Apart from the UN Security Council’s enforcement actions resulting in determinations of state responsibility, its decisions have an indirect impact on state responsibility through the imposition of obligations on states by virtue of the UN Charter. The establishment of the ICTY, for instance, was accompanied by a general obligation on states to cooperate with the Tribunal, and sanctions resolutions require that all states take the prescribed measures, whether they include severance of diplomatic relations, or freezing of assets of the named governments or individuals. Sanctions regimes also customarily include arrangements for monitoring compliance with such obligations, and for reporting of their implementation. As far as the counter-terrorism sanctions are concerned, the institutional framework created by resolution 1373(2001), is particularly noteworthy. Arguing in favour of the concept of ‘transnational criminal law’, Boister submitted that one of the characteristics that distinguishes ICL *sensu stricto* from what he called ‘TCL’ is the institutional density that accompanies certain international crimes, as exemplified by inter alia the establishment of international tribunals and the recognition of universal jurisdiction for such crimes. Transnational criminal law, Boister pointed out, does not exhibit the same degree of institutionalisation as ICL, even though ‘suppression conventions’ can have a profound impact on national law and some of them set forth reporting obligations. The sixteen anti-terrorist conventions and protocols adopted so far within the UN framework do not in general contain genuine monitoring systems. The Security Council intervention in state action

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1. UN Doc. S/RES/827(1993), para. 4: “Decides that all States shall cooperate fully with the International Tribunal and its organs [...] to implement the provisions of the present resolution and the Statute, including the obligation of States to comply with requests for assistance of orders issued by a Trial Chamber”.


3. The only exception in this regard is the 1979 Convention on the Physical Protection of Nuclear Material, which provides for a review conference to be convened every five years.
against terrorism, in the form of resolution 1373, has nevertheless been unprecedented in bolstering the accountability of states with regard to the fulfilment of the anti-terrorist obligations.\(^4\) The institutional apparatus set forth for the follow-up of the implementation of resolution 1373 bears no resemblance to what was in place before for the purpose of monitoring the implementation of the UN anti-terrorist conventions. Not only does the resolution impose far-reaching and temporally unspecified obligations on states, it also provides for meticulous monitoring of the implementation of those obligations through a specific body, the Counter-Terrorism Committee (CTC). The open-ended mandate of the CTC, extensive and on-going reporting requirements, coordination of technical assistance and the establishment of an executive directorate for the Committee – the CTED\(^5\) – are all novel features previously unknown to the subsidiary organs of the Security Council, and powerful tools in mainstreaming counter-terrorism policies.

9.1. Obligations Concerning the Prevention and Suppression of Terrorism

There is little doubt about the existence of an obligation on states to prevent and suppress terrorist activities in their territory. The origins of this obligation can be traced back to the League of Nations Council decision in relation to the assassination of King Alexander of Yugoslavia and the French Minister of Foreign Affairs in 1934, which also led to the elaboration of the 1937 Convention on Terrorism.\(^6\) The Council of the League of Nations pointed out that states have an obligation under international law to prevent activities within their borders which lead to

\(^4\) Angelet has noted that the resolution goes beyond mere enforcement, as the obligations under the resolution are parallel to those under the Terrorist Financing Convention and are envisaged to coexist with the latter ad infinitum. See Nicolas Angelet, ‘Vers un renforcement de la prévention et la répression du terrorisme par des moyens financiers et économiques?’, in Karine Bannelier et al. (eds.), *Le droit international face au terrorisme*, Editions Pédone, 2002, 219–237, at 223.

\(^5\) The Counter-Terrorism Committee Executive Directorate was established as a part of the revitalisation of the CTC, bearing in mind “the special nature of resolution 1373(2001), the continuing threats to peace and security caused by terrorism, the important role the United Nations and the Security Council must continue to play in the global fight against terrorism, the need to reinforce the Committee as the Security Council subsidiary body responsible in this area”. UN Doc. S/RES/1355(2004), Preamble, para. 15.

\(^6\) League of Nations O.J. 1759(1934); on the influence of the Convention, see Chapter 2.2.1.