

GCTF GCCT expert meetings

January 27 – Case studies on multi-stakeholder dialogue and action/pane 4 Second Expert Meetings

Brief for the session:

For this session, we are especially keen to learn from your experiences and lessons learned in building effective, sustainable, and inclusive multi-stakeholder dialogues. Areas of particular interest to participants may include how the dialogues were initiated and formulated, identifying diverse participants, building trust and understanding among participants, sustaining momentum, and moving from dialogue to action.

Case Study – the Global Nonprofit Organization on the FATF

Perspective from civil society/nonprofits

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Why: to ensure that FATF AML/CFT standards are implemented in a proportionate and risk-based way, and without hindering the operations of legitimate NPOs.

1. **History and structure**
2. **Process and practice**
3. **Achievements**
4. **Success factors/Lessons learnt for sustained engagement**
5. **Challenges**

Slide three

A bit of history

The Global NPO Coalition was set up in 2013 after the first meeting between the FATF, member states and NPOs, organized by the then Norwegian FATF president and secretariat with support from Human Security Collective. The meeting addressed the impact of Recommendation 8 on nonprofits from the perspective of NPOs and the FATF itself.

Evidence of this impact was showcased in 2012 study commissioned by HSC that analyzed the outcomes of country evaluations until 2011. Broadly, the study found that:

The interpretation of Recommendation 8 by governments, regulators, and financial institutions was the driver for a shrinking of the operational space of civil society across the world through overregulation of NPOs, repressive AML/CFT rules for NPOs and onerous due diligence processes for Nonprofits by banks, leading to de-risking or de-banking of NPOs

Clearly, the one size fits all approach by governments to regulate NPOs with the aim to protect them from terrorism financing abuse was dominant. Many governments had no idea how to interpret and implement R8. Some governments used R8 as a tool to restrict civil society, especially organizations that are critical of government politics and policies. The old Recommendation 8 that NPOs were specifically vulnerable for terrorism financing abuse became in a way a cart blanche for misinterpretation or abuse by governments. **We wanted to change the recommendation so it no longer could be abused or mis-interpreted by governments and regulators.**

When we started the Coalition with a number of organizations that had been engaging the UN CT entities such as CTED, civil society was not aware of the FATF and R8 let alone understand their mandate and how it operates. Here you had an international task force whose AML/CTF standards were transposed in national laws, regulations and policies that directly was about us and affected us, but unfamiliar to us. Nonprofits were not aware that that we could become abused for terrorism financing. We did not realize that countering the financing of terrorism was part of the broader International Counter Terrorism framework, such as UN CT sanctions.

The flipside was the standards and notably Recommendation 8, that aimed to protect NPOs from terrorism financing, were developed without the involvement of nonprofits and those that were involved in formulating the standard clearly did not have the foresight that R8 would cause damage to civil society and our operational space.

The meeting in 2013 was thus a breakthrough as opened it up further discussion with the FATF Secretariat and the FATF. It was not yet a dialogue at the time, but a consultation that was supported by member countries and FATF observers like the WB that understood that blockages to NPOs caused by an erroneous interpretation and implementation of the standards by governments were counterproductive to the prevention of terrorism financing. This support created momentum for our advocacy to change R8.

Crucial in the early years of our engagement was the appointment at the FATF Secretariat of a contact (Valerie Schilling) for the NPO Coalition. Between 2014 and 2016, the Secretariat organized side- events and plenary discussions to discuss R8 impact on NPOs in Private Sector Consultative Forums until the Coalition was invited as a participant to the FATF Private Sector Consultative Forum, in 2018 with 4 seats. In the course of the years our engagement evolved from consultation into dialogue.

Parallel to the engagement with the Secretariat, the founder organizations of the Coalition reached out to civil society through their networks. Currently over 300 Nonprofit organizations and networks participate in the Coalition. The Coalition is inclusive and participation is open to interested organizations and networks that join us on the recommendation of those that already participate.

Another parallel development was the engagement of some of us with Ministries of Finance and Foreign Affairs on the impact of the FATF standards on the operational space of civil society. This engagement next to advocacy at global level supported our objective for a revision of R8.

Structure

The Coalition has a loose structure. It is not a membership organization. So far, this has proven to be our strength as we can operate timely and adequately without long internal processes of decision-making and still with accountability to the wider group.

The agenda for the dialogue with the FATF is decided by a core group (currently colleagues from 15 organizations/networks). This group has been involved from the onset and comprises Nonprofits from different background: humanitarian, HR, peace building, development, faith-based organizations, NPO law experts and nonprofit foundations. The core group is spread out across the globe. The group reaches out to think tanks/research institutes (e.g. RUSI, GCCS), universities (University of Amsterdam) and to UN Special Rapporteurs that are relevant for our engagement with the FATF, e.g. UNSR on Freedom of Association and Assembly, and HR, Fundamental Freedoms and CT.

Some of the Core group are part of the so-called Expert Hub on the FATF. Expert Hub colleagues are knowledgeable about the FATF standards and actively engage relevant authorities in their country and FSRBs. My colleagues Gabriela and Miguel who are members of the Global Coalition and the Expert Hub will share their case on the engagement with the Latin American FATF, GAFILAT.

The group communicates in a transparent way through various outlets: bimonthly newsletter, webinars, and a website which is open to the public. The core group meets as rule every two to three months and convenes the Coalition twice a year, virtually.

Requests to the FATF for discussion or input to requests from the FATF to the Coalition are circulated among the Coalition with a request to revert within a certain period of time. No reply means that you are in agreement with what is submitted to the FATF. Official communication is sent on behalf of the Coalition by co-chairs, Kay Guinane from the C&SN and myself, or a core group member.

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Process and Practice

From practices on the ground to policy changes at Global Level

What is the content, the substance of our dialogues with the FATF and their regional bodies, FSRBs?

The content is based on our practice with regard to creating a better understanding of R8 and other standards that affect NPOs and ways to engage and advocate stakeholders at national and regional levels. This process of awareness raising, capacity building and exchange of knowledge for civil society, governments, inter-governmental organizations, regulators and banks is ongoing across the world.

Some of us are involved in involved in a risk based approach to terrorism financing of NPOs to ensure that FATF standards are implemented effectively. Others in the initiatives to help solve de-banking of NPOs. Again others are actively engaged with the FIU or other authority in the

process of a mutual evaluation. And some have been engaging parliamentarians to provide information on ways national AML/CFT laws and regulations have been designed in an overzealous way and not in line with the FATF standards and guidance.

We conduct or commission surveys and studies about TF risks of NPOs using the FATF definition or about de-risking of NPOs stemming from the interpretation by banks of the FATF standards and UN sanctions that provide evidence for these stakeholder engagements at country and regional levels. And they provide the entry points for the dialogue and engagement with the FATF and FATF regional bodies.

*In some countries and regions the global dialogue with the FATF is partially mirrored in ongoing stakeholder dialogues with national and regional actors, through a Round Table Approach. Often the issues discussed go beyond the FATF AML/CFT framework and relate to the broader CT measures that impact civil society. **These GCTF expert meetings provide a good opportunity to discuss the lessons learnt from various RTs at national level to distill important issues like ownership, inclusion, agenda-setting and so on.***

We have also reached out to multilateral and regional entities which are relevant for our engagement with the FATF. On de-banking and de-risking with the World Bank and the G20 International Financial Architecture Working Group and the Global Partnership for Financial Inclusion, with the EU the EU AML/CFT directive and the Supra National Risk Assessment. The latter is carried out by a European subset of the Coalition. On the broader CT and CFT agenda to CTED.

Communication by the Coalition is as said, crucial in this regard. Our website where we post ongoing practices, studies, training toolkits, outcomes of our dialogues with the FATF and other organizations, is widely used by civil society, universities, thinktanks, governments, international organizations and financial institutions that take an interest in our engagement and advocacy.

Slide 5 Achievements and lessons learnt

From mutual awareness raising to understanding to consultation to dialogue and concrete actions. An incremental process, which has resulted in a constructive relationship or partnership with the FATF. The engagement has been sustained through persons that have been part of the dialogue since 2013, and the continuation of having a contact person at the Secretariat, which is currently is Kristen Alma. Trust on both (all) sides is important for the institutionalization of the engagement.

What does the relationship in practice look like:

There are regular, informal working sessions with the Secretariat, since the Covid pandemic via video-calls and accessible to all core group members and others from the Coalition that are interested in the topics discussed. These are prepared together with the FATF, and input for topics are suggested by the Coalition. The FATF Secretariat

The FATF Executive Secretary, and Policy Officers participate in events organized by the Coalition. e.g. at the G/C 20 forums in the past 3 years. These events focused on de-risking

of NPOs in relation to the FATF standards. The FATF has been supportive of the Coalition's advocacy to address banks, governments and regulators to apply a risk-based case by case approach to the screening processes of NPO customers. The FATF also participated in a regional event in London in 2016 about mutual evaluation reviews or country evaluations and how R8 was understood or misunderstood by governments. At that meeting an FATF delegate stressed the importance of Outreach to the NPO sector and the RBA instead of a rule based approach when developing measures to protect NPOs from TF abuse.

Revision of Recommendation 8 in 2016 – NPOs not any longer particularly vulnerable to terrorism financing. Country need to implement a risk-based approach, and this approach needs to be in line with HR and IHL standards, and allow for legitimate NPOs to implement their work unhindered by AML/CFT rules and regulations. Where there is little or no risk, no oversight of NPOs to prevent them from TF abuse is required.

Policy input by the Coalition to policy revisions

In the course of the past years: input into the BPP paper for Rec 8, Typology study and in 2019 the NPO Chapter of the FATF guidance on TF. Most recently the Coalition provided input to the internal strategic review of the FATF and in the revision of R24 on beneficial ownership.

The input to the typology study and BPP preceded the important landmark achievement of the revision of R8. The process from the first consultation in 2013 to the revision was not always easy because of restrictions of the FATF mandate and the Coalition pushing for more transparency in communications during the revision process.

4 Seats for NPOs, covering humanitarian, human rights, development and foundations perspectives, in the PSCF since 2018 and therefore the opportunity to co-convene with the FATF side-events on mutual topic of interest (depending on the agenda of the presidency).

A statement by the FATF at the start of the Covid pandemic (under Chinese presidency) that stressed the importance of NPOs legitimate charitable activities that should not be hindered by AML/CFT regulations.

Slide 6 Achievements and Lessons learnt

Engagement with some of the FSRBs – facilitated by the Secretariat and FATF observers like the World Bank (Emile). This engagement is equally vital for the Coalition and our dialogue with the FATF as member countries of FSRBs may be less familiar with the way R8 and other standards that affect civil society need to be understood, and implemented. Miguel and Gabriela will share the GAFILAT engagement and which lessons can be learnt there.

Importance of developing a similar mechanism between NPOs active at national and regional levels with FSRB secretariats.

On-going dialogues about the RBA and De-risking through a stakeholder RT approach. I would like to mention very quickly the example of the Dutch RT co-convened by the Dutch MinFin and HSC, that has almost run parallel to HSC engagement with the FATF since 2013. The

importance of RT approaches should not be understated, especially when they lead to concrete ways forward and tangible solutions, e.g. to help solve de-banking of NPOs.

Besides national stakeholder RTs (NL, UK) that address the FATF standards and their impact, regional RTs, e.g. the EU and Swiss one on a risk compliance guidance for humanitarian money transfers into Syria and other high risk countries, or the international one by the WB, the Dutch MinFin and HSC have played an important role on addressing bank de-risking and financial exclusion of NPOs to a wider audience and helped global advocacy on the topic of Coalition members.

The Coalition acts as a buffer for civil society in countries where engagement and advocacy remains sensitive and risky.

Letters of support to civil society that want to engage authorities locally. Presentation by co-chair of the Coalition in country contexts where engagement with governments or FSRBs on CFT needs support. The public statements by the FATF Ex Sec that the Task Force is working in partnership with the Global NPO Coalition is helpful and leverages engagement at national level..

We experience that under the current presidency from Germany there is space to publicly address abuse of the FATF R8 and other standards against civil society. This abuse is a shared concern of the FATF and the Coalition. The recent statement by the FATF president on such misuse by the Serbian authorities serves as a case on the power of local Serbian NPOs and their understanding of the AML/CFT framework, the FATF recommendations and the mechanisms of the UN Special Rapporteurs and the readiness of the FATF to remedy NPO abuse. It was already mentioned yesterday but it merits to highlight the role of Coalition member ECNL in support of the Serbian NPOs including and the usefulness of their engagement with Moneyval and CoE.

The statement by the current Prez that if in the course of a mutual evaluation it is identified that measures are exploited and used to oppress HR under the pretext of CT, a country would be assessed negatively for not implementing a risk-based approach as outlined in the FATF standards is hugely important and helpful for our engagement and advocacy with FSRBs and governments across the world. (and provides the Coalition with a concrete tool to incorporate HR oppression within the course of country's evaluation by the FATF –)

It so a huge win, also in terms of transparency of the Task Force and their mandate to address abuse of the standards.

The FATF has become more transparent on ways NPOS can become involved in the Mutual Evaluations, by including the protocol on their website.

Slide 7 Success factors and Lessons learnt

We have learnt that a multi-stakeholder dialogue is sustained through the combination of:

Relations that are based on mutual trust and understanding about each other's concerns and mandates. A personal "click" and not a clash of personalities of ego's is important for institutionalization of the engagement.

Transparency and accountability of the core group of the Coalition towards its participants. Our dialogue with the FATF is based on the support of the Coalition's participants and how they experience the impact of the standards on their operational space and their needs and suggestions on ways to remedy these within the FATF framework.

Ongoing awareness raising, capacity building of civil society and governments, regulators and other relevant stakeholders like banks. Where possible co-convene round tables to address the impact of CFT on NPOs within the FATF framework and the need for a risk-based and inclusive approach to ensure a proportionate and adequate implementation of the standards.

Sustained Internal and external outreach to and networking with relevant actors and with relevant forums like the G20, the UN CT entities, the EU, and this Forum of the GCTF.

Support from donors to financially sustain this work, we have to thank two foundations in particular that have made our work possible through their grants: the OSF and Sigrid Rausing Trust.

Support from governments throughout the sustained dialogue that understand that the FATF standards should not hinder the work of NPOs. By governments I mean representatives of Ministries of Finance and other regulators that constitute the members of the FATF, but also ministries like Development and Foreign Affairs ministries that are impacted in their policy on support of Humanitarian Aid, the Sustainable Development Goals, Human Rights, Peace building because their grantees are affected by AML and CFT rules and regulations. The phenomenon of bank de-risking is a case in point as are CFT clauses in government contracts which in some cases include universal beneficiary vetting.

Support from governments when it comes to the role of the FATF president. The president can address pertinent needs of civil society, e.g. the first consultation in 2013 and the statement by the current president from Germany about the abuse of the FATF standards for HR suppression. Advocacy gains traction through support from Presidents.

The realization by CT entities and governments that endorse the CT and CFT framework that misinterpretation or abuse of AML/CFT standards by countries concerning NPOs, is counter productive to the prevention and mitigation of terrorism and violent extremism.

Slide 8

Sufficient challenges remain and some have to be addressed with not only with the FATF but with participants to this Forum too. To name but a few:

Implementation of AML/CFT at national levels in contexts where engagement is difficult due to restrictive and authoritarian environment for civil society.

Policy alignment between government entities that operate from different logics, delivery of humanitarian aid (supported by MoFA/Development)) should not be driven by counter terrorism or countering terrorism financing objectives (remit of MinFin/Security entities).

CFT and CT continue to impede humanitarian relief, HR, SDGs, peace building, and it is getting worse, although there is a realization amongst CT policy makers that pushing out civil society undermines the prevention of violent extremism. Using this momentum to improve policy alignment

Despite the awareness that screening of NPOs by banks and FIs should be done on a case to case basis, whole-sale de-risking is still taking place.

The FATF – Global NPO Coalition stakeholder dialogue has resulted tangible achievements, and my expectation is that we will continue together in ensuring that the standards are effective to mitigate TF risks of NPOs, and not generate effects that further disable our operational and policy space.

Could the FATF – Global NPO coalition dialogue serve as an example for stakeholder dialogues (not mere consultations) at the UN and EU levels about the impact of CFT and the broader CT measures on NPOs?

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