[FATF on Pakistan: Watching the Watchdog](https://nation.com.pk/13-Mar-2019/fatf-on-pakistan-watching-the-watchdog%22%20%5Ct%20%22_new)

Mushin Raza Malik March 13, 2019 the nation

Essentially considering it a “jurisdiction with strategic AML/CFT deficiencies”, the Paris-based money laundering and terror financing watchdog, the Financial Action Task Force (FATF), formally placed Pakistan on its ‘grey list’ in June last year. Ever since, Pakistan has actively been endeavouring to comply with the FATF’s recommendations to get it name removed from such list. Having devised a 27-point Action Plan to combat money laundering and terror financing domestically, Pakistan significantly improved its anti-money laundering legislation in line with the FATF’s recommendations. A Financial Monitoring Unit (FMU) has already been established for this specific purpose in Pakistan. This multi-agency national watchdog is supposed to combat money laundering and terror financing in Pakistan largely by evaluating the Suspicious Transaction Reports (STRs) made by the country’s certain financial and non-financial institutions. Now, primarily to meet the FAFT’s demands, Pakistan has also launched a massive crackdown on a number of proscribed organizations on its soil.

Expressing its dissatisfaction over Pakistan’s actions in its plenary meeting in Paris last month, the FATF said that the country did “not demonstrate a proper understanding of the terror financing risks posed by Da’esh, AQ, JuD, FiF, LeT, JeM, HQN, and persons affiliated with the Taliban”. In fact, most of these militant outfits have been associated with the ‘Kashmir Jihad’. They, however, had to abandon their ‘Jihadist’ activities in the Indian occupied Kashmir owing to an unfavourable global environment in the post-9/11period. Moreover, Pakistan, as part of its domestic counter-terror measures, also started closely monitoring the activities of these outfits after formally declaring them as proscribed bodies. But some of these outfits just managed to operate in Pakistan after choosing to rename them. Nevertheless, the scope of their operations remained strictly confined to certain charitable welfare activities across the country. They, presumably, had nothing to do with the ongoing armed struggle in the IOK. Certainly, the entire world has started realizing that the current resistance movement in Kashmir is purely indigenous which is being run by the local Kashmiri people.

The Modi-led BJP government in India has launched a concerted diplomatic onslaught against Pakistan to isolate it internationally. So, India has aggressively been accusing Pakistan of ‘exporting’ terrorism to other countries in the world. It has also been keenly exploiting every potential global forum for this particular purpose. In 2017, India tried to get the name of certain Pakistan-based ‘individuals and entities’ included in the UNSC’s so-called 1267 sanctions regime. It has also been fully supporting, from the outset, the US motion to put Pakistan on the FATF’s grey list. Ahead of last month’s FATF meeting, India just intensified its terror-related propaganda against Pakistan in the wake of Pulwama attack.

Pakistan has formally requested the FATF to remove India as the co-chair of Asia Pacific Joint Group. This Joint Group is a sub-body of the FATF’s International Cooperation Review Group (ICRG) of Asia Pacific Group (APG). Pakistan is also a member of the APG which is presenting its case before the FATF. India’s DG Financial Intelligence Unit (FIU) is the co-chair of the Joint Group. Pakistan’s Finance Minister Asad Umar, in a letter addressed to the FATF President, has asked him to appoint any other country in lieu of India as co-chair of the Asia Pacific Joint Group “to ensure that the FATF review process is fair, unbiased and objective”. Pakistan’s such objections and reservations about India are reasonable and well-found. Indeed, no man can be a judge in his own cause.

And while doing so, it also ignored Pakistan’s distinguished counter-terror credentials altogether. At the same time, the FATF has also been moving the goalposts by keep on modifying the to-do list for Pakistan to get clean chit from the global agency. The FATF has not adopted any definite or transparent institutional procedure to review Pakistan’s case. Its entire case against Pakistan has been largely based on some rhetorical assumptions and common misperceptions about the nature and intensity of terrorism in Pakistan. So, it has consistently been asking Pakistan to ‘do more’ without providing any plausible evidence in support of its claim regarding the phenomena of terror financing inside Pakistan.

The UN Security Council has passed a number of resolutions aimed to combat terrorism and terror financing in the world. The UNSC Resolution 1373 is the most important such resolution. It was unanimously adopted soon after the September 11 attacks. Since this resolution was passed under Chapter 7 of the UN Charter, it is binding on all the UN member states. This resolution calls on States to work together to prevent and suppress terrorist acts besides fully implementing the relevant international conventions relating to terrorism. It provides some stringent measures against the terror financing. It requires States to instantly freeze funds, financial assets, or other resources of the perpetrators and facilitators of terrorist acts. Similarly, it also requires States to strictly prohibit their nationals and other persons and entities within their territories from collecting funds and other economic resources for the benefit of terrorists and their facilitators.

Under paragraph 6 of the resolution, a apex committee known as the Security Council’s Counter Terrorism Committee (CTC), comprising all SC members, was established to monitor the implementation of this crucial resolution. Later, through UNSC Resolution 1535 adopted in March 2004, it was decided to establish the Counter-Terrorism Committee Executive Directorate (CTED), a sub-body to assist CTC in the effective implementation of UNSC Resolution 1373. Thus, the CTC and its subsidiary CTED are currently the duly-authorized premier global bodies to combat and pre-empt terror financing in the world.

The FATF is an intergovernmental organization founded in 1989 by the G7 only to combat money laundering. This organization, however, transformed from a regional anti-money laundering advisory body to a full-fledged global terror financing watchdog over a period of time. Inexplicably, it just assumed the role of a terror financing regulator in the world following the 9/11 incident. It devises recommendations for combating money laundering and terror financing and puts non-compliant “jurisdictions” on its grey or black lists. Through paragraph 7 of UNSC Resolution 1617 (2005), the Security Council “strongly urges” all members states to implement the “comprehensive international standards” embodied in FATF’s 40 recommendations on money laundering and 9 special recommendations on terror financing. Nevertheless, it hardly empowers the FATF to assume the position of a global watchdog to penalize countries by blacklisting them. Needless to say, the CTC of the Security Council is still the legal body to oversee and regulate terror financing worldwide.

Comprising 36 member states and 2 regional organizations, the FATF is a typical intergovernmental organization. So, under the international law, its decisions and recommendations are only binding on its members. Pakistan is, as such, not a member of the FATF elite club, the International Cooperation Review Group (ICRG). Being a responsible member of the world community, the unfortunate “grey-listed” country only voluntarily became a member of the Asia Pacific Group (APG), a regional sub-body of FATF, to ensure its compliance with the FATF’s recommendations. Such goodwill act, however, has just landed it in trouble. Ironically, almost all courtiers who are being ‘monitored’ and ‘advised’ by the FATF on account of their “strategic AML/CFT deficiencies” are those who are not members of the FATF.

The FATF is essentially a peer-oriented organization. Its core members collectively make the policy and strategic decisions within the organization. The performance of various jurisdictions vis-à-vis the implementation of FATF’s recommendations is always judged through “peer reviews” or “mutual evaluations” by the core member countries. On the other hand, the 38-member FATF has been adopting a sort of closed-door policy when it comes to admitting new members to its elite membership club. A state can become a full member of the FATF only after undergoing a long and cumbersome procedure involving some extensive preconditions.

Noticeably, the AML/CFT enforcement regime of the FATF has more become a geopolitical tool employed by the global powers to articulate their broader vested interests than an institutional apparatus to combat money laundering and terror financing in the world. The US has been selfishly exploiting this important forum to punish its perceived global enemies. This is the reason the FATF’s so-called black list has featured only those counties which are known for their antagonism towards the sole superpower such as Iran, North Korea, and Cuba. The US is also the prime mover behind the current diplomatic campaign at the FATF to place Pakistan on its ‘grey list’. Everyone knows that the US-Pak relations are currently at their lowest ebb on account of their divergent and conflicting interests in the region. It is really ironical that the FATF has only been focusing on the perceived terror financing inside Pakistan and some other troubled countries rather than seriously taking up the pressing issue of money laundering in the numerous offshore jurisdictions and tax havens across the world which have become the ultimate destinations for the plundered and looted resources from the developing countries in the world. It is, certainly, the original mandate of the organization.

Pakistan should seriously devise a comprehensive strategy to avoid the risk of being blacklisted by the FATF. In addition to its ongoing measures to effectively implement the FATF’s recommendations, Pakistan should also constructively engage with nonpartisan FATF members to explain its position on this matter. There is, indeed, no other country except Pakistan which has succeeded in eliminating terrorism and militancy from its soil after facing many hardships and rendering unprecedented sacrifices. The FATF should also not let its member states undermine its credibility by exploiting this forum to advance their national agenda. It is high time the UN Security Council and its counter-terror subsidiaries should focus on their original mandate of combating terror financing in the world after carefully and objectively evolving an efficient AML/CFT regime. Of course, no self-assumed “global watchdog” should be allowed to perform such sensitive task alone. Nor should it fall prey to the zero-sum geopolitics by any means.