the total amount of criminal fines imposed</p>

PALESTINE		
Measure	National Legislation	Comments
Asset Recovery	Decree No. 20 of 2015 on Countering Money Laundering and Combating Financing of Terrorism	<p><b>Legal Analysis</b></p> <p>Palestine has comprehensive asset forfeiture provisions, which enable the competent authorities to seize, freeze, and forfeit proceeds and instrumentalities of crime. The Asset Forfeiture provisions of law extend to:</p> <ol style="list-style-type: none"> <li>1. The proceeds and instrumentalities of ML/FT and its predicate offenses,</li> <li>2. Profits derived from those offences, and</li> <li>3. Property of corresponding value held by the criminal defendant or third parties.</li> </ol> <p>The Decree provides authorities with a legal basis to identify and trace the proceeds or property.</p> <p>The Decree permits authorities to carry out rapidly provisional measures, such as seizing or freezing proceeds of crime, to prevent the transfer or disposal of the proceeds</p> <p>The Decree provides authorities with a range of asset forfeiture tools, including criminal forfeiture, non-conviction-based (NCB) forfeiture, enforcement of foreign NCB orders, and administrative forfeiture, consistent with domestic law.</p> <p>The Decree ensures that the rights of bona fide third parties are safeguarded.</p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The period of asset forfeiture is not clear in the Decree. It is recommended to extend it until finishing of investigation and referring the case to the competent court</li> <li>2. The Decree does not determine the competent court which decides on the asset forfeiture</li> <li>3. It is not clear whether there is a right to appeal against the decision of asset forfeiture</li> <li>4. A SPC wide mechanism to mutually recognize freeze orders and confiscation orders from other SPCs or MS</li> </ol>

PALESTINE		
Measure	National Legislation	Comments
Financial Intelligence Unit	Decree No. 20 of 2015 on Countering Money Laundering and Combating Financing of Terrorism	<p><b>Legal Analysis</b></p> <p>The Palestinian FIU was established according to the Decree no. 9 of 2007 on Countering Money Laundering and Financing Terrorism as an independent entity which is situated in the Monetary Authority.</p> <p>The FIU is able to disseminate, spontaneously and upon request, information and the results of its analysis to relevant competent authorities. The economic public prosecution office depends on the suspicion report referred to it by the FIU in investigating the crimes and gathering the evidence.</p> <p>It has timely access to databases of other domestic agencies and commercial sources, and can obtain additional information from reporting entities for its analysis.</p> <p>It applied to get the membership of the Egmont Group of Financial Intelligence Units.</p> <p>It has the capacity to detect cross-border activities. The Working Group should also assess the effectiveness of the threshold transaction report (TTR) system (cash or wire), where required.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. There is no electronic connection between the FIU and the different relevant specialized governmental institutions and departments to get the data effectively in the proper time</li> <li>2. To address the informal cash based economy as a SPC wide issue and determine best practices to tackle through Egmont Group or establishing an ARIN – including increased efforts to formalize i.e. production of ID for all manual currency exchange transactions over a threshold amount and to focus intelligence/investigation efforts to enforce</li> <li>3. There is no Palestinian control on the Palestinian borders because of the Israeli Occupation.</li> <li>4. There is no Palestinian control on most of the Palestinian Territories, especial areas C and B, which constitutes around 90% of the territories because of the Israeli Occupation</li> <li>5. The STRs from the different ministries, governmental institutions and the institutions run by the capital market are relatively low – guidance could be published by the Director on the STR purpose and process</li> </ol>

PALESTINE		
Measure	National Legislation	Comments
Suspicious Transaction Reports	Decree No. 20 of 2015 on Countering Money Laundering and Combating Financing of Terrorism	<p><b>Legal Analysis</b></p> <p>The suspicious transaction reporting system works effectively, including reporting, analysis, and dissemination</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider enhanced due diligence (whereby businesses check the source of funds, the grounds for the transaction and the recipient's identity) for transactions involving “<i>unusually high</i>” sums</li> <li>2. Too much cash in circulation and anonymous means of payment in general make it harder to carry out checks and encourage trafficking. Anonymity must be rolled back in the economy to improve the monitoring of suspicious transactions</li> <li>3. To this end, limit the cash payment options available</li> </ol>



PALESTINE		
Measure	National Legislation	Comments
Cross-border transportation of currency		<p><b>Legal Analysis</b></p> <p>Border controls of the country are weak and it is relatively convenient to cross borders illegally because of the absence of geographical/natural barriers, the proximity of border to the road network or urban areas, etc.</p> <p>Some of the State's borders are known as routes for smuggling trade goods, people, drugs, arms, etc., and can also be abused for smuggling cash.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The country's customs regime is comprehensive if the country has a legal and regulatory regime in place to: <ol style="list-style-type: none"> <li>a. Detect the physical cross-border transportation of currency and bearer negotiable instruments</li> <li>b. Stop or restrain currency and bearer negotiable instruments that are suspected of being related to money laundering</li> <li>c. Stop or restrain currency or bearer negotiable instruments that are falsely declared or disclosed—on suspicion of ML/FT or predicate offense(s)</li> </ol> </li> <li>2. Apply appropriate sanctions for making a false declaration or disclosure</li> <li>3. Enable confiscation of currency or bearer negotiable instruments, as well as precious metals and stones that are related to money laundering</li> <li>4. Effectively informs all the passengers with respect to any limitations on transportation of cash, their relevant declaration/disclosure duties, and the legal consequences of any violations</li> <li>5. Effectively enforces the declaration/disclosure requirements, and ensures that most people appropriately declare cash/ negotiable instruments while entering or exiting the State</li> <li>6. Has adequate screening procedures and equipment, as well as adequate human capacity to do the screening and random or risk-based physical search, to detect unauthorized/illegal transportation of cash by persons while entering or exiting from the State, and does this screening and physical search effectively. (For example, some States have trained dogs to detect bulk cash. This kind of practice will improve the effectiveness significantly.)</li> </ol>

PALESTINE		
Measure	National Legislation	Comments
		<p>7. Has adequate screening procedures and equipment, as well as adequate human capacity to do the screening and random or risk-based physical search, to detect unauthorized/illegal transportation of cash in vehicles and shipping containers while entering or exiting from the country, and does this screening and physical search effectively.</p> <p>8. Effectively applies the appropriate measures and sanctions for failing to declare and for unauthorized/illegal transportation of cash, negotiable instruments, and precious metal and stones</p> <p>9. The controls are equally effective for incoming and outgoing cash</p>
Measures implemented by banks and financial institutions to deter and detect money-laundering	Decree No. 20 of 2015 on Countering Money Laundering and Combating Financing of Terrorism	<p><b>Legal Analysis</b></p> <p>According to Article 13 a Unit shall be responsible for supervising compliance by financial institutions and non-financial businesses and professions with Articles (4, 5, 6, 7, 8, 9, 10, 11, 12,) and Chapter (V) of the law.</p> <p>The Unit shall, insofar as doing so does not conflict with the provisions of this law:</p> <ol style="list-style-type: none"> <li>1. Develop the necessary procedures for acquiring, managing, or directly or indirectly participating in the management, organization, or operation of a financial institution or non-financial business and profession.</li> <li>2. Regulate and supervise financial institutions to ensure the compliance thereof with the duties stipulated in Articles (4, 5, 6, 7, 8, 9, 10, 11, 12) and Chapter (V) of this law, including the conduct of field inspections</li> <li>3. Issue instructions to help financial institutions and non-financial businesses and professions comply with the requirements stipulated in Articles (4, 5, 6, 7, 8, 9, 10, 11, 12) and Chapter (V) of this law</li> <li>4. Cooperate and exchange information with other competent authorities, assist in investigations, bring judicial actions, and initiate procedures regarding the crime of money laundering and predicate offences</li> <li>5. Enhance internal cooperation, according to criteria or objectives established by the Committee regarding the reporting of suspicious transactions based on existing and future national and international criteria</li> <li>6. Ensure that financial institutions, including the foreign branches and subsidiaries thereof, implement the procedures stipulated in this law to the extent permitted by the legislation of the countries in which they operate. g. report to the Unit promptly any information on transactions or occurrences suspected of involving the crime of money laundering or terrorist financing or any of the predicate offence</li> <li>7. Maintain statistical data on measures taken and penalties imposed in the course of implementing the provisions of Article 13</li> </ol>

PALESTINE		
Measure	National Legislation	Comments
		<p>The Attorney General has the capacity to ask the competent court to disclose the bank secrecy and get the needed info of the bank accounts, stocks and bonds.</p> <p>Furthermore, the Attorney General is competent to get info on the real estate registered in the Lands Department, and on cars registered in the Traffic Department.</p> <p>The Attorney General is competent to put bank accounts and properties under reservation.</p> <p>There is a mechanism in place to ensure that competent authorities have a process to identify assets without prior notice to the owner.</p> <p>Money laundering and asset forfeiture investigators have powers to use compulsory measures for the production of records held by financial institutions, DNFBPs, and other natural or legal persons, for the search of persons and premises, for taking witness statements, and for the seizure and obtaining of evidence.</p> <p><b>Gap Analysis Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider a limit on cash payments for individuals and companies resident in Palestine that applies to both business-to-business and business-to-consumer transactions. This limit would force businesses making payments above the threshold to use payment methods that are easy to trace (e.g. cheque, transfer, or credit card)</li> <li>2. For individuals or legal entities not resident in Palestine, retailers must check the identity of the buyer for transactions equal to or greater than a threshold amount.</li> <li>3. Deposits and withdrawals of large amounts of cash should be systematically reported to the FIU. No regulatory limit is stipulated - it is vital to monitor these types of transactions for early detection of attempts to break the law.</li> <li>4. Consider production of ID for all manual currency exchange transactions over a threshold amount</li> </ol>

PALESTINE		
Measure	National Legislation	Comments
International Cooperation	Decree No. 20 of 2015 on Countering Money Laundering and Combating Financing of Terrorism	<p><b>Legal Analysis</b></p> <p>Palestine actively and effectively renders and requests international cooperation in relation to money laundering, associated predicate offenses, related financial crime investigations and prosecutions, and asset forfeiture matters. Palestine has a broad legal basis and mechanisms in place for providing assistance, including authority under international and regional conventions, mutual legal assistance treaties, Memoranda of Understanding or other agreements, and reciprocity.</p> <p>Palestine provides the widest possible range of mutual legal assistance (MLA), pre-MLA assistance, and informal information or intelligence. Evidence, information, and intelligence is shared rapidly, constructively, and effectively in relation to ML/FT, associated predicate offenses, related financial crime investigations and prosecutions, and asset forfeiture matters. The Decree provides for enforcement of foreign orders.</p> <p>Palestine provides basic and beneficial ownership information of legal entities and legal arrangements formed or administered in or from the country in a timely manner in response to requests from foreign supervisors and law enforcement authorities, including tax authorities.</p> <p>There is an ability to coordinate ML/FT investigations or forfeiture actions with counterparts in other countries. When requested or required, Palestine provides international cooperation on an urgent basis. The central authority effectively coordinates the work of domestic agencies to help ensure that the MLA requests are responded to in a timely manner.</p> <p>The State utilizes international law enforcement networks, such as Egmont and Interpol, for information and intelligence sharing. Palestine is a member of MENAFATF and acceded to UNTOC</p>

PALESTINE		
Measure	National Legislation	Comments
		<p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Establishment of a 24/7 network or single points of contact (SPOCs) that allows for the sharing of information and receiving information from other States to liaise with relevant authorities in Palestine to investigate and freeze assets. For example, establishment of a SPC ARIN. This would also allow freezing without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 and its successor resolutions; or designated by that SPC pursuant to resolution 1373</li> <li>2. Implement provisions to prevent the suppression and disruption of proliferation of weapons of mass destruction and its financing. To ensure freezing without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.</li> </ol>

TUNISIA		
Measure	National Legislation	Comments
Terrorist Financing Offence	Law 2003-75 of December 2003	<p><b>Legal Analysis</b></p> <p>The definition of the offense of money laundering in Article 62 of Law 2003-75 complies with the standard, but in practice it requires evidence of a link between the predicate offense and the laundered assets, without specifying that this evidence may be circumstantial based, in particular, on the behavior of the defendants.<sup>68</sup></p> <p>Article 19 of Law 2003-75 defines the perpetrator of terrorist financing as anyone who “provides or collects assets, by any means whatsoever, directly or indirectly, knowing them to be intended for the financing of persons, organizations, or activities related to terrorist offenses regardless of the legitimate or illicit origin of the assets provided or collected.” The criminalization of the financing of terrorism in Tunisian law is consistent with Article 2 of the Convention on the Suppression of the Financing of Terrorism: the definition stipulates the two elements of “providing or collecting” assets for use in an act by a terrorist or a terrorist group. The use of the concept of “assets” constitutes a broad definition that encompasses what is defined as “funds” in the Convention.<sup>69</sup></p> <p><b>Gap Analysis</b></p> <p><b>Recommendation:</b></p> <p>I. A FTF offence to include financing the travel of individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training</p>

68. Page 105 MENAFATF Mutual Evaluation Report May 2016

69. Page 123 ibid

TUNISIA		
Measure	National Legislation	Comments
Asset Recovery	Law 2003-75 of December 2003	<p><b>Legal Analysis</b></p> <p>Administrative confiscation of ill-gotten gains related to the former regime has led to the recovery of substantial assets in Tunisia, while criminal confiscation remains extremely rare.<sup>70</sup></p> <p>The interim protective and criminal confiscation measures provided by the Tunisian legal framework call for mandatory confiscation of proceeds generated by a money laundering offense and, in the event that these assets are inaccessible, they call for equivalent confiscation ("<i>fine equal to liquidation value</i>," Article 67 of Law 2003-75). The criminal code provisions on special confiscation permit the judge to order the confiscation of the instruments used to commit the offense of money laundering and those intended to be used to commit the offense. Confiscation is only possible after a conviction – which also applies to terrorist offences.</p> <p>Tunisia has no system for managing confiscated assets and executing legal decisions calling for confiscation<sup>71</sup></p> <p>Assets can be frozen pursuant to Article 40 and 94 of Law 2003-75.</p> <p>Tunisia ratified the Convention for the Suppression of the Financing of Terrorism on June 10, 2003. Tunisia has also adopted a legal mechanism that enables a court or competent authority to designate persons or entities in accordance with Resolution 1373 and a mechanism for freezing the assets of the persons or organizations listed by the Sanctions Committee. The law of August 12, 2009 called for additional measures concerning the freezing of assets, and these measures were reiterated in an order issued by the Minister of Finance on January 24, 2014.</p>

70. Page 7 ibid

71. Page 53 ibid

TUNISIA		
Measure	National Legislation	Comments
		<p>The mechanism currently in effect for the implementation of Resolution 1267 requires entities subject to the AML/CFT provisions to consult lists accessible on the Ministry of Finance website and to freeze the assets of listed persons. However, it does not, as required by the resolution, create a general prohibition applicable to all natural and legal persons on the provision of funds or economic resources to the persons included on list 1267. Moreover, the implementation and consultation of the U.N.</p> <p>lists seem insufficient in the case of some banks and non-existent for non-bank financial institutions and DNFBPs. Under Resolution 1373, the freezing of the assets of designated persons or implementation of freezing measures adopted by other countries involves the issuance of an ordinance at the request of the Chief Justice of the Court of First Instance of Tunis in turn at the request of the Prosecutor General, for which a judicial proceeding must be opened. This system does not establish a general prohibition on providing economic resources to designated persons as required by the resolution and does not allow for immediate freezing.</p> <p>Moreover, no provision for the prevention of the financing of the proliferation of weapons of mass destruction has been introduced.<sup>72</sup></p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Implementation of appropriate measures re UNSCR 1373 to ensure immediate freezing</li> <li>2. Prioritise how to manage confiscate assets and enforcement of orders – coordinate with regional FIUs through MENAFATF or a new ARIN to confirm best practice and determine if appropriate in o Tunisian context</li> <li>3. Implement provisions to prevent the suppression and disruption of proliferation of weapons of mass destruction and its financing. To ensure freezing without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations</li> <li>4. A SPC wide mechanism to mutually recognize freeze orders and confiscation orders from other SPCs or MS</li> </ol>

72. Page 5 ibid



TUNISIA		
Measure	National Legislation	Comments
Financial Intelligence Unit	Law 2003-75 of December 2003	<p><b>Legal Analysis</b></p> <p>The Tunisian Financial Analysis Commission (CTAF) was created by Law 2003-75. Decree 2004-1865 of August 11, 2004, as amended by Decree 2011-162 of February 3, 2011 establishing the structure and operating methods of the CTAF. CTAF became a member of the Egmont Group in 2012.</p> <p><b>Gap Analysis</b> <b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. CTAF issue guidelines (updating 2006 Directive) covering the obligation of financial organisations to perform due diligence and report any suspicious financial transactions. These guidelines would apply to FIs and DNFPBs and would cover the due diligence requirements in relation to clients and the requirement to report any suspicious transactions to CTAF</li> <li>2. To address the informal cash based economy as a SPC wide issue and determine best practices to tackle through Egmont Group or establishing an ARIN – including increased efforts to formalize i.e. production of ID for all manual currency exchange transactions over a threshold amount and to focus intelligence/investigation efforts to enforce</li> <li>3. As a portion of terrorist financing comes from the illicit trade in works of art, CTAF Head could send a letter to antiques unions or representatives to remind them of any bans currently in force and their due diligence obligations and highlighting sales of cultural goods via the supply of a certificate of authenticity or payments made in cash for works of art</li> </ol>

TUNISIA		
Measure	National Legislation	Comments
Suspicious Transaction Reports	Law 2003-75 of December 2003	<p><b>Legal Analysis</b></p> <p>The banking sector is required to forward suspicious transaction reports (STRs) to the CTAF pursuant to Article 85 of the Law 2003-75. In most cases, these STRs relate to suspicions of corruption and embezzlement of public funds. The involvement of other financial entities subject to the AML/CFT provisions (leasing companies, securities brokers and insurance companies) is limited and the CTAF correspondents have only recently been appointed in these entities.<sup>73</sup></p> <p>Very few STRs by the DNFBPs due to a lack of awareness and understanding of the threats.<sup>74</sup></p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider enhanced due diligence (whereby businesses check the source of funds, the grounds for the transaction and the recipient's identity) for transactions involving "unusually high" sums</li> <li>2. Too much cash in circulation and anonymous means of payment in general make it harder to carry out checks and encourage trafficking. Anonymity must be rolled back in the economy to improve the monitoring of suspicious transactions.  To this end, limit the cash payment options available</li> <li>3. Raise awareness of DNFBPs STR obligations through guidelines from the CTAF and monitoring compliance</li> </ol>

73. Page 69 ibid

74. Page 70 ibid

TUNISIA		
Measure	National Legislation	Comments
Cross-border transportation of currency		<p><b>Legal Analysis</b></p> <p>The Ministry of Finance's Order of October 17, 2014 states that all imports or exports of foreign exchange in amounts equal to or greater than D10,000 (previously 25,000 dinars), must be declared to the Customs Department upon entry, upon exit, and in the course of transit operations. Moreover, upon arriving in Tunisia, non-residents must declare the foreign exchange they are importing into the country, if they intend to re-export an amount larger than the equivalent value of D5,000 (Guidance 94-13 of September 7, 1994, as modified by the Guidance to Licensed Intermediaries No. 2007-13 of April 25, 2007). Upon leaving Tunisia, non-residents cannot take out an amount larger than the equivalent value of D5,000 except as stated on the customs declaration form that was filled out upon entering the country.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. The declaration should relate not only to cash but to gold, money, shares or securities and various payment methods (cheques, promissory notes, money orders, pre-paid cards and bitcoins (and other cryptocurrencies etc.)</li> <li>2. It should also apply to transfers by post and transfers by freight including ... transfers of capital by freight (normal and express transfers)</li> <li>3. Consider a ban on the transport, transit, and trade of movable cultural heritage goods illegally removed from certain States (i.e. Libya)</li> </ol>

TUNISIA		
Measure	National Legislation	Comments
Measures implemented by banks and financial institutions to deter and detect money-laundering	Law 2003-75 of December 2003	<p><b>Legal Analysis</b></p> <p>The Law 2003-75 in effect specifically requires persons subject to its provisions to exercise constant due diligence over their business relations and to closely examine operations executed. Law 2003-75 requires financial institutions to establish the identity of their customers, including occasional customers, on the basis of official documents. The customer due diligence measures were enhanced by the April 20, 2006 directive from the CTAF and by Central Bank of Tunisia Guidance 2013-15, which require credit institutions to apply these measures from the start of a business relationship. The insurance sector is also covered by the customer due diligence measures of the Law 2003-75. More broadly, the Tunisian system contains a general obligation to systematically obtain information on the purpose and nature of the business relationship. In case of suspicions of money laundering or terrorist financing regarding a financial operation, the financial institutions are required to submit a report to the CTAF.<sup>75</sup></p> <p>All the customer due diligence measures established in the Law 2003-75 are applicable to DNFBPs by virtue of Article 74.</p> <p><b>Gap Analysis</b></p> <p><b>Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Consider a limit on cash payments for individuals and companies resident in Tunisia that applies to both business-to-business and business-to-consumer transactions. This limit would force businesses making payments above the threshold to use payment methods that are easy to trace (e.g. cheque, transfer, or credit card)</li> <li>2. For individuals or legal entities not resident in Tunisia, retailers must check the identity of the buyer for transactions equal to or greater than a threshold amount</li> <li>3. Deposits and withdrawals of large amounts of cash should be systematically reported to CTAF. No regulatory limit is stipulated - it is vital to monitor these types of transactions for early detection of attempts to break the law</li> <li>4. Consider production of ID for all manual currency exchange transactions over a threshold amount</li> </ol>

75. Page 65 ibid

TUNISIA		
Measure	National Legislation	Comments
International Cooperation	<b>AML Law</b> Article 37	<p><b>Legal Analysis</b></p> <p>Tunisia's legal framework allows for extradition and mutual legal assistance in civil, commercial and criminal matters. Extradition and mutual legal assistance are authorized by the signing of various types of agreements: international agreements or treaties and simplified agreements such as protocols and memoranda.</p> <p>While judicial cooperation between Tunisia and many countries is mainly bilateral, Tunisia is a signatory to the Convention on Mutual Legal and Judicial Assistance concluded by the Arab Maghreb countries (Ras Lanouf, March 9-10, 1991), the Arab Riyadh Convention on Judicial Cooperation and Extradition and has ratified the OAU Convention on the Prevention and Combating of Terrorism</p> <p>In cases in which there is no convention, Tunisia can respond to requests for mutual assistance on the basis of reciprocity pursuant to Article 331 of the Code of Criminal Procedure.</p> <p>Under Article 331 of the Code of Criminal Procedure, mutual assistance is not contingent upon the existence of dual criminality, except where otherwise provided for in a bilateral agreement.</p> <p>Tunisia can honour an international request for mutual legal assistance in particular; the identification, freezing, and seizure of assets related to the offenses of money laundering and terrorist financing. With regard to the execution of a foreign confiscation order, Article 332 of the Code of Criminal Procedure covers the notification of such an order to an individual residing in Tunisia. Furthermore, with respect to extradition, Article 328 stipulates that the Indictments Chamber decides whether all or some of the securities, assets, money, or other objects seized should be forwarded. Apart from this procedure, which is part of extradition arrangements, Tunisian law makes no explicit provision for the recognition and execution of foreign decisions regarding the confiscation of assets in Tunisia belonging to persons who do not reside in Tunisia, or for the repatriation of these assets to the requesting countries. Confiscation can be decided by the court only in cases where a jurisdictional link is established; in such cases, confiscation is carried out for the benefit of the Tunisian treasury.<sup>76</sup></p>

76. Page 192 ibid

TUNISIA		
Measure	National Legislation	Comments
		<p>LORs are received through diplomatic channels and transmitted to the Ministry of Justice. When the file arrives at the Ministry of Foreign Affairs, it is forwarded to the Ministry of Justice (General Directorate of Criminal Affairs) within one week and then within two weeks to the investigating judge. The file is then sent by mail by a competent employee of the International Cooperation Department. There is no specific mechanism for assessing or prioritizing requests for assistance but an emergency procedure can accelerate the sharing of information between judicial authorities.</p> <p>Article 82 of Law 2003-75 authorizes the CTAF to share financial information relating to combating money laundering and terrorist financing with the FIUs with which it has signed memoranda of agreement, in order to provide early warnings about these offenses and prevent their commission.<sup>77</sup></p> <p>Tunisia is a founding member of MENAFATF and the central bank can conclude bilateral cooperation agreements with the supervisory authorities of foreign countries that specifically include information-sharing.</p> <p>Tunisia is a member of the GCTF.</p> <p><b>Gap Analysis Recommendations:</b></p> <ol style="list-style-type: none"> <li>1. Establishment of a 24/7 network or single points of contact (SPOCs) that allows for the sharing of information and receiving information from other States to liaise with relevant authorities in Tunisia to investigate and freeze assets. For example, establishment of a SPC ARIN. This would also allow freezing without delay the funds or other assets of, and to ensure that no funds or other assets are made available, directly or indirectly, to or for the benefit of, any person or entity either designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations, including in accordance with resolution 1267 and its successor resolutions; or designated by that SPC pursuant to resolution 1373</li> <li>2. Legislation to allow for recognition of foreign judicial authority LORs to freeze and confiscate assets</li> </ol>

77. Page 197 ibid

# Conclusion

As terrorist groups have increased access to financial flows, the SPCs need to be more effectively proactive and efficiently reactive, in their efforts to tackle terrorist financing. Proactively, the implementation of points of contact, based on a SPC ARIN, is **highly recommended** to identify and develop investigative leads involving illicit money flows related to organised crime, terrorism and/or terrorist groups. To more actively enforce freeze and confiscation orders in a timely manner to recover assets, a system of mutual recognition is also **highly recommended**.

The following ten specific recommendations are made:

1. It is **highly recommended** that a SPC ARIN is established to effectively and efficiently share information to counter terrorist financing
2. It is **highly recommended** that a system of mutual recognition of freezing and confiscation orders is implemented to reduce delays and cumbersome legal requirements to tackle criminal and terrorist financing and recovery of assets
3. Legislative amendments (where they are absent) are **recommended** to ensure enforcement of foreign judicial authority requests to freeze and confiscate assets and non-conviction Based forfeiture orders
4. It is **recommended** that a value based confiscation and non-conviction based process is legislated in those SPCs where it is absent
5. It is **recommended** that FIUs find more effective mechanisms to highlight risks to the international financial sector and DNFPBs
6. AML/CFT strategies concentrate on cash flows – it is **recommended** that consideration is given to preventing movement of assets such as precious minerals and cultural artefacts
7. On the basis that cash flows be anonymous it is **recommended** that efforts are made to ensure that thresholds are in place and enforced for due diligence to encourage use of credit cards and online payments, which are traceable
8. In view of recommendation 7 it is **recommended** that procedures are implemented to prevent exploitation of online banking technologies and social media re pre-paid cards
9. Implementation of UNSCRs 1267, 1373 and 2178 is **recommended** (for those SPCs still to do so).
10. Implementation of provisions to prevent the suppression and disruption of proliferation of weapons of mass destruction and its financing is **recommended** (for those SPCs still to do so) and to ensure freezing without delay the funds or other assets of, and to ensure that no funds and other assets are made available, directly or indirectly, to or for the benefit of, any person or entity designated by, or under the authority of, the United Nations Security Council under Chapter VII of the Charter of the United Nations.

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