

FATF-VII

**FINANCIAL ACTION TASK FORCE ON
MONEY LAUNDERING**



**ANNUAL REPORT
1995-1996**

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TABLE OF CONTENTS

SUMMARY	Page 3
INTRODUCTION.....	Page 5
I. REVIEWING MONEY LAUNDERING METHODS AND COUNTER-MEASURES.....	Page 6
- Stocktaking Review of the Forty FATF Recommendations.....	Page 6
- Forum with representatives of the financial services industry	Page 9
- 1995/1996 Survey of Money Laundering Trends and Techniques.....	Page 9
II. MONITORING THE IMPLEMENTATION OF ANTI-MONEY LAUNDERING MEASURES	Page 11
-1995/1996 Self-Assessment Exercise	Page 11
- Mutual Evaluations:	
- France	Page 13
- Sweden	Page 14
- FATF Policy for non-complying members	Page 15
- Cross-country evaluation on measures taken by FATF members concerning identifying, freezing, seizing and confiscating the proceeds of crime	Page 15
III. EXTERNAL RELATIONS	Page 16
- Strategy	Page 16
- Co-operation with regional and international organisations	Page 16
- Assessing non-members	Page 16
- Initiatives undertaken during FATF-VII	Page 18
- Latin America	Page 18
- Caribbean	Page 18
- Asia	Page 18
- Central and Eastern Europe	Page 19
- Africa	Page 19
CONCLUSION	Page 20
ANNEX 1 - The Forty FATF Recommendations	
ANNEX 2 - The Revised Interpretative Notes	
ANNEX 3 - Report of FATF-VII on Money Laundering Typologies	

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SUMMARY

1. The seventh round of the Financial Action Task Force (FATF) was chaired by the United States. Major achievements of the round included the completion of the stocktaking review of the forty FATF Recommendations and the adoption of a policy for assessing the performance of non-member governments. A Forum was organised with representatives of the financial services industry. In addition, the round witnessed the launching of the second round of mutual evaluations of the anti-money laundering measures taken by its members and a broad-ranging review of money laundering trends and techniques.

2. The major task conducted in 1995-1996 by the FATF was the review of its 1990 forty Recommendations. Several substantial changes were agreed by FATF members. First, it was decided to extend money laundering predicate offences beyond narcotics trafficking. Second, it was agreed to make mandatory the reporting of suspicious transactions and to expand the financial Recommendations to cover non-financial businesses. Other changes covered the issues of shell corporations, the refinement of identification requirements including new technology developments, cross-border currency monitoring, controlled delivery techniques and bureaux de change.

3. Another major initiative of FATF-VII was the Forum with the financial services industry. The meeting was the first major discussion between the Task Force and representatives of the financial services industry concerning the problems being faced in the combat of money laundering. The topics discussed were important and the exchange of views was most productive. This Forum was only the commencement of a continuing dialogue.

4. As in the previous round, the annual survey of money laundering methods and countermeasures continued to cover a global overview of trends and techniques. For the first time since its inception, the FATF has decided to release the conclusions of its experts group meeting on money laundering typologies². It was observed that conventional laundering techniques are still prevalent and in some cases are increasing, e.g. cash smuggling, the use of bureaux de change and the use of professional money launderers. Potential money laundering threats in certain sectors, including insurance, securities and new technologies concerning electronic payments, were also noted. The problem of money laundering stemming from interests in the former Soviet Union and Eastern Bloc was assessed as becoming increasingly acute.

5. A considerable part of FATF's work continued to focus on monitoring the implementation, by its members, of the forty Recommendations. The urgency for all member governments to reach a satisfactory standard of compliance with the forty Recommendations was emphasised and a set of measures were drawn up to assist in achieving this. The performance of members has generally improved because significant progress has been made by several members since the previous Annual Report with regard to the implementation of a substantial number of Recommendations.

¹ See Annex 1.

² See Annex 3.

6. The Task Force defined the scope and procedure for its second round of mutual evaluations which will focus on the effectiveness of the anti-money laundering laws and systems in place. Accordingly, two mutual evaluations were conducted during FATF-VII -- France and Sweden. Summaries of the evaluations are contained in Part II of the Report. The FATF also commenced a cross-country review of measures taken by its members to identify, freeze, seize and confiscate the proceeds of crime.

7. In carrying out its strategy for promoting the adoption of anti-money laundering measures by non-member countries, the FATF co-operates closely with other interested international and regional organisations. During 1995-1996, the FATF adopted a policy for assessing the implementation of anti-money laundering measures by non-member governments. It also decided to increase the participation of observer international organisations in its Plenary meetings.

8. External relations actions during FATF-VII again involved contacts with countries in every continent. A major initiative was the Summit of the Americas Ministerial Conference on Money Laundering which took place in Buenos Aires in November 1995. Thirty four governments in the western hemisphere signed a Communiqué which set forth a co-ordinated, multilateral approach to combating money laundering in the hemisphere.

9. In Asia, a third FATF/Commonwealth Secretariat Money Laundering Symposium took place in Tokyo in December 1995. The governments attending agreed to establish an Asia Pacific Steering Group. In Central and Eastern Europe, a Money Laundering Seminar was organised in Istanbul in April 1996 with the support of the Organisation for Economic Co-operation and Development (OECD), with the countries of the Black Sea Economic Co-operation (BSEC). Missions were also undertaken to the People's Republic of China, the Republic of Korea and Egypt.

10. Italy will chair the eighth round of the FATF which begins on 1 July 1996.

INTRODUCTION

11. The Financial Action Task Force was established by the G-7 Economic Summit in Paris in 1989 to examine measures to combat money laundering. In April 1990 it issued a report with a programme of forty Recommendations in this area. Membership of the FATF comprises twenty six governments³ and two regional organisations⁴, representing the world's major financial centres.

12. In July 1995, the United States succeeded the Netherlands as the Presidency of the Task Force for its seventh round of work. Three series of Plenary meetings were held in 1995-1996, two at the OECD headquarters in Paris and one in Washington D.C. In addition, a special experts meeting was held in November 1995 to consider trends and developments in money laundering methods and counter-measures and a Forum with representatives of the financial services industry took place on 30 January 1996.

13. The delegations attending the meetings of the Task Force are drawn from a wide range of disciplines, including experts from the ministries of finance, justice, interior and external affairs, financial regulatory authorities and law enforcement agencies. The FATF also co-operates closely with international and regional organisations concerned with combating money laundering. Representatives from the Caribbean Financial Action Task Force (CFATF), the Council of Europe, the Commonwealth Secretariat, the International Monetary Fund, the Inter-American Drug Abuse Control Commission (CICAD), Interpol, the International Organisation of Securities Commissions (IOSCO), the Offshore Group of Banking Supervisors, the United Nations Crime Prevention and Criminal Justice Division, the United Nations International Drug Control Programme, the World Bank and the World Customs Organisation attended various meetings during the year.

14. The FATF's work in the 1995-1996 round concentrated on three main areas:

- (i) reviewing money laundering countermeasures and methods;
- (ii) monitoring the implementation of anti-money laundering measures; and
- (iii) undertaking an external relations programme to promote the widest possible international action against money laundering.

15. Parts I, II and III of this report outline the progress made in these respective areas during the year.

³ Australia, Austria, Belgium, Canada, Denmark, , Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States.

⁴ European Commission and Gulf Cooperation Council.

I. REVIEWING MONEY LAUNDERING COUNTER-MEASURES AND METHODS

16. The FATF carried out several projects in this area during 1995-1996, but the major task achieved by the Task Force was the review of its 1990 forty Recommendations which was begun in FATF-VI. In this exercise, FATF members assessed the need to modify the forty Recommendations to take into account recent trends and potential future threats in the area of money laundering. Another important innovation was the convening of a meeting between the Task Force and representatives of the world's financial sector institutions. Finally, the annual survey of money laundering methods and countermeasures attempted to provide a global overview of trends and techniques. In this context, the issue of money laundering in certain sectors, including insurance, securities and new technologies concerning electronic payments, was discussed.

A. Stocktaking Review of the Forty FATF Recommendations

(i) Rationale for the review

17. Money laundering is a fluid, evolving phenomenon. Efforts to combat laundering, therefore, must be similarly dynamic. It has always been understood that the FATF's Recommendations should not be set in stone, but rather subject to periodic review. The dynamics of the global money laundering problem have changed significantly since the Recommendations were first adopted. Moreover, the FATF's understanding of the efficacy of money laundering countermeasures has also changed and new threats have emerged which could not have been contemplated in 1990. Since the Recommendations were first created, FATF has developed a certain number of Interpretative Notes designed to clarify or further explain the Recommendations⁵. To preserve their continued utility, the FATF therefore decided that its Recommendations should be revised to bring them fully up to date with current trends and developments and to anticipate future threats.

18. At the same time, FATF has nevertheless been concerned about maintaining the legislative framework for combating money laundering. This is why it identified -- on the basis of a questionnaire to which all member countries responded -- nine points on matters of substance that necessitated changing the Recommendations (and, in certain cases, the Interpretative Notes) or introducing new ones. These points were as follows:

- criminalisation of money laundering predicate offences should be extended beyond narcotics trafficking to include serious crimes;
- the application of the financial recommendations should be enlarged to include non-financial businesses and professions;
- the disclosure of suspicious transactions by financial institutions should be made obligatory;
- customer identification requirements by financial institutions should be further refined for legal entities;

⁵ During the period 1990-1995, the FATF elaborated various Interpretative Notes which are designed to clarify the application of specific Recommendations. Some of these Interpretative Notes have been updated in the Stocktaking Review to reflect changes in the Recommendations (see Annex 2).

- member countries should focus particular attention on shell corporations;
- member countries should pay special attention to and if necessary take measures to preclude the use of new or developing technologies in money laundering;
- member countries should extend to non-bank financial institutions, including bureaux de change in particular, the same anti-money laundering rules that apply to financial institutions;
- member countries should consider implementing procedures for detecting or monitoring cross-border cash movements;
- “controlled deliveries” designed to detect money laundering operations should be encouraged.

(ii) Changes agreed to the original set of Recommendations⁶

(a) Extending money laundering predicate offences beyond narcotics trafficking

19. This change was without question the most critical one of the Socktaking Review. There has been overwhelming evidence in FATF countries and throughout the rest of the world that non-drug predicate offences constitute an important and growing source of illegal wealth entering legitimate financial channels. Indeed, in some countries non-drug related crime constitutes the predominant source of laundered proceeds. In recognition of this evidence FATF members amended the Recommendations to make criminalising non-drug money laundering mandatory (see Recommendation 4).

(b) Financial activities undertaken by non-financial businesses

20. As a result of the implementation of countermeasures in the financial sector, non-financial businesses have played an increasing role in money laundering schemes. This trend includes an increase in the use of professional money laundering facilitators. To address the significant threat posed by non-financial businesses, it was agreed that countries should consider applying appropriate anti-money laundering measures to the conduct of financial activities by non-financial businesses or professions (see Recommendation 9).

(c) Mandatory reporting of suspicious transactions

21. It is clear that the overwhelming majority of financial institutions in FATF member countries have been working diligently to detect and report suspicious transactions, whether or not the member in question maintains a mandatory or a permissive system. However, it is possible that some institutions might use the absence of a legal obligation to report suspicions as an excuse to turn a blind eye to suspicious activity. To ensure that financial institutions are engaged in the anti-money laundering campaign in a uniform and consistent way while ensuring fair competition in the marketplace, the FATF decided to require countries to put in place a mandatory suspicious transaction reporting system (see Recommendation 15).

⁶ See the new set of Recommendations at Annex 1.

(d) Shell corporations

22. Shell corporations have always figured significantly in money laundering activities and are one of the primary tools employed by a class of professional money launderers whose activities are of increasing concern. There has also been a rise in the use of false accounts in the names of shell companies to shelter individual profits. In addition, shell corporations have played a significant role in the success of money laundering schemes linked to the former Soviet Union and Eastern Bloc. For all the above reasons, FATF agreed that all countries should consider whether additional measures are required to prevent the unlawful use of shell corporations in their country (see Recommendation 25).

(e) Expansion of the Recommendation dealing with customer identification

23. The FATF Recommendation dealing with customer identification outlined general principles for financial institutions to apply. To provide additional guidance to governments implementing this Recommendation in practical terms, it was decided to incorporate the concrete steps that institutions should take when they identify legal entities (see Recommendation 10).

(f) New technology developments

24. The rise in new or developing technologies presents potential money laundering risks. These new technologies can make it possible to conduct large-scale transactions instantaneously, remotely and anonymously, and they may permit such transactions to take place without the involvement of traditional financial institutions. Although there is no current evidence to indicate that new technologies are being abused in this manner, the FATF decided to confront the issue proactively by requiring countries to note the potential threat posed by new technologies and to adopt the appropriate measures to minimise this threat (see Recommendation 13).

(g) Bureaux de change

25. One of the more troubling trends reported by the FATF experts over the last few years was the increase in money laundering activity through bureaux de change. The revised Recommendation is designed to make it clear that bureaux de change (as well as other non-bank financial institutions) should be subject to the same anti-money laundering laws or regulations as other financial institutions, even in countries where they are not subject to a formal regime of prudential supervision (see Recommendation 8).

(h) Cross-border currency monitoring

26. The evidence from FATF experts suggests that smuggling currency across national borders, an age-old money laundering technique has continued to be one of the major methods of money laundering and indeed, is on the rise. Consequently, the FATF encourages countries to consider implementing feasible measures to address this issue (see Recommendation 22).

(i) Controlled delivery

27. The experience of a number of FATF member countries is that controlled delivery related to assets known or suspected to be the proceeds of crime is a valuable investigative technique, both domestically and internationally. Recommendation 36 was therefore amended so as to give greater recognition to the benefits of such a technique, and to encourage countries to support its use, where possible.

B. Forum with the financial services industry

(i) Context

28. The FATF is keenly interested in cultivating an ongoing dialogue with the financial services sector. In order to ensure that the FATF's efforts take full account of the interests and priorities of the private sector, the Task Force solicited the advice and support of the world's financial community. The FATF's goal is to establish a bridge between itself and the industry and to work in partnership with the private sector in combating money laundering.

(ii) Outcome of the Forum

29. On 30 January 1996, representatives from FATF countries, national banking and insurance associations as well as members of the non-bank financial sector and delegates from international financial services industry organisations (Banking Federation of the European Union, International Banking Security Association, European Insurance Committee, European Grouping of Savings Banks) attended a Forum organised by the FATF at the OECD in Paris. The meeting was the first major discussion between the Task Force and the financial services industry concerning the problems being faced in the combat of money laundering. Four general topics were addressed in the Forum: changing trends in money laundering; providing necessary feedback to financial institutions reporting suspicious transactions; the financial sector's views concerning the forty Recommendations; and the implications of technology developments on the Recommendations. The exchange of views was most productive and was the start of a continuing dialogue.

C. 1995/1996 Survey of money laundering trends and techniques

30. The FATF promotes the exchange of information and intelligence on prevailing trends in money laundering and effective countermeasures. In so-called "typologies exercises", the FATF convenes experts from member law enforcement agencies and regulatory authorities to review the latest developments. Experts from the private financial sector also participated in this year's exercise. As in FATF-VI, it was decided to adopt a global approach and bring together as much information as possible on both member and non-member countries. The following paragraphs summarise briefly the conclusions of this year's survey.⁷

(i) Magnitude and scope of the problem

31. Although money laundering remains a significant problem, efforts to arrive at a methodologically sound estimate of the size of the phenomenon have been flawed. However, it is generally agreed that it amounts to hundreds of billions of dollars annually. Drug trafficking continues to be the largest source of illegal proceeds in most countries, although non-drug related proceeds are an increasingly significant, and in some countries the predominant, source of illicit wealth.

(ii) General trends

32. Two general observations were made regarding current money laundering trends which cut across the FATF membership. First, the experts found that conventional laundering techniques are still prevalent and in some cases are increasing, e.g. cash smuggling, the use of bureaux de change, and the use of professional launderers, such as solicitors, attorneys, accountants, financial advisers and other

⁷ The Report of FATF-VII on Typologies is at Annex 3.

fiduciaries whose services are employed to assist in the disposal of criminal profits. Second, beyond conventional laundering techniques, the experts have become alert to new developments occurring in the financial sector which may present significant money laundering threats.

33. As they have been historically, banks remain an important mechanism for the disposal of criminal proceeds. However, non-bank financial institutions and non financial businesses are still attractive avenues for introducing ill-gotten gains into legitimate financial channels. Some experts continued to report a significant shift in laundering activity from the traditional banking sector to the non-banking sector and to non-financial businesses and professions. A number of money laundering trends were identified or suspected in the insurance sector. FATF experts were also concerned about the susceptibility of the securities industry to money laundering.

34. In addition to traditional money laundering methods, the emergence of new payment technologies has presented new challenges. These technologies can generate tremendous benefits for legitimate commerce. However, the ability to conduct significant transactions anonymously and entirely outside the banking system potentially represents a serious money laundering threat.

(iii) Refinements of money laundering countermeasures

35. In the light of the changing nature of the money laundering threat, a number of FATF members have made refinements to their anti-money laundering systems. New countermeasures have therefore been pursued, such as extending the crime of money laundering to cover non-drug proceeds, taking further steps to apply preventive measures to non-bank financial institutions and non financial businesses. Furthermore, some FATF members are facilitating the dismantling of money laundering operations by removing legal impediments to investigation and prosecution, for instance by easing the burden of proof regarding the illicit origin of funds.

(iv) Situation in non-FATF member countries

36. As all countries linked to the international financial system are at least potentially capable of being infiltrated by illicit funds, money laundering is of course not a problem restricted to FATF members. With regard to the situation outside the FATF membership, the most notable trend was the increase of money laundering stemming from the former Soviet Union and Eastern Bloc.

II. MONITORING THE IMPLEMENTATION OF ANTI-MONEY LAUNDERING MEASURES

37. A considerable part of FATF's work has continued to focus on monitoring the implementation, by its members, of the forty Recommendations. FATF members are clearly committed to the discipline of being subjected to multilateral surveillance and peer review. All members have their implementation of the forty Recommendations monitored through a two-pronged approach:

- an annual self-assessment exercise; and
- the more detailed mutual evaluation process under which each member is subject to an on-site examination.

38. In addition, the FATF carries out cross-country reviews of measures taken by its members to implement specific Recommendations. In 1995-1996, the Task Force commenced a review on the Recommendations dealing with asset confiscation and provisional measures.

A. 1995/1996 Self-assessment exercise

(i) Process

39. In this exercise, each member is asked to provide information concerning the status of their implementation of the forty Recommendations. This information is then compiled and analysed, and provides the basis for assessing to what extent the forty Recommendations have been implemented by both individual countries and the group as a whole.

(ii) State of implementation

(a) Legal issues

40. The overall state of implementation is generally similar to the situation recorded in the previous round, reflecting a continuing steady increase in the number of members in compliance with the Recommendations. New Zealand in particular has brought into effect major pieces of anti-money laundering legislation in the course of the year, which significantly increased their compliance. Other members have continued to make refinements to their legal frameworks, with the aim of bringing themselves into full compliance with the Recommendations.

41. In regard to some Recommendations the position is very satisfactory. Only one member has not enacted laws to make drug money laundering a criminal offence, whilst nineteen members have enacted an offence which covers the laundering of the proceeds of wide range of crimes in addition to drug trafficking. The position is also very good as regards investigative multilateral or bilateral co-operation, with all but one member having put in place the legal measures to allow co-operative investigations with other jurisdictions concerning money laundering and to provide mutual legal assistance regarding the production or seizure of records.

42. Despite this, there are some Recommendations where progress is much less satisfactory. It is disappointing to note that the Vienna Convention has still been ratified and implemented by only seventeen members. Considerable work also remains to be done by a number of members in relation to confiscation and provisional measures, both domestically and pursuant to mutual legal assistance. A fuller study has commenced with respect to the investigation, freezing, seizure and confiscation of

assets in money laundering cases pursuant to mutual legal assistance. Sixteen members are in full compliance, four expect to become so within twelve months, whilst another four partially comply. In relation to domestic confiscation nineteen members are in full compliance, with five in partial compliance. Overall, there clearly needs to be an increased focus on this area by some members.

(b) Financial issues

43. The 1995-1996 self-assessment exercise showed a slight improvement in the overall implementation of the FATF Recommendations on financial issues. This was particularly the case in certain members, such as Greece and New Zealand, where significant progress was made in enacting laws. However, implementing measures are indispensable in order to fully apply the provisions of the new laws. There are still differences in the state of implementation between the banking sector and non-bank financial institutions.

44. Almost all members comply fully with customer identification and record-keeping requirements although there are some persisting gaps in coverage with respect to certain categories of non-bank financial institutions, such as the bureaux de change. It is, nevertheless, a matter for serious concern that anonymous accounts are still permitted in Austria and Turkey -- even though in Austria they are restricted to securities accounts and passbooks of residents. Subject to adoption by the Austrian parliament, after 1 August 1996, neither the opening of securities accounts or any acquisition of securities for existing accounts will be possible without identification. However, the passbooks of Austrian residents will continue to be anonymous.

45. All members but three now require banks to pay special attention to complex, unusually large transactions and there is still room for improvement in this area with respect to non-bank financial institutions. Twenty three members require banks to report suspicious transactions. All members but two require banks to develop specific programmes against money laundering. However, performance with respect to the implementation of these two Recommendations in the non-bank financial sector needs to be improved.

46. All members but four have now established anti-money laundering guidelines for banks but many have yet to develop such guidelines for all categories of non-bank financial institutions. Similarly, all members have taken steps to guard banks against control or acquisition by criminals, but this is not the case for all types of financial institution.

(iii) Summary of performance

47. The overall conclusion from the 1995-1996 self-assessment exercise is that almost all members have reached an acceptable level of compliance with the forty Recommendations. The most notable progress was made by Greece and New Zealand which introduced very broad money laundering offences and wide-ranging measures dealing with the financial sector. However, Turkey is the only FATF member which had not passed any anti-money laundering legislation and whose compliance with the forty Recommendations is seriously deficient. It is therefore very important that Turkey's draft anti-money laundering legislation be enacted as a matter of urgency.

B. Mutual evaluations

(i) Second round of mutual evaluations

48. The second element for monitoring the implementation of the FATF Recommendations is the mutual evaluation process. Each member is examined in turn by the FATF on the basis of a report drawn up by a team of selected experts from other member countries of the Task Force. The purpose of this exercise is to provide a comprehensive and objective assessment of the extent to which the country in question has moved forward in implementing measures to counter money laundering and to highlight areas in which further progress may still be required.

49. In 1994-1995, the FATF concluded its first round of mutual evaluations which proved to be very productive. The evaluation reports have indicated both the strengths and weaknesses of members' anti-money laundering systems. In addition, the examinations sometimes expedited the enactment of money laundering countermeasures.

50. In general, anti-money laundering legislation and other counter-measures had only recently been set up and the mutual evaluation team was often unable to assess their effectiveness. Therefore, a second round of mutual evaluations, focusing on the effectiveness of members' anti-money laundering measures in practice, commenced this year. The second round will also check any follow-up action taken in response to the suggestions for improvement made in the first round. Summaries of the reports discussed during FATF-VII are given below.

(ii) Summaries of reports

France

51. Because of its stable economy and political situation and its strong currency, France may be attractive to money launderers. For this reason, as with most of the other FATF countries, the problem is less one of placement of cash than of the final stage of laundering, consisting in purchasing hotels or works of art or investing in real estate or tourism, etc. Such transactions are inherently more difficult to detect and quantify than placement because they are farther removed, in both time and distance, from the primary offence, which in many cases has been committed abroad.

52. The battle against money laundering, and against organised crime in general, has been a priority of the French authorities for several years with the Act of 12 July 1990 organising the participation of the financial sector to the anti-laundering fight and the creation of the TRACFIN unit (Treatment of information and action against clandestine financial circuits). The French Government's most recent initiative was the law of 13 May 1996 on the fight against money laundering, drug trafficking and international co-operation in respect of seizure and confiscation of the proceeds from crime. In particular, the law creates a general offence that makes it against the law to launder any proceeds from a crime or offence and reverses the burden of proof for persons carrying on habitual relations with drug traffickers. Finally, it calls for stricter supervision of money-changers and makes insurance and reinsurance brokers subject to the same anti-money laundering obligations under the Act of 12 July 1990 as insurance undertakings.

53. After its first evaluation by FATF in 1992, the group concluded that in sometimes going beyond the text of the Recommendations, France created a real model for fighting money laundering. The main comment of the first mutual evaluation report on the need to extend the definition of laundering, so far limited to the proceeds of drug trafficking, to all serious criminal violations is fully addressed by the Act of 13 May 1996. Other measures that have been taken since the previous evaluation have also strengthened the system instituted by the Act of 12 July 1990. Unquestionably,

then, the widening of reporting requirements to encompass suspicions of laundering of funds stemming from organised crime, and creation of a new specialised unit in the Ministry of Justice, have greatly enhanced the French anti-laundering system. In addition, TRACFIN has managed to establish a good climate of trust with financial institutions.

54. This system goes beyond the FATF's forty recommendations in many areas. France opened the second round of mutual evaluations dealing with the effectiveness of anti-money laundering systems after some years of experience. Based on the number of convictions on specific laundering charges and the number of reported suspicions which remain relatively modest (which could be explained by the preventative nature of the system) and some difficulties of co-operation between law enforcement agencies, the system is not as fully operational as it could be. Better co-operation among all parties to the fight against laundering might be useful.

55. Nevertheless, there is every reason to believe that with the institution of a laundering offence that is as comprehensive as possible, the other provisions of the aforementioned law (closer supervision of bureaux de change, a reversal of the burden of proof, facilitation of international co-operation) and success in getting non-financial professions more actively involved in the fight against laundering the effectiveness of the French system will be considerably strengthened in the years ahead.

Sweden

56. The situation as regards predicate offences in Sweden has not changed since the first mutual evaluation. Sweden is not a significant producer or transit country for drugs. The Swedish authorities are principally concerned with economic crimes, particularly revenue offences, and money laundering continues to be regarded as an issue that relates primarily to economic crime. There is no strong evidence as to current money laundering methods and trends. However there is concern both as to the increased use of cash and that most money laundering takes place at the integration stage. Overall, Sweden cannot be regarded as a major money laundering centre; however, significant proceeds of economic crimes are being laundered there, and Sweden could be seen as an attractive country in which to invest the proceeds of crimes committed abroad.

57. The Swedish authorities recognise the need to take action against certain weaknesses in their anti-money laundering system which have been subject to criticism. The principal change since the first evaluation was the enactment and coming into force on 1st January 1994 of the Act on Measures against Money Laundering (the Money Laundering Act) and accompanying regulations. This Act enables the Financial Supervisory Authority to supervise companies which are engaged in banking, life insurance, securities trading or credit market activities, for money laundering purposes, and requires those institutions to report suspicious transactions. The National Financial Intelligence Service was created in 1993 within the police to receive the suspicious transaction reports. In addition, a further review of the Swedish anti-money laundering system is presently being conducted by a Commission of Inquiry.

58. Although the entire anti-money laundering system in general terms seems to meet the FATF Recommendations, the group identified certain important areas for improvement regarding the legal basis and effectiveness of the system. The major suggestions were, first, a new and separate money laundering offence should be created which includes as predicate offences all serious offences (including economic crimes), and it should be made clear that the offence extends to cases where the predicate offence was committed in a foreign country. The new definition of money laundering should then be applied to the Money Laundering Act. Second, the laws relating to confiscation, freezing and seizing need to be reviewed and the task of asset tracing and confiscation investigations be given to a specific law enforcement unit. Third, since the primary concern has been the banking sector where the FSA has had on-site visits, the implementation of effective anti-money laundering measures in the non-

bank financial sector needs to be speeded up. In this regard, Sweden has legislation on bureaux de change before its Parliament.

59. Overall, the system will effectively implement the FATF Recommendations relating to the financial sector once some refinements are made in the banking sector, and greater efforts devoted to non-bank financial institutions. A number of further steps are also required in relation to legislation and organisation in the legal and law enforcement areas. However, if the Commission of Inquiry expedites its review of the current system, it will be able to swiftly recommend the changes required for a fully effective anti-money laundering system.

C. FATF Policy for Non-Complying Members

(i) Objectives

60. In September 1995, certain FATF members had yet to reach a satisfactory standard of compliance with the forty Recommendations. Although there were few members in this situation, this was clearly damaging to the FATF and its mission. The FATF considered it had a responsibility to make every effort to ensure that the necessary actions were taken. Consequently, FATF defined a policy for dealing with these few members which were not in compliance with the existing forty FATF Recommendations. The measures contained in this policy represent a graduated approach aimed at enhancing peer pressure.

(ii) Step currently applied

61. The FATF has pursued certain measures contained in its policy regarding non complying members. As stated in paragraph 47, more than five years after FATF was established, Turkey is the only FATF member which has not passed anti-money laundering legislation and whose compliance with the forty Recommendations is seriously deficient. Therefore, the former President of the FATF wrote a letter to the relevant ministers about Turkey's lack of progress on the anti-money laundering front. Subsequently, a FATF high-level mission met with several members of the Turkish Government in Ankara at the end of April 1996, in order to encourage Turkey to expedite the enactment of its anti-money laundering Bill. If this legislation is adopted, it will avoid the FATF Plenary having to take more serious steps after September 1996 regarding Turkey's non compliance with the forty Recommendations.

D. Cross-country evaluation of measures taken by FATF members to implement the FATF Recommendations concerning identifying, freezing, seizing and confiscating the proceeds of crime

62. This evaluation is being conducted on the basis of a standard questionnaire which sought information on the nature of the systems which FATF members have adopted in regard to confiscation and associated provisional measures, both as regards domestic proceedings and in proceedings brought in response to a request for international mutual legal assistance. The evaluation, which will be concluded in FATF-VIII, aims to examine the results obtained from these confiscation systems, seeks to identify areas of difficulty as well as fundamental strengths and weaknesses, and will analyse any measures members have taken regarding confiscated asset funds, co-ordination of seizure and confiscation proceedings, and asset sharing.

III. EXTERNAL RELATIONS

63. As the third component of its mission, the FATF sponsors an external relations programme designed to raise consciousness in non-member nations or regions to the need to combat money laundering, and offers the forty Recommendations as a model for doing so.

A. Strategy

64. The FATF's strategy for contacts with non-member countries has continued to be based on three main principles. First, activities are oriented towards encouraging countries to adopt the FATF Recommendations and on monitoring and reinforcing this process rather than on the provision of routine training and technical assistance. In certain cases, however, technical assistance may be the most useful method of promoting the Recommendations. Second, the FATF co-operates and co-ordinates, to the maximum extent possible, with all international and regional organisations concerned with the combat of money laundering. Third, a flexible approach should be pursued, tailoring external relations activity to the circumstances of the region or countries involved.

B. Co-operation with Regional and International Organisations

65. To facilitate international co-operation in anti-money laundering efforts, the FATF has reached out to other international organisations and groups with infrastructures and relationships which can be tapped to replicate the FATF's work. In order to co-ordinate the activities of the regional and international bodies concerned with money laundering, the FATF organises regular meetings of various organisations.⁸ These meetings are most useful since participants discuss proposed initiatives, with a view to eliminating duplication of activities. They also allow for the reinforcement of each other's efforts. Furthermore, the Task Force has decided to increase significantly the participation of observer international organisations in its Plenary meetings.

66. The FATF also participated in various meetings organised by these bodies during 1995-1996. FATF representatives attended meetings of the Offshore Group of Banking Supervisors, the FOPAC Group of Interpol and of the World Customs Organisation. FATF also attended the fifth session of the United Nations Commission on Crime Prevention and Criminal Justice and a meeting of Commonwealth senior finance officials on money laundering.

C. Assessing non-members

(i) General principles

67. Many non-member governments and organisations have accepted the FATF Recommendation and are making efforts to implement them. Some have agreed to an mutual evaluation process, but this

⁸ These organisations are: the CFATF, the Council of Europe, the Commonwealth Secretariat, the International Monetary Fund, the Inter-American Drug Abuse Control Commission (CICAD), Interpol, the International Organisation of Securities Commissions (IOSCO), the Offshore Group of Banking Supervisors, the United Nations Crime Prevention and Criminal Justice Division, the United Nations International Drug Control Programme, the World Bank and the World Customs Organisation

is generally in the very early stages. However, it has become clear that the FATF should develop a formal policy with regard to its relationship with non members, a policy that assesses the progress being made in fighting money laundering by non-member countries.

68. The issue of assessing the implementation of anti-money laundering measures by non-member countries has implications both in relation to FATF Recommendation 21⁹ and the treatment of examination reports carried out by non-FATF bodies. The FATF has developed a methodology for mutual evaluations which could apply to non-member countries. It should be prepared to validate the evaluation process of other bodies provided that it meets the standards of its own examination procedure. This type of evaluation will provide for official recognition by the FATF of the efforts non-members are making to combat money laundering.

69. In addition, the FATF could decide to apply the procedures laid down in Recommendation 21 on a case-by-case basis, if there is evidence that a non-member has seriously failed to meet the international anti-money laundering standards (see paragraph 72). Conversely, where a non-member has successfully gone through a mutual evaluation by an international organisation, using a methodology in line with FATF standards, and is in compliance with the FATF forty Recommendations according to this evaluation, that non-member should not fall under the policy outlined in Recommendation 21.

70. The FATF will follow closely the evaluation process carried out by other bodies to ensure that a consistent methodology is followed. On this basis, summaries of the examination reports carried out in line with FATF standard procedures could be included as Annexes to the FATF Annual Reports.

(ii) The situation in Seychelles

71. On 27 November 1995, the Seychelles enacted an Economic Development Act (EDA). Certain immunity provisions of this Act could clearly attract international criminal enterprises to shelter both themselves and their illicitly-gained wealth from pursuit by legal authorities. Under the Act, investors who place USD 10 million or more in approved investment schemes, may obtain immunity from prosecution for all criminal proceedings and also have their assets protected from compulsory acquisition or requisition, unless the investor has committed acts of violence or drug trafficking in the Seychelles itself.

72. Therefore, on 1 February 1996, pursuant to Recommendation 21, and following diplomatic actions, the FATF decided to issue a press release condemning the enactment of the EDA in the Seychelles, and calling on its members and other governments alike to bring all available pressure to bear on the Government of Seychelles to repeal the afore-mentioned provisions of the EDA. Following the press release, the FATF and the Government of Seychelles initiated a dialogue on the issue. The latter reported that, while the EDA is on the statute books of Seychelles, it is not yet in force and the commencement date has not yet been indicated or published. In addition, an anti-money laundering bill was enacted on 11 March 1996. This does not counter the immunity provisions of the EDA. However, the FATF will therefore pursue the dialogue with Seychelles to explore ways to implement significant anti-money laundering legislation which would eliminate the practical effects of the immunity provisions of the EDA.

⁹ Requirement for financial institutions in FATF members to pay special attention to business transactions with persons and entities from countries which do not apply, or apply insufficiently, the forty Recommendations.

D. Initiatives undertaken in FATF-VII

73. External relations activities during FATF-VII again involved contacts with countries in each continent. The FATF cannot cover all the countries of interest to it at the same time. It has therefore set priorities for carrying out its external relations initiatives. The various activities undertaken in 1995-1996, either bilaterally or in conjunction with other regional or international bodies, are summarised below on a regional basis.

(a) Latin America

74. A major initiative was the Summit of the Americas Ministerial Conference on Money Laundering which took place in Buenos Aires on 30 November and 1-2 December 1995. Thirty four governments in the Western hemisphere signed a communiqué which set forth a co-ordinated, multilateral approach to the combat of money laundering in the region. According to a Hemispheric Plan of Action which resulted from the meeting, each of the 34 participating governments would:

- enact laws to criminalise money laundering of drugs and other serious crimes, and allow for confiscation and provisional measures;
- modify laws to pierce bank secrecy and establish programmes for the reporting of suspicious transactions and creating financial investigation units;
- expand the tools available to the police, including wire taps, undercover operations, etc. and
- establish an on-going assessment of the progress of each country in implementing these steps.

75. The OAS/CICAD was given a role in the ongoing assessment referred to in the Ministerial Communiqué.

(b) Caribbean

76. In the Caribbean region the FATF has, in line with its general strategy for co-operation, continued to provide any necessary support to the CFATF rather than launching new initiatives. The CFATF has followed up its self-assessment exercise and has planned to carry out five mutual evaluations in 1996. A working group, established at its technical meeting on 19-21 March 1996, and convened on 4-5 June 1996, has developed a Draft Memorandum of Understanding (MOU) between members. This MOU reaffirms commitments undertaken by members and establishes the objectives and functioning of the CFATF. This MOU is planned to be subscribed at the CFATF Ministerial meeting tentatively scheduled for September, 1996.

(c) Asia

77. Representatives from nineteen non-FATF countries attended the third Asia Money Laundering Symposium in Tokyo, on 12-14 December 1995. The Symposium was jointly organised by the FATF and the Commonwealth Secretariat and supported by the UNDCP. It was also attended by nine FATF members and several international organisations.

78. The Symposium reviewed progress on the enactment of anti-money laundering legislation since the previous year's Symposium and noted that a number of countries were in the process of adopting legislation. Participants were briefed by the FATF Asia Secretariat on a Disposal of Proceeds of Crime Money Laundering Methods workshop, co-sponsored by the FATF and Interpol, which took place on 17 and 18 October 1995 in Hong Kong. This workshop identified money laundering methods being

used in the region. The most significant methods revealed were: currency smuggling, the use of bearer instruments, telegraphic transfers and alternative remittance services, as well as the purchase of items of value.

79. The major conclusion of the Tokyo Symposium was the general support for the creation of an Asia/Pacific Steering Group on Money Laundering. The FATF Asia members are considering how generally to advance this project. The establishment of a regional Steering Group will significantly strengthen anti-money laundering initiatives in Asia and the efforts of the FATF Asia Secretariat.

80. In addition, two important missions to the People's Republic of China (PRC) and Korea were undertaken in October 1995. The purpose of these missions was to obtain greater understanding of the money laundering situations in both countries and to encourage their government officials to implement the forty FATF Recommendations. The PRC was in the process of drafting laws to criminalise money laundering and invited the Asia Secretariat to organise a further mission shortly. Korea was also drafting legislation to ratify the Vienna Convention, including the criminalisation of drug money laundering.

(d) Central and Eastern Europe

81. The FATF conducted no missions in this region during 1995-1996 but organised a Money Laundering Seminar for the countries of the Black Sea Economic Cooperation (BSEC)⁹ with the support of the Organisation for Economic Co-operation and Development (OECD). This Seminar took place on 25-26 April, in Istanbul, and was attended by sixteen countries and five international organisations.

82. The Seminar discussed the global problem of money laundering, with particular emphasis on the Black Sea region. Representatives at the Seminar shared their experience in combating money laundering and discussed the various measures adopted by countries to combat this threat. The BSEC countries which are not already members of the FATF, agreed to consider endorsing and implementing the FATF Recommendations. It was also recognised that there would be value in holding another event in approximately twelve months' time to evaluation progress.

83. During 1995-1996, representatives of the FATF and officials from the Russian Federation met on several occasions. It was agreed to reinforce this dialogue during FATF-VIII.

(e) Africa

84. A FATF mission visited Cairo in October 1995 to discuss money laundering with the competent Egyptian authorities. The primary purpose of the mission was to evaluate the money laundering situation in Egypt and the existing or planned measures to combat it. The Egyptian authorities were generally very alert to the danger of money laundering but there are few anti-money laundering measures in place in Egypt. The FATF mission therefore encouraged the Egyptian authorities to establish a national steering committee comprising all the relevant agencies and ministries. The tasks of this Committee would be to define a common anti-money laundering strategy and to draft a Bill. In general, it was decided to pursue the dialogue between the Egyptian authorities and the FATF.

¹⁰ Member countries of BSEC are: Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Russian Federation, Romania, Turkey and Ukraine.

CONCLUSION

85. During 1995-1996, the member countries of the FATF made significant progress in the fight against money laundering. In updating its forty Recommendations for combating money laundering, the FATF accomplished one of the most important tasks it has undertaken since 1990. The completion of the revision of the forty Recommendations showed that the Task Force has remained firm in its resolve, yet flexible in its approach, to fighting money laundering whose techniques are constantly evolving. In recognising money laundering current trends, the FATF has confirmed its status as the leading policy-maker in the anti-money laundering context.

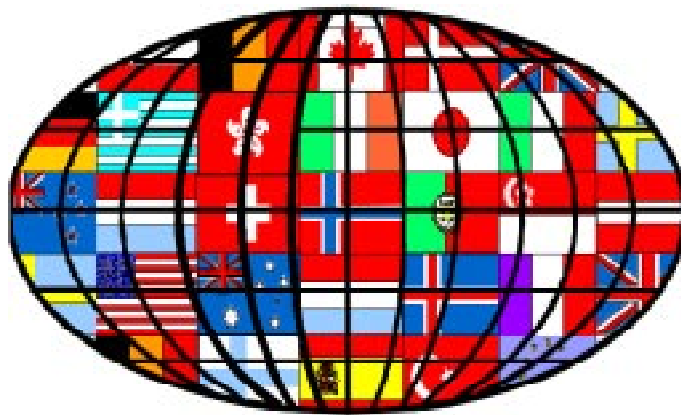
86. Seven years after its inception, great achievements have been made by the FATF. All its members but one have now achieved or are very close to achieving an acceptable standard in implementing anti-money laundering measures. The FATF has continued to develop significantly its range of information on money laundering methods and trends. In addition, there has been global recognition of the threat that money laundering poses to economic stability. As a result of the mobilisation initiated by the FATF and other international organisations, more and more countries are taking action to combat money laundering.

87. However, further steps remain to be taken. Within the FATF membership, it is now of the utmost importance that Turkey enact its anti-money laundering legislation. In addition, FATF will continue to follow-up closely the implementation of its members' anti-money laundering measures through a new round of evaluations, which will focus on the effectiveness of the systems in place. It is also essential to develop a cohesive multinational approach to combating money laundering. The FATF will therefore continue to form alliances with non-member countries and organisations.

88. Finally, the FATF will be confronted with the following challenges in the future: increasing co-operation with the financial services industry, addressing the potential money laundering threats posed by the new payment technologies and developing the momentum of anti-money laundering efforts at the global level in co-operation with other international bodies. These important tasks will be carried forward during FATF-VIII, which begins on 1 July 1996, under the Presidency of Italy.

ANNEX 1

**FINANCIAL ACTION TASK FORCE ON
MONEY LAUNDERING**



**THE FORTY RECOMMENDATIONS
OF THE FINANCIAL ACTION TASK FORCE
ON MONEY LAUNDERING**

Introduction

1. The Financial Action Task Force on Money Laundering (FATF) is an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering -- the processing of criminal proceeds in order to disguise their illegal origin. These policies aim to prevent such proceeds from being utilised in future criminal activities and from affecting legitimate economic activities.
2. The FATF currently consists of 26 countries¹¹ and two international organisations¹². Its membership includes the major financial centre countries of Europe, North America and Asia. It is a multi-disciplinary body - as is essential in dealing with money laundering bringing together the policy-making power of legal, financial and law enforcement experts.
3. This need to cover all relevant aspects of the fight against money laundering is reflected in the scope of the forty FATF Recommendations -- the measures which the Task Force have agreed to implement and which all countries are encouraged to adopt. The Recommendations were originally drawn up in 1990. In 1996 the forty Recommendations were revised to take into account the experience gained over the last six years and to reflect the changes which have occurred in the money laundering problem.¹³
4. These forty Recommendations set out the basic framework for anti-money laundering efforts and they are designed to be of universal application. They cover the criminal justice system and law enforcement; the financial system and its regulation, and international cooperation.
5. It was recognised from the outset of the FATF that countries have diverse legal and financial systems and so all cannot take identical measures. The Recommendations are therefore the principles for action in this field, for countries to implement according to their particular circumstances and constitutional frameworks allowing countries a measure of flexibility rather than prescribing every detail. The measures are not particularly complex or difficult, provided there is the political will to act. Nor do they compromise the freedom to engage in legitimate transactions or threaten economic development.
6. FATF countries are clearly committed to accept the discipline of being subjected to multilateral surveillance and peer review. All member countries have their implementation of the forty Recommendations monitored through a two-pronged approach: an annual self-assessment exercise and the more detailed mutual evaluation process under which each member country is subject to an on-site examination. In addition, the FATF carries out cross-country reviews of measures taken to implement particular Recommendations.

¹¹ Reference in this document to "countries" should be taken to apply equally to "territories" or "jurisdictions". The twenty six FATF member countries and governments are: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States

¹² The two international organisations are: the European Commission and the Gulf Cooperation Council.

¹³ During the period 1990 to 1995, the FATF also elaborated various Interpretative Notes which are designed to clarify the application of specific Recommendations. Some of these Interpretative Notes have been updated in the Stocktaking Review to reflect changes in the Recommendations.

7. These measures are essential for the creation of an effective antimoney laundering framework.

THE FORTY RECOMMENDATIONS OF THE FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING

A. GENERAL FRAMEWORK OF THE RECOMMENDATIONS

1. Each country should take immediate steps to ratify and to implement fully, the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention).
2. Financial institution secrecy laws should be conceived so as not to inhibit implementation of these recommendations.
3. An effective money laundering enforcement program should include increased multilateral co-operation and mutual legal assistance in money laundering investigations and prosecutions and extradition in money laundering cases, where possible.

B. ROLE OF NATIONAL LEGAL SYSTEMS IN COMBATING MONEY LAUNDERING

Scope of the Criminal Offence of Money Laundering

4. Each country should take such measures as may be necessary, including legislative ones, to enable it to criminalise money laundering as set forth in the Vienna Convention. Each country should extend the offence of drug money laundering to one based on serious offences. Each country would determine which serious crimes would be designated as money laundering predicate offences.
5. As provided in the Vienna Convention, the offence of money laundering should apply at least to knowing money laundering activity, including the concept that knowledge may be inferred from objective factual circumstances.
6. Where possible, corporations themselves - not only their employees - should be subject to criminal liability.

Provisional Measures and Confiscation

7. Countries should adopt measures similar to those set forth in the Vienna Convention, as may be necessary, including legislative ones, to enable their competent authorities to confiscate property laundered, proceeds from, instrumentalities used in or intended for use in the commission of any money laundering offence, or property of corresponding value, without prejudicing the rights of bona fide third parties.

Such measures should include the authority to : 1) identify, trace and evaluate property which is subject to confiscation; 2) carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property; and 3) take any appropriate investigative measures.

In addition to confiscation and criminal sanctions, countries also should consider monetary and civil penalties, and/or proceedings including civil proceedings, to void contracts entered into by parties, where parties knew or should have known that as a result of the contract, the State would be prejudiced in its ability to recover financial claims, e.g. through confiscation or collection of fines and penalties.

C. ROLE OF THE FINANCIAL SYSTEM IN COMBATING MONEY LAUNDERING

8. Recommendations 10 to 29 should apply not only to banks, but also to non-bank financial institutions. Even for those non-bank financial institutions which are not subject to a formal prudential supervisory regime in all countries, for example bureaux de change, governments should ensure that these institutions are subject to the same anti-money laundering laws or regulations as all other financial institutions and that these laws or regulations are implemented effectively.
9. The appropriate national authorities should consider applying Recommendations 10 to 21 and 23 to the conduct of financial activities as a commercial undertaking by businesses or professions which are not financial institutions, where such conduct is allowed or not prohibited. Financial activities include, but are not limited to, those listed in the attached annex. It is left to each country to decide whether special situations should be defined where the application of anti-money laundering measures is not necessary, for example, when a financial activity is carried out on an occasional or limited basis.

Customer Identification and Record-keeping Rules

10. Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names: they should be required (by law, by regulations, by agreements between supervisory authorities and financial institutions or by self-regulatory agreements among financial institutions) to identify, on the basis of an official or other reliable identifying document, and record the identity of their clients, either occasional or usual, when establishing business relations or conducting transactions (in particular opening of accounts or passbooks, entering into fiduciary transactions, renting of safe deposit boxes, performing large cash transactions).

In order to fulfill identification requirements concerning legal entities, financial institutions should, when necessary, take measures:

(i) to verify the legal existence and structure of the customer by obtaining either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity.

(ii) to verify that any person purporting to act on behalf of the customer is so authorised and identify that person.

11. Financial institutions should take reasonable measures to obtain information about the true identity of the persons on whose behalf an account is opened or a transaction conducted if there are any doubts as to whether these clients or customers are acting on their own behalf, for example, in the case of domiciliary companies (i.e. institutions, corporations, foundations, trusts,

etc. that do not conduct any commercial or manufacturing business or any other form of commercial operation in the country where their registered office is located).

12. Financial institutions should maintain, for at least five years, all necessary records on transactions, both domestic or international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved if any) so as to provide, if necessary, evidence for prosecution of criminal behaviour.

Financial institutions should keep records on customer identification (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence for at least five years after the account is closed.

These documents should be available to domestic competent authorities in the context of relevant criminal prosecutions and investigations.

13. Countries should pay special attention to money laundering threats inherent in new or developing technologies that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes.

Increased Diligence of Financial Institutions

14. Financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.
15. If financial institutions suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the competent authorities.
16. Financial institutions, their directors, officers and employees should be protected by legal provisions from criminal or civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the competent authorities, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.
17. Financial institutions, their directors, officers and employees, should not, or, where appropriate, should not be allowed to, warn their customers when information relating to them is being reported to the competent authorities.
18. Financial institutions reporting their suspicions should comply with instructions from the competent authorities.
19. Financial institutions should develop programs against money laundering. These programs should include, as a minimum :
 - (i) the development of internal policies, procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures to ensure high standards when hiring employees;

- (ii) an ongoing employee training programme;
- (iii) an audit function to test the system.

Measures to Cope with the Problem of Countries with No or Insufficient Anti-Money Laundering Measures

- 20. Financial institutions should ensure that the principles mentioned above are also applied to branches and majority owned subsidiaries located abroad, especially in countries which do not or insufficiently apply these Recommendations, to the extent that local applicable laws and regulations permit. When local applicable laws and regulations prohibit this implementation, competent authorities in the country of the mother institution should be informed by the financial institutions that they cannot apply these Recommendations.
- 21. Financial institutions should give special attention to business relations and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply these Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.

Other Measures to Avoid Money Laundering

- 22. Countries should consider implementing feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.
- 23. Countries should consider the feasibility and utility of a system where banks and other financial institutions and intermediaries would report all domestic and international currency transactions above a fixed amount, to a national central agency with a computerised data base, available to competent authorities for use in money laundering cases, subject to strict safeguards to ensure proper use of the information.
- 24. Countries should further encourage in general the development of modern and secure techniques of money management, including increased use of checks, payment cards, direct deposit of salary checks, and book entry recording of securities, as a means to encourage the replacement of cash transfers.
- 25. Countries should take notice of the potential for abuse of shell corporations by money launderers and should consider whether additional measures are required to prevent unlawful use of such entities.

Implementation, and Role of Regulatory and other Administrative Authorities

- 26. The competent authorities supervising banks or other financial institutions or intermediaries, or other competent authorities, should ensure that the supervised institutions have adequate programs to guard against money laundering. These authorities should co-operate and lend expertise spontaneously or on request with other domestic judicial or law enforcement authorities in money laundering investigations and prosecutions.

27. Competent authorities should be designated to ensure an effective implementation of all these Recommendations, through administrative supervision and regulation, in other professions dealing with cash as defined by each country.
28. The competent authorities should establish guidelines which will assist financial institutions in detecting suspicious patterns of behaviour by their customers. It is understood that such guidelines must develop over time, and will never be exhaustive. It is further understood that such guidelines will primarily serve as an educational tool for financial institutions' personnel.
29. The competent authorities regulating or supervising financial institutions should take the necessary legal or regulatory measures to guard against control or acquisition of a significant participation in financial institutions by criminals or their confederates.

D. STRENGTHENING OF INTERNATIONAL CO-OPERATION

Administrative Co-operation

Exchange of general information

30. National administrations should consider recording, at least in the aggregate, international flows of cash in whatever currency, so that estimates can be made of cash flows and reflows from various sources abroad, when this is combined with central bank information. Such information should be made available to the International Monetary Fund and the Bank for International Settlements to facilitate international studies.
31. International competent authorities, perhaps Interpol and the World Customs Organisation, should be given responsibility for gathering and disseminating information to competent authorities about the latest developments in money laundering and money laundering techniques. Central banks and bank regulators could do the same on their network. National authorities in various spheres, in consultation with trade associations, could then disseminate this to financial institutions in individual countries.

Exchange of information relating to suspicious transactions

32. Each country should make efforts to improve a spontaneous or "upon request" international information exchange relating to suspicious transactions, persons and corporations involved in those transactions between competent authorities. Strict safeguards should be established to ensure that this exchange of information is consistent with national and international provisions on privacy and data protection.

Other forms of Co-operation

Basis and means for co-operation in confiscation, mutual assistance and extradition

33. Countries should try to ensure, on a bilateral or multilateral basis, that different knowledge standards in national definitions - i.e. different standards concerning the intentional element of the infraction - do not affect the ability or willingness of countries to provide each other with mutual legal assistance.
34. International co-operation should be supported by a network of bilateral and multilateral agreements and arrangements based on generally shared legal concepts with the aim of providing practical measures to affect the widest possible range of mutual assistance.
35. Countries should be encouraged to ratify and implement relevant international conventions on money laundering such as the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

Focus of improved mutual assistance on money laundering issues

36. Co-operative investigations among countries' appropriate competent authorities should be encouraged. One valid and effective investigative technique in this respect is controlled delivery related to assets known or suspected to be the proceeds of crime. Countries are encouraged to support this technique, where possible.
37. There should be procedures for mutual assistance in criminal matters regarding the use of compulsory measures including the production of records by financial institutions and other persons, the search of persons and premises, seizure and obtaining of evidence for use in money laundering investigations and prosecutions and in related actions in foreign jurisdictions.
38. There should be authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate proceeds or other property of corresponding value to such proceeds, based on money laundering or the crimes underlying the laundering activity. There should also be arrangements for coordinating seizure and confiscation proceedings which may include the sharing of confiscated assets.
39. To avoid conflicts of jurisdiction, consideration should be given to devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country. Similarly, there should be arrangements for coordinating seizure and confiscation proceedings which may include the sharing of confiscated assets.
40. Countries should have procedures in place to extradite, where possible, individuals charged with a money laundering offence or related offences. With respect to its national legal system, each country should recognise money laundering as an extraditable offence. Subject to their legal

frameworks, countries may consider simplifying extradition by allowing direct transmission of extradition requests between appropriate ministries, extraditing persons based only on warrants of arrests or judgements, extraditing their nationals, and/or introducing a simplified extradition of consenting persons who waive formal extradition proceedings.

Annex to Recommendation 9: List of Financial Activities undertaken by business or professions which are not financial institutions

1. Acceptance of deposits and other repayable funds from the public.
2. Lending.¹
3. Financial leasing.
4. Money transmission services.
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques and bankers' drafts...).
6. Financial guarantees and commitments.
7. Trading for account of customers (spot, forward, swaps, futures, options...) in:
 - (a) money market instruments (cheques, bills, CDs, etc.) ;
 - (b) foreign exchange;
 - (c) exchange, interest rate and index instruments;
 - (d) transferable securities;
 - (e) commodity futures trading.
8. Participation in securities issues and the provision of financial services related to such issues.
9. Individual and collective portfolio management.
10. Safekeeping and administration of cash or liquid securities on behalf of clients.
11. Life insurance and other investment related insurance.
12. Money changing.

¹ Including inter alia

- consumer credit
- mortgage credit
- factoring, with or without recourse
- finance of commercial transactions (including forfaiting)

**FINANCIAL ACTION TASK FORCE ON
MONEY LAUNDERING**

**INTERPRETATIVE NOTES¹⁴ TO
THE FORTY RECOMMENDATIONS OF THE
FINANCIAL ACTION TASK FORCE ON MONEY
LAUNDERING**

¹⁴ During the period 1990 to 1995, the FATF elaborated various Interpretative Notes which are designed to clarify the application of specific Recommendations. Some of these Interpretative Notes have been updated in the Stocktaking Review to reflect changes in the Recommendations.

INTERPRETATIVE NOTES

Recommendation 4

Countries should consider introducing an offence of money laundering based on all serious offences and/or on all offences that generate a significant amount of proceeds.

Recommendation 8

The FATF Recommendations should be applied in particular to life insurance and other investment products offered by insurance companies, whereas Recommendation 29 applies to the whole of the insurance sector.

Recommendations 8 and 9 (Bureaux de Change)

Introduction

1. Bureaux de change are an important link in the money laundering chain since it is difficult to trace the origin of the money once it has been exchanged. Typologies exercises conducted by the FATF have indicated increasing use of bureaux de change in laundering operations. Hence it is important that there should be effective counter-measures in this area. This Interpretative Note clarifies the application of FATF Recommendations concerning the financial sector in relation to bureaux de change and, where appropriate, sets out options for their implementation.

Definition of Bureaux de Change

2. For the purpose of this Note, bureaux de change are defined as institutions which carry out retail foreign exchange operations (in cash, by cheque or credit card). Money changing operations which are conducted only as an ancillary to the main activity of a business have already been covered in Recommendation 9. Such operations are therefore excluded from the scope of this Note.

Necessary Counter-Measures Applicable to Bureaux de Change

3. To counter the use of bureaux de change for money laundering purposes the relevant authorities should take measures to know the existence of all natural and legal persons who, in a professional capacity, perform foreign exchange transactions.

4. As a minimum requirement, FATF members should have an effective system whereby the bureaux de change are known or declared to the relevant authorities (whether regulatory or law enforcement). One method by which this could be achieved would be a requirement on bureaux de change to submit to a designated authority, a simple declaration containing adequate information on the institution itself and its management. The authority could either issue a receipt or give a tacit authorisation: failure to voice an objection being considered as approval.

5. FATF members could also consider the introduction of a formal authorisation procedure. Those wishing to establish bureaux de change would have to submit an application to a designated authority empowered to grant authorisation on a case-by-case basis. The request for authorisation would need to contain such information as laid down by the authorities but should at least provide details of the applicant institution and its management. Authorisation would be granted, subject to the bureau de change meeting the specified conditions relating to its management and the shareholders, including the application of a "fit and proper test".

6. Another option which could be considered would be a combination of declaration and authorisation procedures. Bureaux de change would have to notify their existence to a designated authority but would not need to be authorised before they could start business. It would be open to the authority to

apply a 'fit and proper' test to the management of bureaux de change ~~after~~ the bureau had commenced its activity, and to prohibit the bureau de change from continuing its business, if appropriate.

7. Where bureaux are required to submit a declaration of activity or an application for registration, the designated authority (which could be either a public body or a self-regulatory organisation) could be empowered to publish the list of registered bureaux de change. As a minimum, it should maintain a (computerised) file of bureaux de change. There should also be powers to take action against bureaux de change conducting business without having made a declaration of activity or having been registered.

8. As envisaged under FATF Recommendations 8 and 9 bureaux de change should be subject to the same anti-money laundering regulations as any other financial institution. The FATF Recommendations on financial matters should therefore be applied to bureaux de change. Of particular importance are those on identification requirements, suspicious transactions reporting, due diligence and record-keeping.

9. To ensure effective implementation of anti-money laundering requirements by bureaux de change, compliance monitoring mechanisms should be established and maintained. Where there is a registration authority for bureaux de change or a body which receives declarations of activity by bureaux de change, it could carry out this function. But the monitoring could also be done by other designated authorities (whether directly or through the agency of third parties such as private audit firms). Appropriate steps would need to be taken against bureaux de change which failed to comply with the anti-laundering requirements.

10. The bureaux de change sector tends to be an unstructured one without (unlike banks) national representative bodies which can act as a channel of communication with the authorities. Hence it is important that FATF members should establish effective means to ensure that bureaux de change are aware of their anti-money laundering responsibilities and to relay information, such as guidelines on suspicious transactions, to the profession. In this respect it would be useful to encourage the development of professional associations.

Recommendations 11, 15 through 18

Whenever it is necessary in order to know the true identity of the customer and to ensure that legal entities cannot be used by natural persons as a method of operating in reality anonymous accounts, financial institutions should, if the information is not otherwise available through public registers or other reliable sources, request information - and update that information - from the customer concerning principal owners and beneficiaries. If the customer does not have such information, the financial institution should request information from the customer on whoever has actual control.

If adequate information is not obtainable, financial institutions should give special attention to business relations and transactions with the customer.

If, based on information supplied from the customer or from other sources, the financial institution has reason to believe that the customer's account is being utilised in money laundering transactions, the financial institution must comply with the relevant legislation, regulations, directives or agreements concerning reporting of suspicious transactions or termination of business with such customers.

Recommendation 11

A bank or other financial institution should know the identity of its own customers, even if these are represented by lawyers, in order to detect and prevent suspicious transactions as well as to enable it to comply swiftly to information or seizure requests by the competent authorities. Accordingly

Recommendation 11 also applies to the situation where an attorney is acting as an intermediary for financial services.

Recommendation 14

(a) In the interpretation of this requirement, special attention is required not only to transactions between financial institutions and their clients, but also to transactions and/or shipments especially of currency and equivalent instruments between financial institutions themselves or even to transactions within financial groups. As the wording of Recommendation 14 suggests that indeed "all" transactions are covered, it must be read to incorporate these interbank transactions.

(b) The word "transactions" should be understood to refer to the insurance product itself, the premium payment and the benefits.

Recommendation 22

(a) To facilitate detection and monitoring of cash transactions, without impeding in any way the freedom of capital movements, members could consider the feasibility of subjecting all cross-border transfers, above a given threshold, to verification, administrative monitoring, declaration or record keeping requirements.

(b) If a country discovers an unusual international shipment of currency, monetary instruments, precious metals, or gems, etc., it should consider notifying, as appropriate, the Customs Service or other competent authorities of the countries from which the shipment originated and/or to which it is destined, and should co-operate with a view toward establishing the source, destination, and purpose of such shipment and toward the taking of appropriate action.

Recommendation 26

In respect of this requirement, it should be noted that it would be useful to actively detect money laundering if the competent authorities make relevant statistical information available to the investigative authorities, especially if this information contains specific indicators of money laundering activity. For instance, if the competent authorities' statistics show an imbalance between the development of the financial services industry in a certain geographical area within a country and the development of the local economy, this imbalance might be indicative of money laundering activity in the region. Another example would be manifest changes in domestic currency flows without an apparent legitimate economic cause. However, prudent analysis of these statistical data is warranted, especially as there is not necessarily a direct relationship between financial flows and economic activity (e.g. the financial flows in an international financial centre with a high proportion of investment management services provided for foreign customers or a large interbank market not linked with local economic activity).

Recommendation 29

Recommendation 29 should not be read as to require the introduction of a system of regular review of licensing of controlling interests in financial institutions merely for anti-money laundering purposes, but as to stress the desirability of suitability review for controlling shareholders in financial institutions (banks and non-banks in particular) from a FATF point of view. Hence, where shareholder suitability (or "fit and proper") tests exist, the attention of supervisors should be drawn to their relevance for anti-money laundering purposes.

Recommendation 33

Subject to principles of domestic law, countries should endeavour to ensure that differences in the national definitions of the money laundering offences -- e.g., different standards concerning the intentional element of the infraction, differences in the predicate offences, differences with regard to charging the perpetrator of the underlying offence with money laundering -- do not affect the ability or willingness of countries to provide each other with mutual legal assistance.

Recommendation 36 (Controlled delivery)

The controlled delivery of funds known or suspected to be the proceeds of crime is a valid and effective law enforcement technique for obtaining information and evidence in particular on international money laundering operations. In certain countries, controlled delivery techniques may also include the monitoring of funds. It can be of great value in pursuing particular criminal investigations and can also help in obtaining more general intelligence on money laundering activities. The use of these techniques should be strongly encouraged. The appropriate steps should therefore be taken so that no obstacles exist in legal systems preventing the use of controlled delivery techniques, subject to any legal requisites, including judicial authorisation for the conduct of such operations. The FATF welcomes and supports the undertakings by the World Customs Organisation and Interpol to encourage their members to take all appropriate steps to further the use of these techniques.

Recommendation 38

(a) Each country shall consider, when possible, establishing an asset forfeiture fund in its respective country into which all or a portion of confiscated property will be deposited for law enforcement, health, education, or other appropriate purposes.

(b) Each country should consider, when possible, taking such measures as may be necessary to enable it to share among or between other countries confiscated property, in particular, when confiscation is directly or indirectly a result of co-ordinated law enforcement actions.

Deferred Arrest and Seizure

Countries should consider taking measures, including legislative ones, at the national level, to allow their competent authorities investigating money laundering cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. Without such measures the use of procedures such as controlled deliveries and undercover operations are precluded.

Annex 3

FATF-VII

**FINANCIAL ACTION TASK FORCE ON
MONEY LAUNDERING**



**FATF-VII REPORT ON MONEY LAUNDERING
TYPOLOGIES**

28 June 1996

FATF-VII REPORT ON MONEY LAUNDERING TYPOLOGIES

I. INTRODUCTION

1. The group of experts met in Paris on 28-29 November 1995 under the chairmanship of Mr. Jean Spreutels, President, Cellule de Traitement des Informations Financières (CTIF), Belgium. The group included representatives from FATF members Australia, Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom and the United States. Experts from non-member, observer organisations Interpol and the United Nations International Drug Control Programme (UNDCP) were present as well.

2. The purpose of the 1995/1996 "typologies exercise" was to provide a forum for law enforcement experts -- those primarily tasked with combating money laundering -- to discuss recent trends in the cleansing of criminal proceeds, emerging threats, and effective countermeasures. While the discussions focused principally on money laundering developments in FATF member nations, the experts also sought to pool available information on prevailing laundering patterns in non-member countries or regions. In this vein, the disposal of illicit funds by interests in the former Soviet Union and Eastern Bloc was accorded significant attention.

3. In a departure from the previous session, distinct segments of the 1995/1996 typologies exercise were devoted to reviewing available information on money laundering in the securities and insurance industries. These subjects were built into the 1995/1996 agenda in an effort to flesh out evidence, surfacing during the 1994/1995 experts session, which suggested that money launderers were using these sectors to ply their trade. To facilitate the dialogue, members were invited to include in their delegations experts from the insurance and securities industries.

II. MAGNITUDE AND GEOGRAPHIC SCOPE OF THE MONEY LAUNDERING PROBLEM

4. It was agreed that as part of their advance preparation for the meeting, the experts would endeavour to determine the amount of money laundering occurring in their countries, with a view toward arriving at an estimate for all FATF members. Some members were able to produce an estimate based on narcotics seizures in their jurisdiction, in accordance with a method the FATF had used in 1990 (See FATF-I Report).

5. Unfortunately, the vast majority of members lack sufficient data to support credible estimates. Several experts identified as the best available evidence statistics regarding the number of suspicious transaction reports filed in their countries and the amounts involved in those transactions. As some acknowledged, however, it would be difficult to formulate a projection based on this information. The mere registering of a report of suspicious activity does not necessarily establish that money laundering has in fact occurred. While some members were able to establish with certainty the link between suspicious transaction reports and criminal activity, they generally were able to do so for only a portion of the reports they had received. Moreover, it was assumed that suspicious transactions reports do not account for all instances of money laundering.

6. Other experts offered data on sums seized pursuant to money laundering investigations or prosecutions. This information too does not appear to support a valid estimate of the amount of tainted funds entering the legitimate financial stream, as one member's experience demonstrates. One of the law enforcement agencies in this country reported that the aggregate volume of assets seized

within its borders is decreasing, while other agencies detected higher levels of money laundering activity.

7. A few experts cited figures representing deposits or investments from countries known to be bases of operations for significant criminal enterprises. Representatives from one member, for example, estimated an influx of between \$ US 40-50 million from interests in the former Soviet Union and Eastern Bloc. Again, these numbers cannot sustain a defensible estimate of laundered funds. In most cases, authorities have not been able to confirm that the funds were of illegal origin.

8. Despite the difficulties attendant to calculating the size of the money laundering problem, the experts favoured pressing forward with attempts to do so. They agreed that a statistically significant estimate would provide a wealth of information for the FATF, member governments, and the private sector.

9. One delegation introduced the results of a recently conducted study measuring the scope of its money laundering problem. The study included a review of official crime statistics, as well as anecdotal evidence based on expert opinion. It projected the amount of money laundered in this country to be approximately \$ US 4.55 billion per year. The experts determined to review the methodology employed in the study to determine whether it can be translated into a broader examination of the money laundering problem within the FATF, or even globally.

III. RECENT TRENDS AMONG FATF MEMBERS

A. The Principal Sources of Illegal Proceeds

10. Drug trafficking and financial crime (bank fraud, credit card fraud, investment fraud, advance fee fraud, embezzlement and the like) remain the most frequently mentioned sources of illegal proceeds. On the whole, drug trafficking is still considered the largest single generator of tainted funds, but the scale of laundering linked to financial crime is growing rapidly. In fact, some Scandinavian members reported vastly greater levels of illicit profits stemming from financial crime than from narcotics.

11. Organised crime continues to be responsible for a large proportion of the dirty money flowing through financial channels. The Italian Mafia, the Japanese yakuza, the Colombian cartels, Russian and Eastern European criminal enterprises, American ethnic gangs, and other, similarly structured groups are involved in a wide range of criminal activities. In addition to drug trafficking, these enterprises generate funds from loan sharking, illegal gambling, fraud, embezzlement, extortion, prostitution, illegal trafficking in arms and human beings, and a host of other offences. Frequently, they maintain extensive holdings in legitimate businesses which can be manipulated both to cloak and to invest illegally generated funds.

B. Prevailing Trends and Emerging Threats in Money Laundering

12. Two general observations can be made regarding current money laundering trends which cut across the FATF membership. First, certain traditional money laundering techniques remain preferred avenues for hiding ill-gotten wealth. Second, beyond conventional laundering techniques, the experts have become alert to new developments occurring in the financial sector which may present significant money laundering threats.

(i) Traditional Laundering Techniques: Banking Sector

13. As they have been historically, banks remain an important mechanism for the disposal of criminal proceeds. The experts reported a number of patterns of activity indicative of laundering in the banking sector.

14. One such pattern is the use of accounts in false names, or in the name of persons or interests operating on behalf of other beneficiaries. The latter category includes a class of money laundering agents such as solicitors, attorneys and accountants (a theme discussed more fully in Paragraph 25 below). It also includes shell or front companies. In all cases, the accounts are utilised to facilitate the deposit or transfer of illicit funds. Often, there are complex layers of transactions involving multiple accounts in the names of multiple persons, businesses or shell companies.

15. The experts noted several characteristics probative of laundering through such accounts. For example, transaction activity in the accounts often occurs in amounts greater than that which ordinarily would be expected given the purported nature of the account holder's business. In addition, documentation offered to support transactions, such as loan agreements, guarantees, purchase or sale contracts, and letters of credit, often appears false or legally deficient. If the account holder is a business, the business frequently has been incorporated or registered with the local chamber of commerce for only a short period of time. And in many cases, the parties on both sides of the transactions appear to be related. Indeed, the parties may even be the same. These trends have been particularly apparent in accounts opened and maintained by persons or concerns tied to the former Soviet Union and Eastern Bloc.

16. Another trend identified by some delegations is the use of representative offices of foreign banks to dispose of criminal proceeds. Representative offices may offer an important advantage to money launderers. In some countries, though not all, representative offices can accept deposits and then transfer the funds to their own accounts with a local bank, without disclosing the identities of the depositors and beneficiaries.

17. In addition to the typologies outlined above, other familiar laundering techniques continue to figure prominently in the banking sector. Wire transfers remain a primary tool at all stages of the laundering process. Transactions are still structured, even when there are no large cash reporting requirements. And large cash deposits are still being made in some areas, especially by persons and interests connected to the former Soviet Union and Eastern Bloc

(ii) Traditional Laundering Techniques: Non-Banking Sector¹⁵

18. Non-bank financial institutions and non-financial businesses are still attractive avenues for introducing ill-gotten gains into regular financial channels. Some delegations continue to report a significant shift in laundering activity from the traditional banking sector to the non-bank financial sector and to non-financial businesses and professions.

19. Bureaux de change pose an increasing money laundering threat. The experts cited an apparent marked increase in the number and volume of transactions conducted through these entities, and a commensurate rise in actual or suspected laundering activity. The criminal element continues to be attracted to bureaux de change because they tend not to be as heavily regulated as banks and other traditional financial institutions -- if they are regulated at all.

¹⁵ As was mentioned in Paragraph 3 above, special segments of the typologies exercise were devoted to money laundering in the insurance and securities industries. Accordingly, these non-banking sector topics will be treated separately, in sections III.B(v) and III.B(vi) of this paper.

20. Another important trend has been the rise of a class of professional money laundering facilitators. The experts report an increase in the number of solicitors, attorneys, accountants, financial advisors, notaries and other fiduciaries whose services are employed to assist in the disposal of criminal profits. Among the more common tactics observed have been the use of solicitors' or attorneys' client accounts for the placement and layering of funds. This method offers the launderer the anonymity of the solicitor-client privilege.

21. Other ploys include the establishment of shell corporations, trusts or partnerships by attorneys, accountants and other professionals. Working through these business entities, the professionals spin webs of intricate transactions to mask the origin of criminally derived funds and to conceal the identities of the parties and beneficiaries. In many cases, the professionals will act as directors, trustees, or partners in these transactions, or they will supply nominal directors, trustees, or partners.

22. One of the oldest money laundering techniques, common smuggling, appears to be on the rise. A number of experts reported an appreciable increase in the amount of cash moving covertly across borders. Smuggling can occur by physically transporting currency or monetary instruments, or by hiding the cash in outbound cargo shipments. Criminals have shown growing sophistication in these operations, often purchasing businesses engaged in the shipment of goods and hiding dirty money inside the product. Experts are also detecting a significant amount of cash stockpiling, particularly in port or border regions -- a phenomenon generally regarded as a step precedent to smuggling. Both trends have been attributed in part to the success of anti-money laundering measures in banks and other financial institutions.

23. A number of other money laundering techniques in the non-bank sector remain prominent. Substantial amounts of illegal proceeds, or at least funds of potentially criminal origin, are still being invested in real estate. This trend increasingly is linked to interests in the former Soviet Union and Eastern Bloc. The purchase and import/export of gold and jewellery remains a frequently cited trend as well. Finally, the use of international trade in the money laundering process is growing. The proceeds of crime are used to purchase goods and products which are then shipped out of the country for re-sale.

(iii) Emerging Threats: Banking Sector

24. In addition to the more familiar money laundering methods discussed above, the emergence of new payment technologies has presented new challenges. The banking and financial services industry has been developing and testing an array of new products, referred to generally as "cyberpayments," designed to act as cash surrogates or to provide alternative means of effecting transactions.

25. A key component of cyberpayments technology is the use of so-called "smart cards," credit-card like devices containing a microchip on which value is encoded. The cards can be read by vending machines or terminals that deduct the amount of each transaction from the total stored value. When the card's value is used up, it may be re-loaded via ATM, telephone, "electronic wallet" or personal computer, or it may be discarded. The term cyberpayments also includes "electronic banking" systems wherein value is held in a personal computer and transferred electronically over the Internet.

26. Early cyberpayments products tended to be very limited in application. For the most part, they operated in a closed system; transactions had to begin and/or conclude at a financial institution. They also placed limits on the active life of the cards, or on the amount of value that could be stored

on them. The telephone cards in use in many European nations are an example of this predecessor technology.

27. More recently, however, cyberpayments developers have been experimenting with fewer restrictions. These new products have higher or even no value limits. They can be used at any participating retail establishment. Some will permit value to be stored and transactions conducted in multiple currencies. And, most disturbingly, some will allow value to be accessed and transferred without the need for financial institution intervention.

28. Clearly, this technology offers tremendous benefits for both government and private business. Instantaneous access to banking services from remote locations can enhance efficiency and reduce operating expenses. Unfortunately, the same advantages cyberpayments generate for legitimate commerce render it equally attractive to the criminal element. The ability to conduct significant transactions anonymously and entirely outside the banking system could enable launderers to skirt the regime of cash and financial institution-based preventative measures FATF members have worked so diligently to implement.

29. At present, the experts have no evidence to suggest that cyberpayments technologies are being manipulated by criminal interests. Still, there was general agreement that this issue must be addressed directly. Given the speed with which the cyberpayments industry is developing, and the fundamental threat its abuse would pose to existing anti-money laundering mechanisms, the FATF cannot afford to wait until the launderers have already begun to exploit cyberpayments products. Rather, the experts were adamant that the FATF must be proactive, working with the vendors and users of cyberpayments technology to identify vulnerabilities, and to build the appropriate safeguards into system design and operation.

(iv) Emerging Threats: Non-Banking Sector

30. Outside of the banking context, the casino industry has recently been identified as vulnerable to money laundering. Willing casinos would be attractive to money launderers because they frequently provide the same services as do banks (including extending credit, changing currency, and transmitting funds). However, those experts who cited casinos as a potential problem were quick to note that money laundering does not appear to be prevalent in the industry at this time.

(v) Special Section: Insurance

31. Expanding on evidence uncovered during last year's typologies exercise, a number of money laundering trends were identified or suspected in the insurance sector. The experts reported that single premium insurance bonds of one sort or another continue to be increasingly popular. Launderers purchase these products and then redeem them at a discount, the balance becoming available to the launderer in the form of a "sanitised" check from an insurance company. Single premium insurance bonds have another advantage as a money laundering vehicle because they can be used as guarantees for loans from financial institutions.

32. Another problematic aspect of the insurance industry noted by many members is the fact that a significant percentage of insurance products are sold through intermediaries. These brokers are often the only ones having personal contact with the clients. Yet, it is the insurance companies, and not the brokers, that are responsible for reporting suspicious activity.

33. Several experts offered a sampling of the kinds of activity which should arouse suspicion in connection with the purchase of insurance products. The insurance companies should be on alert when a cash payment is made upon subscription and the subscriber changes his mind during the legal

cancellation period. Another suspicious circumstance occurs where a single premium policy purchase is made in cash or by cashier's check in an amount that is patently disproportionate to the subscriber's stated occupation or income. A subscription for a large amount, the premiums to be paid from abroad (often from an offshore financial centre) is patently suspect. So too is a subscription calling for the periodic payment of premiums in large amounts.

34. During the life of the insurance product, insurance companies should be concerned when the named beneficiary of a policy is changed to a person with no clear relationship to the subscriber. In addition, insurance companies should look carefully when they receive a request for security or a certificate that funds have been invested with the insurer.

35. At the termination stage, suspicions should heighten when a client displays no concern for significant tax or other penalties associated with early cancellation. Insurance companies should also pay attention to capitalisation bond redemptions requested by persons other than the subscriber. This is particularly the case when the redeemer and subscriber appear to bear no relationship to one another. Finally, firms should scrutinise cases where bonds originally subscribed by an individual in one country are redeemed by a business in another country.

36. A number of experts mentioned as an emerging trend the laundering of funds through the re-insurance industry. Criminal enterprises appear to be moving money to this sector to take advantage of its unregulated or under-regulated status.

37. Another noteworthy trend is the purchase of life insurance policies in the secondary market. Criminal interests may be purchasing these policies at a discount from beneficiaries desperate for cash. The death benefits are then paid to the purchaser, who makes a profit and receives his money in the form of an insurance company check.

(vi) Special Section: Securities

38. The FATF remains concerned about the susceptibility of the securities industry to money laundering. The experts presented more evidence than last year that the securities sector was being compromised by tainted funds. As compared to the analysis of the insurance industry, however, the volume of proof is still limited.

39. Nevertheless, it remains the general opinion of the experts that the securities sector is vulnerable to infiltration by money launderers, particularly at the layering stage. A number of features make this business an attractive target. First, it is by nature international. Brokerage firms frequently have offices all over the world, and it is ordinary for transactions to be conducted by wire transfer from, to or through multiple jurisdictions. Second, the securities markets are highly liquid. Purchases and sales can be made and settlements consummated within a very short period of time. Third, securities brokers operate in a competitive environment. Because their compensation is often based primarily on sales commissions, there is ample incentive to disregard the source of client funds. Finally, in some countries, securities accounts can be maintained by brokerage firms as nominees or trustees, thus permitting the identities of true beneficiaries to be concealed.

40. Several experts reported cases in which securities were purchased or sold, or securities accounts manipulated, in an effort to cleanse criminal profits. They sometimes entailed many series of transactions, with purchases and sales being made by shell companies, limited partnerships and front companies so as to mask the identities of the real parties in interest. In addition, a number of the cases involved a securities industry professional who actively assisted in a money laundering scheme.

41. One delegation cited a case in which a securities professional laundered over \$ US 157,000 on behalf of a client, a public official who had misappropriated over \$ US 1.4 million. The professional first opened an account in the name of the client's wife, into which the proceeds of a legitimate real estate sale were deposited. He then engaged in a series of fraudulent "put" and "call" transactions on the client's behalf, fabricating contracts after the price trends of the underlying securities were already known. The contracts were designated as a put or a call based on the established price trend of the security, so as to ensure in every case that the client would realise a profit. Through this process, the professional was able to introduce over \$ US 157,000 in tainted funds into the client's account and justify its presence on the books as profit from securities investments.

42. Detecting money laundering activity in the securities context continues to be very difficult. The experts noted that additional efforts must be expended to identify the indicia of suspicious activity in this area. Several cited difficulty in discerning whether the funds involved in suspicious transactions were actually criminally derived.

43. Despite these difficulties, the experts agreed that it is important to forge ahead with efforts to address money laundering through the securities sector, in tandem with the securities regulators and the major exchanges.

C. Developments in Counter-Measures

44. Nearly all FATF members have implemented the major elements of the Forty Recommendations. However, a number have made refinements to their basic anti-money laundering framework (or intend to do so) in light of the changing nature of the threat they face. The following are some of the more noteworthy developments either already undertaken or planned.

45. Almost all members that have not already done so are taking action to extend the scope of their money laundering offence to non-drug related crimes. This trend is continuing in response to growing evidence regarding the significance of non-drug related crime as a source of illegal wealth. Examples include one member, which has pending a bill to criminalise money laundering in connection with all serious crimes (including tax fraud). Another member has introduced draft legislation to include terrorism, financial crime, corruption, kidnapping, extortion and other crimes as predicate offences within the ambit of its money laundering statute.

46. Similarly, members are continuing to extend the reach of money laundering prevention measures to additional groups of businesses and institutions. The general thrust of these changes is to provide for more comprehensive coverage of non-bank financial institutions -- in recognition of the large scale migration of criminal funds to this sector. Thus one member enacted legislation requiring bureaux de change to register with its central banking authority. The statute subjects bureaux de change to strict conditions of management integrity, identification, and compliance with disclosure obligations. Another member has passed legislation bringing consumer credit firms, mortgage companies, financial leasing companies and firms issuing or managing credit cards within the scope of its anti-money laundering framework. Another still has included casinos and some sellers of luxury items in its draft anti-money laundering law.

47. Some members have taken steps to better facilitate the investigation and dismantling of potential money laundering operations. One, for example, has enacted legislation which allows a court to assume that all assets held by a defendant are the proceeds of crime if the defendant is convicted of two or more serious offences (which includes laundering the proceeds of crime). One member is also modifying its legislation to lessen the burden of proof for prosecutors regarding the illegal origin of funds, and another has done so.

48. Several members have heightened efforts to invigorate the private sector in the battle against money laundering. One has established a working group comprised of representatives from the financial services sector (including non-bank financial institutions), the regulatory authorities and the law enforcement community. The group meets regularly to discuss the impact and utility of existing and proposed anti-money laundering regulations, as well as trends in criminal practices. Other members are generating or improving guidelines on suspicious transactions for dissemination to financial institutions, and pursuing money laundering awareness programs targeting at-risk industries.

49. Finally, one member is testing a program whereby financial institutions will have at their disposal computerised systems for detecting patterns of related transactions which may be indicative of money laundering. However, the system does not automatically generate reports of suspicious transactions and the financial institution's compliance officer must determine whether a report is warranted.

D. The Situation in Non-FATF Members

50. Money laundering obviously is not a problem restricted to FATF members. All jurisdictions linked to the international financial system are at least potentially capable of being infiltrated by illicit funds. Information on the money laundering situations in non-FATF members continues to be substantially less developed than that covering FATF members. Indeed, with the exception of the Former Soviet Union and Eastern Bloc, members had little information to report regarding money laundering developments in other parts of the world.

51. The following sections thus reference information which surfaced during last year's typologies exercise. The membership has no evidence to suggest that these earlier reported trends have changed appreciably. Also referenced in the section pertaining to Asia are summary conclusions from a recent typologies exercise on Asian money laundering trends sponsored by the FATF Asian Secretariat.

(i) Asia (Excluding the Former Soviet Union)

52. The money laundering situation in Asia is characterised by several factors, although not all of these factors are unique to the region. First, Asian economies typically are very cash intensive, and there generally are no mechanisms in place to track large cash transactions. Second, underground banking (known variously as hundi, hawalla, chit or fei-chien systems, according to the area and ethnic groups involved) is a long-standing tradition in this part of the world. Underground banking offers a quick, cheap, efficient and anonymous means of moving money. One member observed that the rates charged by Asian underground banks tend to be extremely competitive as compared to the prevailing charges for disposing of criminal funds in other regions. Finally, few non-FATF countries in Asia have anti-money laundering laws on the books.

53. Drug trafficking has been identified as one of the principal sources of illegal proceeds in the Asian region. In the Golden Crescent (Afghanistan and Pakistan) and Golden Triangle (Myanmar, Laos and Thailand), Asia contains the world's most significant areas of opium production. The other primary source of illegal wealth is financial crime. Smuggling, arms trafficking and corruption were also cited as less significant sources.

54. Not surprisingly, organised crime figures prominently in all of these activities. The Japanese yakuza is one of the world's most prominent and profitable criminal organisations. Evidence indicates that the yakuza is investing in assets in various Asian and Pacific countries. In addition, overseas Chinese organised crime groups are engaged in criminal enterprises in Asia and elsewhere in the

world. There are also terrorist groups in India using crime to fund their operations. And there are signs that Russian criminal enterprises are extending into East and South East Asia, supplying Russian prostitutes, buying real estate and becoming involved in gambling operations.

55. Among the money laundering techniques most frequently employed in the Asian region are: currency smuggling across national borders; the use of shell corporations; the use of bearer instruments; the use of wire transfers; the use of remittance services; the purchase of luxury items and real estate; false invoicing; laundering through casinos; and laundering through securities transactions.

(ii) South America, Central America and the Caribbean

56. South America is one of the most important areas in the world for narcotics production, particularly cocaine and cannabis. Central America and the Caribbean are significant transit areas for narcotics. Drug production and trafficking are therefore a very significant source of illegal proceeds in these regions.

57. Money laundering methods in this part of the world are in many respects similar to those in FATF members. Counter-measures are substantially underdeveloped, however, and as a consequence the banking sector is still of great importance at the placement stage. This reflects the important role offshore financial centres (particularly some of the Caribbean jurisdictions) play in the global money laundering process. There is considerable physical movement of currency from North America and Western Europe into the region, which is then deposited in banks or used to purchase high value items. Criminal funds are also invested in the construction of luxury hotels and supermarkets with apparently little effort to conceal the source of the investment. In other areas, supposedly legitimate commercial transactions are used as a cover for repatriating proceeds of crime via over or under-valued invoices for the material.

58. Some members reported on important new initiatives being pursued in the region. One delegation noted that the thirty-four governments in the Western Hemisphere would soon be signing a Communiqué on money laundering. The Communiqué, part of the follow up to the 1994 Summit of the Americas, sets forth a co-ordinated, multilateral approach to combating money laundering in the hemisphere.

59. It was also reported that the Netherlands Antilles and Aruba recently passed new anti-money laundering legislation which closely tracked the Dutch legal framework. However, the legislation of the Netherlands Antilles is expected to be in force on 1 January 1997.

(iii) Africa

60. Africa remains the region on which the least information is available. FATF members simply lack evidence to suggest that the African nations harbour prominent international money laundering centres. The problems in Africa that have been detected still relate to the operations of Nigerian organised crime groups which engage in a wide range of criminal activity, including some very sophisticated fraud schemes. Other northern African nations have been connected to drug trafficking operations extending into Western Europe, where the proceeds of that activity have circulated back to the drug producing countries. Some members reported a significant amount of money laundering stemming from drug trafficking between African emigre communities in FATF member nations.

(iv) The Former Soviet Union and Eastern Bloc

61. Russia and the newly independent states of the former Soviet Union and Eastern Bloc present a troublesome problem for FATF members. In last year's typologies exercise, experts reported that large volumes of cash were making their way from these countries into member banks and financial institutions. While the experts harboured suspicions that a significant portion of these funds were tied to criminal conduct, however, they expressed frustration at being unable to confirm the criminal ties in most cases.

62. This year, by contrast, the experts presented much more hard evidence that Russian organised crime groups and other illegal enterprises were penetrating legitimate financial channels to launder ill-gotten wealth.

63. Organised crime in the former Soviet Union and Eastern Bloc is involved in more or less every type of criminal activity, including drug trafficking, prostitution, trafficking in human beings, financial fraud, extortion, and trade in stolen vehicles. It is also involved in tax fraud schemes and the theft of assets from companies or state enterprises. Russian enterprises in particular have shown themselves to be extremely well managed, with a network of international contacts extending to other international criminal organisations and to emigre communities.

64. Several consistent typologies involving funds from the former Soviet Union and Eastern Bloc have been observed. First, experts reported cases in which individuals opened accounts at financial institutions and deposited large amounts of cash tied to interests in Russia and Eastern Europe. Once deposited, the funds were then transferred out of the country. Often these schemes involved the assistance of a lawyer or other middle person. One delegation, for example, detected cases in which Russian money entered the banking system under the cover of solicitors' client accounts. In another variation of this approach, a delegation reported having a number of cases where individuals exchanged large amounts of currency in banks and then, presumably, returned the money to its criminal owners in the east.

65. Another frequently cited trend involves the establishment of trading or other front companies in FATF countries. Accounts have been established at financial institutions in the names of these companies and moneys transferred to the accounts from accounts in other countries (including offshore financial centres). Often the explanation is that the transferred sums are payments for the export or import of items to and from the former Soviet Union or Eastern Bloc nations.

66. The experts reported a number of factors which suggest that a scheme of this sort is taking place. These include the fact that: 1) transaction activity in the accounts often occurs in amounts greater than that which ordinarily would be expected given the ostensible nature of the account holder's business; 2) the documentation offered to support transactions appears false or deficient; 3) the account holder has been incorporated or registered to do business for short period; and 4) the parties on both sides of the transactions appear to be related. Again, these schemes often involve a professional money launderer, a lawyer or other citizen of the FATF country that assists in establishing the company, setting up the account and effectuating the transactions.

67. Groups tied to the former Soviet Union and Eastern Bloc are continuing to make extensive investments in real estate, hotels, restaurants and tourist businesses in a number of Western European countries. The assets are often purchased through offshore companies with the assistance of an intermediary. One delegation reported an attempt by a Russian bank to purchase a member of its stock exchange that was on the brink of bankruptcy. Working through a solicitor, the bank tried to structure the transaction so that it obtained a controlling interest in the firm but did not own enough shares to trigger ownership disclosure requirements.

68. Although the bulk of the money is flowing from east to west, there is evidence that money from crimes committed by Russian gangs in the west is being moved back to Russia. For instance, over the past eighteen months, approximately \$ US 100 million in cash has been shipped from the US to Russia every day, primarily through two US banks, in response to orders from Russian banks. Given the high levels of currency ordered, it is at least conceivable that some portion of the funds will be used to supply the needs of Russian organised crime, in addition to that which is applied to legitimate ends.

69. Despite mounting evidence that FATF member countries are being affected by organised crime in Russia and other areas of the former Soviet Union and Eastern Bloc, in too many cases the experts are still unable to confirm the criminal nature of funds coming from these countries. Many attribute this problem to a lack of co-operation on the part of law enforcement authorities in the countries where the funds are originating. Widespread corruption within authorities in Russia and the former Soviet Union is another factor.

70. It was noted that the states of the former Soviet Union and Eastern Bloc possess many features which make a country attractive to money launderers: banking systems that are corrupt or corruptible; no money laundering legislation or an absence of meaningful legislation; the ability to buy or establish a bank with very little capital; law enforcement structures ill-equipped to investigate financial crime; a high propensity for official corruption; a desperate need for capital; disinclination on the part of law enforcement authorities to co-operate with one another. Hence, the potential exists for Russia and other Eastern European countries to become money laundering centres for proceeds of crime generated in the west.

IV. CONCLUSIONS

71. Money laundering remains a very serious problem in FATF countries and around the world. The “life blood” of any profit-generating criminal activity, the laundering process allows narcotics traffickers, terrorists, perpetrators of financial fraud, and every other criminal enterprise to perpetuate, and to live lavishly from, their illegal activity. The phenomenon is still a matter of concern even though we are better able to understand it, thanks in significant part to the implementation of the FATF Forty Recommendations.

72. It is difficult at the present time to assess the scale of the money laundering problem. Although the experts generally agree that it amounts to hundreds of billions of dollars annually, they also acknowledge that previous attempts to arrive at a precise estimate have been empirically flawed. Nevertheless, the collective opinion is that developing a methodologically sound measure is a laudable objective and must be pursued.

73. Drug trafficking remains the single largest source of illegal proceeds, although there is general consensus among the experts that non-drug related crime is increasingly significant. Indeed, in some members, non-drug related crime is by far the predominant source of illicit funds.

74. Conventional money laundering techniques are still prevalent. Cash smuggling across national borders, for example, is a time-honoured ploy that appears to be escalating. The use of bureaux de change to dispose of criminal proceeds has increased significantly. Professional money launderers are playing an increasingly active role, facilitating transactions to mask the origin and ownership of tainted funds.

75. In addition to these traditional methods, potential money laundering threats have been identified in certain rapidly developing industries. Foremost among these is the emerging cyberpayments technology sector. While there is no evidence to suggest that this industry is currently

being manipulated by criminal interests, the experts agree that the FATF cannot afford to wait until it happens. The ability to access cyberpayments systems to launder illicit profits could seriously undermine the effectiveness of existing anti-money laundering measures. Accordingly, the FATF must be proactive, working with the cyberpayments industry to incorporate the necessary safeguards into the design and operation of these products.

76. In the insurance sector, there is an expanding pool of evidence indicating that single premium insurance products are being utilised to hide illegal wealth. Evidence also suggests that the criminal element is moving into the reinsurance industry to capitalise on the lack of effective regulation there.

77. With respect to the securities industry, there is comparatively little proof that large scale money laundering is occurring. Still, the international character of the securities business, and the liquidity and speed of securities transactions, render this sector susceptible to exploitation. It is thus important to continue working with the securities sector to develop a better understanding of any vulnerabilities inherent in this field.

78. Recognising what has become a tautology -- that the money laundering problem is not confined to the proceeds of narcotics activity alone -- virtually all FATF members have expanded or are in the process of expanding their money laundering laws to include non-drug related predicate offences. Also, in response to the ever-diversifying nature of the money laundering problem, many members are taking new steps to apply prevention measures to non-bank financial institutions and non-financial businesses. And members are making the dismantling of money laundering operations easier by removing legal impediments to investigation and prosecution, for instance by easing the burden of proof regarding the illicit origin of funds.

79. The problem of money laundering stemming from the former Soviet Union and Eastern Bloc is increasingly acute. There is an expanding body of evidence indicating that organised crime groups in those countries are seeking access to the financial systems of FATF members, often with the assistance of intermediaries based in member countries. There also appears to be a significant amount of capital flowing back from FATF members to interests in the east. The problem of establishing the criminal source of suspicious funds continues to plague law enforcement authorities. This problem is due in some degree to a lack of co-operation from law enforcement counterparts in the former Soviet Union and Eastern Bloc.