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Trends in Transnational Terrorism and Implications for U.S. National Security and U.S. Terrorism Risk Insurance Act

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Abstract

The unprecedented losses brought about by the attacks of 11 September 2001 have cast the issue of terrorism risk insurance into sharp relief. In particular, it has raised questions as to whether attacks on this scale are an insurable risk and the extent to which the private insurance industry is able and/or willing to price such risks independent of a Federal safety net. Although the Bush administration has committed to renew the Terrorism Risk Insurance Act (TRIA) to offset the human and materiel costs that might result from future cataclysmic terrorist strikes taking place on U.S. soil, it is not apparent that this legislative framework is relevant to the type of extremist contingencies that the United States is likely to face over the short-to-medium term. Any long-term solution to providing insurance in America will necessarily need to go beyond TRIA's existing framework by dropping the "foreign interest" designation for

certified attacks; including some sort of supplemental program that includes mandatory coverage for chemical, biological, radiological, and nuclear (CBRN) assaults; and investigating ways to increase the take-up rates of terrorism insurance by lowering its cost to the customer. An oversight board mandated to evaluate the Act's performance and relevance to evolving terrorist trends would also be useful.

Notes

1. Peter Chalk, Bruce Hoffman, Robert Reville, and Anna-Britt Kasupski, *Trends in Terrorism. Threats to the United States and the Future of the Terrorism Risk Insurance Act* (Santa Monica, CA: RAND, 2005), p. 1.
2. Erwann Michel-Kerjan and Burkhard Pedell, "Terrorism Risk Coverage in the Post-9/11 Era: A Comparison of New Public-Private Partnerships in France, Germany and the U.S.," *The Geneva Papers* 30 (2005), p. 145; R. Hartwig, *The Fate of TRIA: Is Terrorism an Insurance Risk?* (New York: Insurance Information Institute, 2004); "Compensation for 9/11 Terror Attacks Tops \$38 Billion," *RAND Review* (Fall 2004), p. 8; David Chen, "New Study Puts Sept. 11 Payout At \$38 Billion," *The New York Times*, 9 November 2004.
3. Chalk et al., *Trends in Terrorism*, p. 2.
4. It should be noted, however, that the TRIA mechanism stipulates that primary insurers are responsible for a deductible, which they must pay in advance of any federal reinsurance. In 2005, this figure was calculated as 15 percent of a group's direct earned premiums on commercial property and casualty policies during the previous year. The figure was revised and increased to 17.5 percent in 2006. Chalk et al., *Trends in Terrorism*, p. 6; AON, "The U.S. Extends the Terrorism Risk Insurance Act (TRIA) Until December 31, 2007," *Global Risk Alert*, January 2006.
5. United States Congress, *Terrorism Risk Insurance Act*, 107 Congress, 23 January 2002, sections 102-103; "A Limitless Risk," *The Economist*, 23 November 2002; Howard Kunreuther and Erwann Michel-Kerjan, "Policy Watch: Challenges for Terrorism Risk Insurance in the United States," *Journal of Economic Perspectives* 18(4)(Fall 2004), p. 204. Reinsurance for losses exceeding \$100 is at the discretion of Congress.

6. Marsh Inc., *Marketwatch: Property Terrorism Insurance Update—3rd Quarter 2004* (New York: Marsh and McLennan, December 2004), pp. 34-35.

7. "Congress Passes TRIA Renewal; Legislation Sent to President's Desk," *Insurance Journal*, 18 December 2005, available at (<http://www.insurancejournal.com/news/national/2005/12/18/63174.htm>), last accessed 6 July 2006.

8. During the first nine months of 2002, rates for property insurance declined by an average of between 50 and 75 percent and since 2003 have continued to fall by roughly one-half. See Congressional Budget Office, *Federal Terrorism Reinsurance: An Update* (Washington, DC: Congress of the United States, January 2005); Jeffery Brown et al., "An Empirical Analysis of the Economic Impact of Federal Terrorism Reinsurance," *Journal of Monetary Economics* 51 (July 2004), pp. 861-898; and Christine Seth, "Reinsurers Cut Rates Despite Losses," *The Times* (UK), 20 January 2005.

9. Congressional Budget Office, *Federal Terrorism Reinsurance: An Update*, pp. 6-7; Marsh Inc., *Marketwatch: Property Terrorism Insurance Update—3rd Quarter 2004*; Aon Corporation, "Terrorism Risk Management and Risk Transfer market Overview," December 2004, available at (http://www.aon.com/about/publications/issues/2004_global_terrorism_wp.pdf), last accessed 30 June 2005.

10. For more on the anti-globalization movement see Joseph Stiglitz, *Globalization and its Discontents* (New York: W.W. Norton, 2002); "Anti-Globalization—A Spreading Phenomenon," *Perspectives* (Ottawa: Canadian Security Intelligence Service, Report Number 2000/08, 22 August 2000), pp. 1-3, available at (http://www.csis-scbs.gc.ca/eng/miscdocs/200008_e.html), last accessed 30 June 2005; Stanley Hoffman, "Clash of Civilizations," *Foreign Affairs* (July/August 2002), pp. 107-110; and Bob von Sternberg, "Call it Anarchism or New Left, It Has a Big Voice," *The Star Tribune*, 21 May 2000.

11. Hoffman, "Clash of Civilizations," p. 108.

12. See, for instance, Walter Nowotny, "Pro-White Nationalism Versus Globalization," Pro-White Forum, 17 July 2002, available at (<http://www.churchoftrueisrael.com/nsforum/ns7-17.html>), last accessed 30 June 2005.

13. Bruce Hoffman, *Inside Terrorism* (London: Victor Gallancz, 1998), p. 111.

14. See The Earth Liberation Front (ELF), Frequently Asked Questions About the Earth Liberation Front (Portland, Oregon: North American Earth Liberation Front Press Office, 2001), p. 4.

15. See, for instance, "Anti-Globalization—A Spreading Phenomenon," pp. 1-3; and Tamara Makarenko, "Earth Liberation front Increases Actions the USA," Jane's Intelligence Review (September 2003), pp. 28-30.

16. Chalk et al., Trends in Terrorism, p. 53.

17. McVeigh apparently interpreted the 1993 assault in Waco, which resulted in the deaths of 74 people, as well as the siege of an alleged White supremacist's rural cabin at Ruby Ridge, Idaho a year earlier as part of a wider federal government plan aimed at outlawing and seizing all privately owned firearms. See Hoffman, Inside Terrorism, p. 105. For a detailed account of the various incidents see James Tabor and Eugene Gallagher, *Why Waco? Cults and the Battle for Religious Freedom in America* (Berkeley: University of California Press, 1995).

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19. Robert Sullivan, "The Face of Eco-Terrorism," The New York Times Magazine, 20 December 1998; "Environmental Arson," USA Today, 18 January 1999; Mark Riley, "Arsonists Sabotage Top Ski Resort," The Sydney Morning Herald (Australia), 24 October 1998.

20. Mark Huband, Edward Alden, and Stephen Fidler, "The West Has Hit al-Qaeda Hard But Terrorism Is Still a Formidable Enemy," The Financial Times (UK), 11 September 2003; Steven Kiser, *Financing Terror: Analysis and Simulation to Affect Al Qaeda's Financial Infrastructures* (Ph.D. dissertation, Santa Monica, CA: Pardee RAND Graduate School, RGSD-185, 2002).

21. Comments made during the "New Trends in Terrorism: Challenges for Intelligence and Counter-Terrorism" International Seminar, Lisbon, Portugal, 4-5 July 2002. See also Rohan Gunaratna, "The Al-Qaeda Threat and the International Response," in David Martin Jones, ed., *Globalisation and the New Terror* (Cheltenham, UK: Edward Elgar, 2004), pp. 51-55; "The Other War," The Economist, 8 March 2003.

22. "Al-Qaeda: Organization or Ideology? Interviews with Steven Simon, Jason Burke and Josh Meyer," *On Point*, 25 November 2003, available at (<http://www.wbur.org>), last accessed 30 June 2005; Michael Kenney, "From Pablo to Osama: Counter-Terrorism Lessons from the War on Drugs," *Survival* 45(3) (Autumn 2003), pp. 187-206.

23. For more on the alleged attack see John O'Neil, "Terror Plot Was in 'Earliest Stages,' Gonzales Says," *The New York Times*, 23 June 2006.

24. In an interview with *Time Magazine* four months after the August 1998 U.S. embassy bombings in Kenya and Tanzania, bin Laden specifically asserted that acquiring unconventional weapons of mass destruction (WMD) was a religious duty for all Muslims and one that was fully in accordance with Islamist precepts as set forth by Allah. For more on Al Qaeda's suspected WMD activities see Kimberley Resch and Matthew Osborne, *WMD Terrorism and Usama Bin Laden—Special Report* (Monterey, CA: Monterey Institute of International Studies, 7 March 2001), available at (<http://cns.miis.edu/pubs/reports/binladen.html>), last accessed 30 June 2005.

25. Indeed, the United States has already confronted the potential specter of a dirty bomb strike instigated at the behest of a locally based Islamist seeking to further the wider cause of jihadist extremism. In June 2002, the federal government announced that it had arrested an American citizen—Jose Padilla—suspected of having been in contact with Al Qaeda and in the process of developing plans to detonate a uranium-enriched RDD. Although U.S. officials have admitted that the plot had probably not developed much past the discussion stage, they do believe that substantial initial surveillance had taken place of various attack locations, including in the region of the Capitol building. Padilla continues to be held as an enemy combatant at a Navy brig in South Carolina. For more details see Michael Richardson, *A Time Bomb for Global Trade* (Singapore: Institute for Southeast Asian Studies, 2004), pp. 56-58; Charles Lane, "Court Accepts Case of 'Dirty Bomb' Suspect," *The Washington Post*, 21 February 2004; Joan Ryan, "Not All Citizens Have Rights," *The San Francisco Chronicle*, 13 January 2005; and "The Dirty Bomb Suspect: Lots of Questions, Few Answers," *Time Magazine*, 11 June 2002.

26. Robert Hutchinson, "The Struggle for the Control of Radioactive Sources," *Jane's Intelligence Review* (March 2003), pp. 32-36; Alexander Cockburn, "An Open Door for Nuclear Terrorism," *The Los Angeles Times*, 3 July 2003; Matthew Wald, "Bill Allows Atomic Waste to Remain in Tanks," *The New York Times*, 10 October 2004.

27. Richardson, A Time Bomb for Global Trade, pp. 51–52.

28. Stephen Flynn, “The Neglected Homefront,” Foreign Affairs (September/October 2004), p. 25.

29. Congressional Budget Office, Federal Terrorism Reinsurance: An Update, p. 2; Chalk et al., Trends in Terrorism, pp. 37–38.

30. The Congressional Budget Office (CBO) also argues Washington's reluctance to extend TRIA beyond 2007 may be indicative of a belief that the provision of free insurance is working as a disincentive for private security. See CBO, Federal Terrorism Reinsurance: An Update, pp. 13–14. See also Congressional Budget Office, Homeland Security and the Private Sector (Washington, DC: Congress of the United States, December 2004).

31. For a succinct overview of the provisions of War Risk Insurance see Thomas Chappell, “War Risk Insurance—Misunderstood and Under Appreciated,” CS&A Aviation Insurance, 3 February 2002, available at (<http://www.avweb.com/news/insure/182771-1.html>), last accessed 10 July 2006.

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