2 The FATF as the central promoter of the anti-money laundering regime

Anja P. Jakobi

Introduction

This chapter presents the working and the effects of the Financial Action Taskforce (FATF), an international institution based in Paris. Since its inception in 1989, the FATF has been a central organization for the dissemination of anti-money laundering (AML) standards, based on recommendations and enforced by strict monitoring. During this time, the organization has enlarged both its notion of money laundering and its organizational base. The recommendations today not only relate to money laundered from drug-related crimes, but also to terrorism and most recently even proliferation financing. An ongoing revision of the recommendations is also considering tax evasion as predicate crime. In the meantime, the FATF has also been active in involving non-state actors in the execution of tasks, so that banks and other businesses are today a regular part of measures against money laundering. These regulations do not only concern a minor part of the world – the FATF has managed to expand its coverage to nearly all jurisdictions across the globe within less than 20 years, representing one of the most remarkable institutions in global governance.

With regard to central notions of this book, we can say that by promoting AML measures, the FATF is linked both to securitization (Buzan *et al.* 1998), as well as the blurring of boundaries between public and private governance. With regard to securitization, we can observe a steady development towards areas of national security, most recently by reference to proliferation and growing collaboration with the UN Security Council (see Vlaanderen 2009). Moreover, the FATF has also included non-state actors' perspectives in the development of its standards, and conceives banks or accountants as a regular part of the fight against money laundering. This parallels the national realm of related tasks, in which non-state actors have also been regularly included in crime control. There, the 'state's new strategy is not to command and control but rather to persuade and align, to ensure that other actors play their part' (Garland 2001: 126). A similar alignment is executed globally by the FATF and its international AML standards.

This chapter analyses the FATF and its working modes more closely. It emphasizes the organization's capacity to set and promote standards, but also the hard instruments that can be applied in cases of non-compliance. The following section outlines a theoretical framework of the FATF in the context of securitization. Afterwards, the organizational, functional and political background of the FATF is presented. In a further step, I show the different instruments the FATF applies for the promotion of standards against money laundering. These range from creating recommendations and collecting data to reviewing members and non-members. The chapter concludes with a short summary and an outlook to further research, in particular with a view to securitization and private actors.

The FATF and securitization

The FATF has been analysed from very different perspectives in international relations research: Reinecke (1998: 135–172) examined the case of money laundering as an example for creation of global public policy. Sharman (2008, 2011) evaluated the diffusion of AML policies to developing countries and their impact. Simmons (2000) and Drezner (2007) shed light on the working and creation of the FATF, while Nance (2011) analyses processes of persuasion. These analyses, however, can differ widely. For example, while Hülsse (2007) presents the FATF as an institution that 'creates a need for global governance', relying on constructivist theorizing, Roberge (2009) emphasizes the role of the United States within the FATF, underlining the role of powerful actors in the creation of this institution.

In this chapter I show how the FATF created and disseminated standards, considering arguments related to power as well as to norms. The organization is an important example of how international securitization works and is expanded (cf. Buzan *et al.* 1998; Balzacq 2011). In the process of establishing a global money laundering regime, there have been consistently more issues assembled under the common frame of 'money laundering'. Starting with money laundering related to drug offences, the approach was later expanded to money laundering in general, and after 2001 included terrorism financing (e.g. Tsingou 2010; Gardner 2007). The last mandate now also covers proliferation financing. Further, by taking terrorism financing into account, the very idea of money laundering has been reversed: instead of dirty money getting 'laundered', terrorism financing is clean money being made dirty (Sheptycki 2003: 48). This redefinition opened up a very broad agenda for fighting money laundering and defining security, and the recent turn to proliferation financing was a next – but perhaps not the last – step in opening the AML regime to other subjects. In that regard, the securitization of money laundering together with the global work of the FATF allowed for a path dependency that is known as 'conversion' in historical institutionalism (Pierson 2004): more and more policy fields are added to an existing institution, just because this institution exists and seems effective, but with an increasingly wider interpretation of the institution's original mandate. Particularly securitized institutions may be well-suited for such a process, since they stand out as important and much needed, so an expansion of their mandate is likely to be easier compared to institutions that are seen as less crucial.

The FATF had a wide impact on the policies and practices of states and, subsequently, also non-state actors. At the same time, the work of the organization is not securitization by a neutral and 'disinterested other'. Instead, as the subsequent sections show, the FATF has been successful not only due to its normative appeal in fighting crime, but as a result of a range of powerful instruments being applied to enforce compliance. Both power and norms are thus vital to the FATF's working style, and a securitization perspective allows taking both into account. First, FATF members have an interest in securitization because it opens up possibilities for political activity, and communicates urgency and threat. For this reason, other states are likely to accept a higher degree of regulation than they would in other policy fields. Second, AML is an important example of how policies become securitized worldwide. Within 20 years, states worldwide created a common structure to fight this crime. This established structure now encompasses an increasing number of policy issues that are connected to the securitized theme of money laundering.

Highlighting securitization here also unifies different perspectives of international relations on the creation and working of international institutions: constructivist theorizing emphasizes the influence of international norms and the importance of the way in which issues are constructed and framed over time before they unfold their political significance. The nation-state is embedded in an international society, in which common expectations of state behaviour exist (Finnemore 1996). A classical account has been the idea of a 'norm life cycle', showing how norms rise and disseminate in global politics (Finnemore and Sikkink 1999). Drawing on this idea, the FATF can be conceived as the central institution responsible for the emergence of these regulations, their diffusion as well as – through its monitoring mechanisms – their internalization. In contrast, rational approaches conceive co-operation as an instrument for achieving collective goals (e.g. Keohane 1984). Different forms of co-operation exist, depending on what the state interests are. This has most prominently been outlined in the concept of legalization (Abbott and Snidal 1998, 2000; Abbott *et al.* 2000). From such a perspective, the FATF is an international institution that has been carefully crafted to respond to the common problem of money laundering, based on the interests of dominant actors.

In sum, money laundering is a problem constructed in a discourse and labelled as a security problem. As the central promoter, the FATF has contributed widely to the definition of money laundering as a threat and to related policies to create security. However, these activities do not emerge without powerful players in the background. In particular, the United States had framed money laundering as a threat in domestic politics, in line with the war against drugs, and later in activities targeted at other crimes. From that perspective, the FATF is an instrument designed to bring a formerly national securitization process to other countries.

The background of the FATF

To show how international securitization can become successful, the creation, working and impact of the FATF can be analysed from different angles. Fighting money laundering is the specific functional need for which the organization has been created, but the FATF is also a product of the aim to create this and not any other kind of organization. It is therefore useful to distinguish three different contexts: the organizational embedding; the functional necessity; and the internationalization of national laws. Taking these strands together shows why the FATF is a particularly powerful institution, although it is formally weak.

With a view to the organizational embedding of the FATF, we can state that the FATF is strongly linked to the context of the G8 and the OECD. Since the end of the Second World War, the OECD has continuously shaped economic relations in the West, providing binding and non-binding regulations, policy advice or statistics. The OECD, as well as the G7/8, can be seen as a classical example of club-models in international organizations, providing only very restricted access to membership. Given the fact that the G8 has no permanent secretariat or other organizational form, the OECD regularly takes up agendas formulated by the G8 context – for example, the recent Heiligendamm process (Woodward 2009: 119–120). The FATF has been one example of this division, established in 1989 during a G7 summit, and since then hosted by the OECD in its building. The FATF initial members were 16 industrialized states that aimed at setting up a body that examines money laundering activities, trends and adequate policy responses (Gardner 2007: 329).[1]

The OECD, although following a consensus principle, is financed according to the importance of the national economy. The budget is divided in two parts: part 1 constitutes the regular budget, around €300 million in 2009 (OECD 2009) and around half of the total available budget. Part 2 of the budget is dedicated to support special programmes of the organization, to which member states are not necessarily obliged to contribute and to which also non-members can have access. Examples are the International Energy Agency, the Financial Action Taskforce or the Centre for Educational Research and Innovation (Woodward 2009: 44–45; Schuller 2005: 171). This enables a flexible design of the organization, but also an opportunity for member agendas: the part 2 budget can thus be used to pursue tasks that are not at the core of the organization and which only a minority of the members conceive as a priority (Woodward 2009: 46). The FATF has such status, being initially only a project of some member states but subsequently expanded to the OECD world and beyond (FATF 2008f). The OECD's main work is done in committees and working groups, assembling policy-makers and administrators from member and non-member countries in Paris (Mahon and McBride 2008; Woodward 2009: 43–61). In addition, FATF plenary sessions meet several times per year – attendees are mainly financial regulators, law enforcement representatives and civil servants from national treasury or justice departments (Levi and Gilmore 2002: 95). In sum, the FATF, although a global forum and having a worldwide impact, is widely influenced by the organizational background of the OECD context, its members and the organizational working mode.

With a view to the functional origins of the FATF, it can be said that money laundering climbed on the global agenda when the global financial markets grew and became increasingly integrated. These markets not only provide opportunities for capital with licit sources, but also for gains derived from illicit activities, in particular organized crime. This problem became particularly obvious in the early 1990s, with the scandal linked to the Bank of Credit and Commerce International (Simmons 2000: 244–245, 249). The need for co-operative efforts is based on the fact that the banking sector operates internationally, so financial transactions go to the place that offers the most favourable conditions. Strict oversight cannot only damage illicit business, but also puts costs on the banking sector – which are transferred to the customers. Moreover, attractive clients of private banking often favour a high level of confidentiality, irrespective of whether their revenues have been generated licitly or illicitly (see also Simmons 2000).

The establishment of common regulation within the banking sector was confronted with major difficulties. Small OECD states with a large banking sector, like Switzerland or Luxembourg, profit from a low level of regulation, given the fact that the regulations against money laundering not only concern crime, but also tax evasion. It is what makes their banking sector attractive not only to criminal organizations and individuals, but also to tax evaders. Other states have an interest in undermining this system and making unnoticed or illicit transactions increasingly difficult. Customer identification and notice of transactions above a fixed amount are means to detect such payments. From a functional perspective, the aim of the FATF has thus been to establish a level global playing field for banking activities, establishing common regulations and closing loopholes.

Besides, the FATF is also part of an internationalization strategy. The United States, which also has a large banking sector in absolute terms, invented a national act against bank privacy in the 1970s (linked to the Racketeer Influenced and Corrupt Organisations Act, RICO), adding costs of surveillance to US banks, but not to other countries' banks. In Europe, less strict rules applied, which also generated less costs to the bank (Simmons 2000: 246–248). This creates strong interests in international regulation for the United States (see also Roberge 2009). The United States had been fighting off-shore finance centres in the Caribbean since the 1960s, and opposed the development of dependent territories in this direction (Hampton and Levi 1999: 651). With the 1970 Bank Secrecy Act, the country established a law that made customer identification obligatory for all accounts in the United States (Levi 1991: 249). Since the passage of the Money Laundering Control Act (MLCA) in 1986, money laundering has also been criminalized in the country. Multiple acts followed since then, diversifying and extending the regulation; the United States prosecutes money laundering more aggressively than any other nation (Reuter and Truman 2004: 65, 45–105, 118). Part of the 1986 legislation was the requirement that the

Chairman of the Federal Reserve Bank would consult with other central bank governors about the responsibility of banks concerning money laundering. Subsequently, the Basel Committee on Banking Supervision finally issued a statement in 1988 that mentioned the importance of knowing the customer, avoiding suspicious transactions and co-operating with law enforcement (Reuter and Truman 2004: 80).

Initiated by the United States, but formally proposed by France, the Paris summit of the G7 in 1989 decided to establish the FATF as a temporary organization hosted by the OECD, and financed via part 2 budget as voluntary contributions.[2] The US position has been supported by the United Kingdom, France and Australia (Simmons 2000: 246). From the perspective of the United States, coalition-building and financing via the part 2 budget has been an important strategy in creating and designing the FATF, successively establishing the full-fledged regime against money laundering. While the FATF thus responded to the perception of a growing threat linked to money laundering, it has also been a means to internationalize US law.

Money laundering is not the only area of crime control where the United States has strongly influenced international and foreign activities: the United States is an acknowledged international authority in fighting crime, both for state and non-state actors. The country has pushed for binding international regulations against corruption and is an important monitoring body of anti-human trafficking regulations (Abbott and Snidal 2002; US Department of State 2002). It also has a history of internationalizing its law enforcement (Nadelmann 1993; Andreas and Nadelmann 2006). With the Sarbanes–Oxley Act, the United States also increasingly sets legal standards for corporations in fighting crime. The act has affected international companies not only because they fear its strict enforcement, but also because companies conceive it as a suitable standard in corporate crime prevention (Bussmann and Matschke 2008). Moreover, the country is regularly applying its laws or policies extraterritorially: in the 1980s the United States tried to enforce its AML standards on Caribbean states, though this was unsuccessful because of international protests (Helleiner 1999). More recently the United States accused – with reference to classified information – the Banco Delta Asia in Macao of supporting the North Korean government in acquiring weapons of mass destruction. International banks were voluntarily called upon not to trade any dollars with the institution, which quickly led the bank near collapse and made it an outsider of the financial system (Gaylord 2008). The United States is thus an important and powerful country when it comes to fighting crime, and the FATF is not only an instrument that responds to a functional need for regulation, but is also strongly influenced by a powerful country.

In sum, the FATF is related to a context in which major economies negotiate their ideas on global policies and international regulatory efforts. The FATF is linked to the OECD, but formally independent, so member states have direct impact on the institution. It is also the first and only specialized organization in money laundering, being conceived early, before the issue became more important. Lastly, being the most important member state of the G8 and OECD, the United States has a special interest in the FATF, given the fact that it helped to internationalize its national regulations. In this respect, the FATF enjoys important background capacities for its activities and provides important preconditions for effective global governance in AML: it can use the organizational support, but also the negotiation power of its important member states, while it is itself a flexible forum with restricted access for outsiders.

The FATF has often been seen as a prime example of new ways of governance: as a network without formal regulations, yet central to the promotion of worldwide standards, it appeared to be an important example of new modes in global governance and the ability to form a powerful discourse (cf. Reinicke 1998; Slaughter 2004; Hülsse 2007). Unlike the EU, whose AML standards are binding (see Seyad, this volume), the FATF operates in widely informal ways and without hard law. However, treating the FATF independently of its member states might miss an important point in who constructs and disseminates global norms. The FATF is a club of very powerful members that could set worldwide standards even against the will of other, less powerful countries. As such, it actually represents an interesting case of how power is executed in the wide absence of formal regulations.

The working of the FATF

The FATF is not a formally permanent organization, but it is based on mandates that need to be prolonged. The current mandate runs from 2004 to 2012, having been slightly revised in 2008 (FATF 2004, 2008c). In the beginning the FATF was mainly focused on money laundered from drug trafficking, but later the mandate was enlarged to money laundering in general, then later also to terrorist financing. Additionally, the current mandate also includes first steps to counter financing of proliferation, and in 2008 transactions to Iranian banks were recommended for monitoring (FATF 2008c: 2–4; 2008d). The FATF agenda thus becomes broader and more focused on 'harder' security issues.

The FATF pursues three main objectives: to strengthen the criminal law and improve national legal systems in regard to money laundering; to increase international co-operation on that issue; and to enhance the role of the private sector in fighting money laundering. The activities of the organization have been accompanied by the establishment of FATF-style regional bodies (FSRBs) across the world; beginning with the creation of the first of these institutions in 1990, there are now eight regional taskforces established.[3] These organizations are linked to the FATF – for example, by a status as observer or associate member – and FATF members are partly also members of the regional organizations or have observer status. While the number of FATF members thus increased only from 16 members in 1989 to today's 36, the regionalization of FATF activity from 1990 onwards led to the involvement of many more. In total, 167 countries are now members of the FATF or an FSRB. If we include observer members, this number grows to 170, plus territories and international organizations (see Table 2.1). But this regionalization is a rather top-down process, and

Table 2.1 Members and observers in FATF and FSRBs, 2010

	All	*FATF*	*APG*	*CFATF*	*EAG*	*ESAAMLG*	*GAFISUD*	*GIABA*	*MENAFATF*	*MONEYVAL*
Countries	170	33	39	29	18	16	16	15	18	62
Territories	14	3	5	9	0	0	0	0	0	1
Organizations	53	30	23	19	11	11	5	0	0	12

Source: Author's account, based on FATF and related websites (August 2010).

Note
Observers include associates and similar.

FATF members have supported the initiation of FSRBs financially and with other resources, while, at the same time, keeping the FATF small and homogenous. FSRBs work like the original FATF, implementing and monitoring FATF recommendations. Moreover, member countries started review processes among fellow members, so most of the total reviewing activity in recent years has actually taken place outside the FATF (FATF 2008e; author's calculations).

Recommendations and data collection

The standard instruments on which most FATF activities rely and to which they refer are the 40 recommendations on fighting money laundering – initially issued in 1990 and intended to both prevent and prosecute money laundering. To serve such goals, the recommendations cover four main areas: the legal system, targeted at criminalizing money laundering nationally; measures to be taken by financial institutions and the related non-financial sector; institutional preconditions and further measures to prevent money laundering; and necessary international co-operation (FATF 2003). In the first years, FATF recommendations were formulated in a flexible and imprecise way, to enable compliance against a background of very different legal traditions. Over time, the recommendations became more precise, including interpretative notes and best practices. Following new trends and insight into money laundering, the recommendations were revised in 1996 and 2003 (Gardner 2007: 329–332). Terrorist financing has become an important area of international activity after 9/11, and the Nine Special Recommendations also included, inter alia, a focus on non-traditional banking institutions, like hawala systems of informal money transfer. These systems are particularly common in countries with a weak banking sector and a lack of infrastructure.[4]

Besides these standard-setting activities, the FATF also studies trends and methods in international money laundering, and publishes 'typologies' – a collection of incidents that are assumed to represent typical money laundering schemes. These publications describe and analyse money laundering activities, their methods and their institutional or legal environment. With these they provide information to law enforcement, policy-makers and the interested public, enabling them to react to these trends and to formulate adequate policy responses, such as by revising a specific recommendation. The work on typologies has been intensified since 2004, when a working group was set up and AML issues were investigated more deeply by specific sub-groups, also in exchange with other international organizations and regional FSRB bodies (FATF 2005: 1–2). The work on typologies, usually based on case studies, has been developed towards a more systematic analysis: since 2004, a working group deals with examining trends and indicators of money laundering, a long-term project that started from the very beginning, but bears the potential to deliver important data on the emergence and development of money laundering, as well as on how to prioritize countermeasures (FATF 2005: 88–92).

The issue of data is still a prominent one. Besides typology development, the current FATF mandate includes checking feasibility of implementing cost–benefit analyses, as well as announcing a global threat assessment as part of the organization's future work (FATF 2008c: 3). The mandate's first version even called explicitly that 'the FATF should also increase its efforts to become the authoritative source of data/information on money laundering and terrorist financing issues' (FATF 2004: 3). By changing its approach to the typologies and by collecting and analysing information systematically, the FATF has made an important step in this direction. Due to the nature of the crime, however, the organization remains far away from being able to deliver data comparable, for example, to OECD economic or environmental indicators.

The member review processes

Compliance with FATF recommendations is high, even beyond FATF countries, and the rules have become acknowledged standards (Gardner 2007: 330). Against a constructivist framework, we can thus state that the institution has created and disseminated these norms quite effectively. However, the high rate of support is also caused by a rigorous review process linked to the recommendations, encompassing three main governing modes. Member countries are, first, required to do a self-assessment annually, and, second, they are subject to peer-review processes by other FATF members. Third, non-members can be monitored by the Non-Cooperative Countries and Territories (NCCT) process.

Members are required to submit an annual report on the state of their AML measures, following a standard questionnaire that requests information on the implementation of the 40 recommendations. The information is analysed and compiled by the FATF. The questionnaire has been revised over time to cater for new targets of the FATF and to focus more closely on areas of non-compliance (Levi and Gilmore 2002: 96). Mutual evaluations are examinations by FATF member countries that follow an agreed catalogue of criteria. They include an on-site visit, usually conducted by a team comprised of three examiners: a legal expert, a financial expert and an operational service expert. After the visit, the team compiles a report of which at least the summary is public (Levi and Gilmore 2002: 96–98). To date, the FATF has conducted two rounds of mutual evaluation, both in the 1990s. Having developed a new methodology in 2004, the completion of the third round is envisaged in the current mandate (FATF 2008c: 2). If a country review is positive, the outcome may result in identifying best practices for the other countries, but it may also assess a need for more compliance and increased technical co-operation (Gardner 2007: 333). In the case of non-compliance, the first measures to be taken are reporting on the deficiencies in FATF meetings, and official letters or a high-level mission sent to the country. Harder instruments involve the binding request to banking institutions to pay special attention to all financial transactions linked to the specific country – a measure that makes access to and transfer in major capital markets extremely difficult for the specific country, its business and inhabitants. Finally, the FATF can also revoke membership status of a country (Gardner 2007: 333).

These are not only theoretical options. Non-compliant countries have faced sanctions. In the mid-1990s, Turkey was subject to close monitoring, letters from the FATF presidency and on-site visits since its legislation failed to enact basic AML legislation. In 1996, the FATF even recommended that the procedure of Recommendation 21 be applied to the country – increased scrutiny for bank transfers from institutions based in these countries. Only two months later, the respective legislation was put in place and the measures lifted (Levi and Gilmore 2002: 100).

The most serious incident has been the reluctance of Austria to abolish anonymous accounts: letters, a country visit and restrictions based on Recommendation 21 did not cause any policy change, which caused the FATF to decide in February 2000 to revoke Austria's membership status within the following three months if it would not take immediate steps to abolish anonymous accounts. Only after this threat, including public shaming as well as the possible economic consequences, the government withdrew its former policy and introduced reforms in line with FATF regulations (Levi and Gilmore 2002: 101). Although it can have a considerable impact on national policy change, the FATF does not necessarily treat all members the same way: despite having had AML regulation for a long time, the United States has been reluctant to show full compliance with FATF regulations (Levi and Gilmore 2002: 101; Reuter and Truman 2004: 180).

The NCCT process

Based on the global nature of money laundering, the FATF not only monitors the member states' compliance, but also the legislation and co-operation of *non-members*. The organization justifies this compliance monitoring by the global nature of money laundering, and the effect that some countries may have on the whole financial system:

> Recent years have witnessed a sharp increase in the number of jurisdictions offering financial services without appropriate control or regulation and protected by strict banking secrecy. The proliferation of such non-cooperative countries or territories, which do not, or only marginally, participate in international cooperation against financial crime, also exacerbates competition between these centres and so contribute to worsen existing practices.
>
> (FATF 2000: 1)

Since the late 1990s, non-member countries have been monitored through an assessment in the form of the NCCT process, whose first report was issued in 2000. It consisted of a general part that listed harmful practices like loopholes in the financial system, inadequate customer identification or insufficient international co-operation, and of a specific part with the list of countries where such practices were found (FATF 2000). Yet, there were no 'objective' criteria applied, but the focus is more generally put on 'financial centres whose activities are of such character of significant size that, if there are shortcomings in their system, they could undermine existing anti-money laundering regimes' (FATF 2000: 6). Following the first NCCT report in 2000, the FATF closely reviewed 47 countries and territories until 2001. The procedure resulted in 23 countries being identified as non-cooperative,[5] which were monitored during the following years (FATF 2007: 2, 13). Until 2008, however, all countries on the list have been de-listed after putting in place reforms that made them compliant to FATF regulations.

The overall NCCT process has thus been carried out as a 'naming and shaming' approach, and the organization also pressures non-compliant countries (FATF 2000: 7–9). Sanctions include the necessity for financial institutions to clearly identify each customer that has an account in the non-compliant country before starting business; paying special attention to each transaction that is linked to an NCCT; or even to condition, restrict or prohibit any financial transaction with institutions based in these countries. The NCCT process has been criticized due to the fact that a club of countries assesses non-member compliance to its own rules (Levi and Gilmore 2002: 103–104). The organization justifies this monitoring by the global nature of money laundering, and the effect a few countries may have on the whole financial system (FATF 2000: 1). Attempts have been made to solve the tensions through changed procedures and reviews conducted by multilateral institutions such as the IMF and World Bank (Gardner 2007: 339–340; Reuter and Truman 2004: 167–168). These organizations are, however, closely linked to agendas of G7 states (Tsingou 2010).

FATF relations to non-state actors

The FATF and FSRBs only accept governmental members. The membership is linked to indicators like the size of the economy and the banking sector and the country's commitments to AML regulations, but also to consideration of the geographical balance in the organization (FATF 2008a). Observers can be accepted when they are of an intergovernmental or international character, but they cannot be of a private nature (FATF 2008b). Nonetheless, the FATF is quite important for non-state actors, as multiple contributions to this volume show. On an abstract level, this is linked to the fact that money laundering is a 'behind-the-border issue' (Zürn *et al.* 2006: 16). While earlier intergovernmental activities targeted mainly governmental activities – for example, in conventions linked to arms control – recent decades have witnessed a rise of international regulations that do not target states directly, but actors within states – those behind the border. AML regulations are such an example, since they target criminal actors. Unlike the situation in many earlier decades, however, it is not only primarily a national but also a global concern whether or not this criminal activity takes place. Moreover, the international regulation of 'behind-the-border issues' is particularly difficult, since the state usually has only limited discretion in governing this field, but relies on non-state actors that are closer to the actual regulatory activity. In the case of money laundering, these are banks, other financial institutions and related professions. They need to pursue 'local' surveillance and reporting activities that are fixed internationally. The clear distinction of levels – local, national, international – is thus merged to a transnational regulatory sphere (cf. Bergström *et al.* 2011).

At the same time, the transnational regulatory field is further enlarged by activities of banks themselves (Flohr 2011). In 2000, an association of large and prestigious banks – the Wolfsberg Group – established principles of self-regulation to prevent money laundering. These are considered to be the most advanced standard in the global banking field, and also influenced the revision of the FATF recommendations in 2003. Moreover, by creating the Wolfsberg Group, these banks also invented a forum for regular exchange with governmental regulators and the FATF. In turn, they are regularly consulted when the FATF works on new subjects (Flohr 2011: 152–155).

In effect, the last decade not only witnessed a growth of the FATF itself, its recommendations and its instruments, but also of its outreach to other actors besides states. As an important consequence, the borders of private and public become increasingly blurred in AML: as Garland acknowledged in the case of several other crime policies, private actors increasingly monitor activities and enforce public regulations (Garland 2001); with the stronger shift to a risk-based approach, this has become visible in AML policies, too. Taken together with the global standard-setting, this results in a very specific securitization activity of single banks, evaluating whether the customer represents a 'risk' or not (cf. Helgesson 2011).

Conclusion: the FATF as an instrument for internationalizing securitization

The FATF is a remarkable institution. Although a club, and only issuing recommendations, it has become a central global authority with regard to money laundering. Three features are particularly striking with regard to its promotional activities. First, the FATF is very much in flux in regard to what money laundering actually is. Starting with drug-related crimes, the agenda has continuously been expanded towards other crime-related activities, later including terrorism and proliferation financing. Second, the FATF has continuously expanded its reach and coverage: within less than 20 years, we can now find FSRBs all over the world, implementing centrally decided regulations regionally. Both the policies and the organizational structure of these organizations expanded widely. Third, there is an interesting twinning of soft and hard instruments. The FATF does not aim to be a universal organization with binding conventions, the idea so far being to establish common regulations. Instead, member states have developed formally non-obligatory recommendations, but expect fellow states to follow these. If this expectation is not met, the organization's members are capable of hard sanctions. A perspective that analyses the FATF as a phenomenon 'of its own' and does not consider the powerful member states in the background is likely to miss this point. In other words: the FATF would not have developed its current significance without these member states. However, the reverse is true to some extent: member states might have had difficulties establishing these global AML regulations without the FATF as a central networking tool. The advantages of these characteristics for the FATF initiators become particularly obvious when comparing the FATF with the global UN system: given the very different interests in the UN, it is highly likely that the content of the FATF regulations would not have had a realistic chance of being decided, nor would the sanctioning mechanisms have been established that strictly.

With regard to privatization, the FATF has contributed to the regular involvement of private actors in governance tasks. While the involvement of non-state actors has become increasingly common in recent years – for example, but not exclusively, in the case of public–private partnerships – the FATF case is remarkable insofar that it links two different levels: (1) a global forum regulates actors and responsibilities 'behind the borders', namely criminal networks, and (2) the surveillance of activities by private actors within the jurisdiction. The international and intergovernmental level thus impacts on sub-national and private entities.

The transnational regulatory field that emerged around the FATF and the different governmental and non-governmental actors shows different aspects of securitization. On the one hand, it is based on global securitization. The former national discourse of money laundering being a threat has become internationalized and set as an important frame of reference for political activity. This represents a transfer from the national to the international level. At the same time, international securitization requires multiple state and non-state actors to assess individual or social activity with regard to whether these constitute a security risk. This is a transfer from the global to the national and local level. Together, these aspects reinforce each other: global activity responds to the local security threats, which are assessed based on local security standards. Uncovering these threats locally results, however, in the justification of global activity and also in the legitimation of further international standard setting.

Moreover, the securitization agenda linked to FATF has not yet come to its end. Money laundering was securitized when brought together with other crimes – not only drug-related – in particular terrorist financing. The tendency to securitization is further underlined by very recent tendencies to monitor not only 'non-cooperative countries and territories', but 'high risk and non-cooperative jurisdictions' (FATF 2010), implying an even broader notion of danger in the context of money laundering. On the other hand, however, the turn towards proliferation financing and the growing exchange with the UN Security Council may also transform the FATF to a traditional tool of 'classical' security policy. Securitization, thus, has different aspects in the FATF context.

The future of the FATF is open, but it can be expected to remain an important part of global governance. This is not only caused by a functional need to trace money from different sources and for different purposes, but by the broadening and further politicizing of FATF activities. It is no coincidence that the FATF list Iranian banks as highly susceptible to money laundering and terrorist finance, and Associate Press has already produced headlines that read 'Iran tops terrorist financing watch list' (Associate Press 2010). The coming years will tell to what extent the FATF is becoming more engaged in a broad variety of fields, ranging from privatization in crime control to intense diplomacy and hard cases of security.

Notes

1 Today the organization has 34 country members, plus two regional organizations (European Commission and the Gulf Cooperation Council). Current FATF member states are Argentina, Australia, Austria, Belgium, Brazil, Canada, China, Denmark, Finland, France, Germany, Greece, Hong Kong (China), Iceland, Ireland, India, Italy, Japan, the Netherlands, Luxembourg, Mexico, New Zealand, Norway, Portugal, Russian Federation, Singapore, South Africa, South Korea, Spain, Sweden, Switzerland, Turkey, the United Kingdom, the United States. Associate members are some regional FSRBs, and observing organizations include, among others, development banks and the IMF.
2 The FATF's budget is around €2.7 million annually (refers to 2009), which is split among members in the same proportion as OECD contributions are. Non-OECD members contribute according to an OECD scale, which is based on the size of their economy (FATF 2009: 23).
3 The full names of the bodies are as follows: Asia/Pacific Group on Money Laundering (APG, funded 1997); Caribbean Financial Action Taskforce (CFATF, 1990); Moneyval (1997); Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG, 1999); Intergovernmental Action Group against Money Laundering in Africa (GIABA, 1999); Financial Action Taskforce on Money Laundering in South America (GAFISUD, 2000); Eurasian Group (EAG, 2004); and the Middle East and North Africa Financial Action Taskforce (MENAFATF, 2004).
4 For example, Somalia is a country whose financial transfers are mainly done via a hawala system, and due to suspected – not proved – financing of terrorism, providers have been targeted after 9/11 and their assets have been frozen (cf. Lindley 2009).
5 The 23 NCCT identified were: Bahamas, Cayman Islands, Cook Islands, Dominica, Egypt, Grenada, Guatemala, Hungary, Indonesia, Israel, Lebanon, Liechtenstein, Marshall Islands, Myanmar, Nauru, Nigeria, Niue, Panama, Philippines, Russia, St Kitts and Nevis, St Vincent and the Grenadines, Ukraine.

References

Abbott, K.W. and Snidal, D. (1998) 'Why states act through formal international organizations', *Journal of Conflict Resolution*, 42 (3): 3–32.

—— (2000) 'Hard and soft law in international governance', *International Organization*, 54 (3): 421–456.

—— (2002) 'Values and interests: International legalization in the fight against corruption', *Journal of Legal Studies*, 31 (1): 141–178.

Abbott, K.W., Keohane, R.O., Moravcsik, A., Slaughter, A.-M. and Snidal, D. (2000) 'The concept of legalization', *International Organization*, 54 (3): 401–419.

Andreas, P. and Nadelmann, E. (2006) *Policing the Globe: Criminalization and Crime Control in International Relations*, Oxford: Oxford University Press.

Associate Press (2010) 'Iran tops terror financing watch list', Associate Press Release in *Boston Globe*, 18 February. Online. Available: www.boston.com/news/world/middleeast/articles/2010/02/18/iran_tops_terror_financing_watch_list (accessed 3 March 2010).

Balzacq, T. (ed.) (2011) *Securitization Theory: How Security Problems Emerge and Dissolve*, London: Routledge.

Bergström, M., Helgesson, K. Svedberg and Mörth, U. (2011) 'A new role for for-profit actors? The case of anti-money laundering and risk management', *Journal of Common Market Studies*, 49 (5): 1043–1064.

Bussmann, K.D. and Matschke, S. (2008) 'The impact of the US legislation on company measures of control and prevention', *Crime Law and Social Change*, 49 (5): 349–364.

Buzan, B., Waever, O. and de Wilde, J. (1998) *Security: A New Framework for Analysis*, Boulder, CO and London: Lynne Rienner.

Drezner, D. (2007) *All Politics is Global*, Princeton, NJ: Princeton University Press.

FATF (2000) Report on non-cooperative countries and territories, Paris: FATF.

—— (2003) *The Forty Recommendations. 20 June 2003 (with the amendments of 22 October 2004)*, Paris: FATF.

—— (2004) 'Mandate for the future of the FATF' (September 2004–December 2012). Online. Available: www.fatf-gafi.org/dataoecd/14/60/36309648.pdf (accessed 3 August 2008).

—— (2005) *Money Laundering and Terrorist Financing Typologies 2004–2005*, Paris: FATF/OECD.

—— (2007) *Annual Review of Non-Cooperative Countries and Territories 2006–2007: Eighth NCCT Review*, Paris: FATF/OECD.

—— (2008a) 'FATF membership policy', Online. Available: www.fatf-gafi.org/dataoecd/25/48/41112798.pdf (accessed 3 August 2010).

—— (2008b) 'FATF policy on observers', Online. Available: www.fatf-gafi.org/dataoecd/25/18/41394275.pdf (accessed 3 August 2010).

—— (2008c) 'FATF revised mandate 2008–2012', Online. Available: www.fatf-gafi.org/dataoecd/3/32/40433653.pdf (accessed 3 August 2008).

—— (2008d) *Guidance on Implementation of Financial Provisions of UN Security Council Resolution 1803*, Paris: FATF.

—— (2008e) 'Published AML/CFT reports (as at 21 March 2008)', Online. Available: www.oecd.org/dataoecd/3/7/40319136.pdf (accessed 1 August 2008).

—— (2008f) 'FATF members and observers', Online. Available: www.fatf-gafi.org/pages/0,3417,en_32250379_32236869_1_1_1_1_1,00.html (accessed 3 August 2008).

—— (2009) *Annual Report 2008/2009*, Paris: OECD.

—— (2010) 'High-risk and non-cooperative jurisdictions', Online. Available: www.fatf-gafi.org/pages/0,3417,en_32250379_32236992_1_1_1_1_1,00.html, (accessed 5 March 2010).

Finnemore, M. (1996) *National Interests in International Society*, Ithaca, NY/London: Cornell University Press.

Finnemore, M. and Sikkink, K. (1999) 'International norm dynamics and political change', in P.J. Katzenstein, R.O. Keohane and S.D. Krasner (eds) *Exploration and Contestation in the Study of World Politics*, Cambridge, MA: MIT Press.

Flohr, A. (2011) *Hard, Soft or Fluffy? The Impact of Self-Regulation on International Legalization in the Financial Sector*. PhD Dissertation, Frankfurt/Darmstadt.

Gardner, K.L. (2007) 'Fighting terrorism the FATF way', *Global Governance*, 13 (3): 325–345.

Garland, D. (2001) *The Culture of Control: Crime and Social Order in Contemporary Society*, Oxford: Oxford University Press.

Gaylord, M.S. (2008) 'The Banco Delta Asia affair: The USA Patriot Act and allegations of money laundering in Macau', *Crime, Law and Social Change*, 50 (4–5): 293–305.

Hampton, M.P. and Levi, M. (1999) 'Fast spinning into oblivion? Recent developments in money-laundering policies and offshore finance centres', *Third World Quarterly*, 20 (3): 645–656.

Helgesson, K. Svedberg (2011) 'Public–private partners against crime: Governance, surveillance and the limits of corporate accountability', *Surveillance & Society*, 8 (4): 471–484.

Helleiner, E. (1999) 'State power and the regulation of illicit activity in global finance', in H.R. Friman and P. Andreas (eds) *The Illicit Global Economy and State Power*, Lanham, MD: Rowman & Littlefield.

Hülsse, R. (2007) 'Creating the demand for global governance: The making of a global money-laundering problem', *Global Society*, 21 (2): 155–178.

Keohane, R.O. (1984) *After Hegemony: Cooperation and Discord in the World Political Economy*, Princeton, NJ: Princeton University Press.

Levi, M. (1991) 'Pecunia non olet: Cleansing the money launderers from the temple', *Crime, Law and Social Change*, 16 (3): 217–302.

Levi, M. and Gilmore, W. (2002) 'Terrorist finance, money laundering and the rise of mutual evaluation: A new paradigm for crime control?', in M. Pieth (ed.) *Financing Terrorism*, Dordrecht: Springer.

Lindley, A. (2009) 'Between "dirty money" and "development capital": Somali money transfer infrastructure under global scrutiny', *African Affairs*, 108 (433): 519–539.

Mahon, R. and McBride, S. (2008) 'Introduction', in R. Mahon and S. McBride (eds) *The OECD and Transnational Governance*, Vancouver/Toronto: UBC Press.

Nadelmann, E.A. (1993) *Cops Across Borders: The Internationalization of U.S. Criminal Law Enforcement*, University Park, PA: Pennsylvania State University Press.

Nance, M. (2011) 'The Power of Persuasion', unpublished Manuscript.

OECD (2009) 'Scale of membership contribution', Online. Available: www.oecd.org/document/14/0,3343,en_2649_201185_31420750_1_1_1_1,00.html (accessed 1 June 2009).

Pierson, P. (2004) *Politics in Time*, Princeton, NJ/Oxford: Princeton University Press.

Reinicke, W.H. (1998) *Global Public Policy: Governing Without Government?*, Washington, DC: The Brookings Institution.

Reuter, P. and Truman, E.M. (2004) *Chasing Dirty Money: The Fight Against Money Laundering*, Washington, DC: Institute for International Economics.

Roberge, I. (2009) 'Bringing the United States back in: A response to Rainer Hülse's "Creating demand for global governance…"', *Global Society*, 23 (2): 177–181.

Schuller, T. (2005) 'Constructing international policy research: The role of CERI/OECD', *European Educational Research Journal*, 4 (3): 170–180.

Sharman, J.C. (2008) 'Power and discourse in policy diffusion: Anti-money laundering in developing states', *International Studies Quarterly*, 52 (3): 635–656.

—— (2011) *Power in Diffusion: Making Anti-Money Laundering Global*, Ithaca, NY: Cornell University Press.

Sheptycki, J. (2003) 'Global law enforcement as a protection racket: Some sceptical notes on transnational organized crime as an object of global governance', in A. Edwards and P. Gill (eds) *Transnational Organized Crime: Perspectives on National Security*, London: Routledge.

Simmons, B. (2000) 'International efforts against money-laundering', in D. Shelton (ed.) *Commitment and Compliance: The Role of Non-binding Norms in the International Legal System*, Oxford: Oxford University Press.

Slaughter, A.-M. (2004) *A New World Order*, Princeton, NJ/Oxford: Princeton University Press.

Tsingou, E. (2010) 'Global financial governance and the developing anti-money laundering regime: What lessons for the international political economy', *International Politics*, 47 (6): 617–637.

US Department of State (2002) 'Trafficking in persons report 2002', *Trends in Organized Crime*, 6 (2): 32–43.

Vlaanderen, P. (2009) 'Briefing to the United Nations Security Council Committee', New York, 26 October. Online. Available: www.fatf-gafi.org/document/49/0,3343,en_32250379_32236879_43948849_1_1_1_1,00.html (accessed 5 March 2010).

Woodward, R. (2009) *The Organisation for Economic Co-Operation and Development*, London: Routledge.

Zürn, M., Binder, M., Ecker-Ehrhardt, M. and Radtke, K. (2006) *Politische Ordnungsbildung wider Willen: Ein Forschungsprogramm zu Transnationalen Konflikten und Institutionen*, Berlin, WZB Discussion Paper SP IV 2006–301.