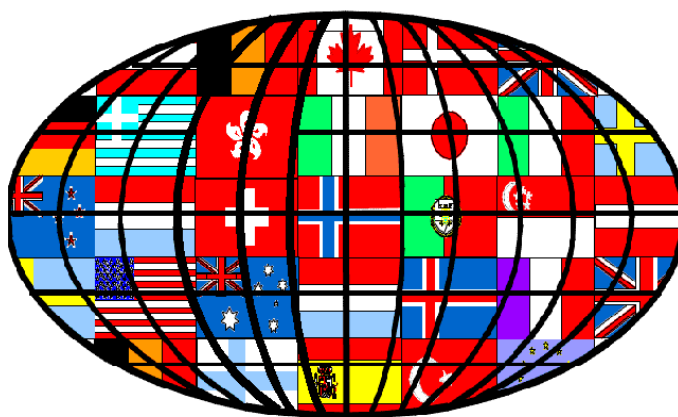


FATF-IX

**FINANCIAL ACTION TASK FORCE ON
MONEY LAUNDERING**



**ANNUAL REPORT
1997-1998**

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FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING

ANNUAL REPORT 1997-1998

SUMMARY

1. Belgium chaired the ninth round of the Financial Action Task Force on Money Laundering (FATF). A major task conducted during the 1997-1998 round by the FATF was the review of its future mission and programme of work from 1999 to 2004. The FATF also continued its work relating to the implementation and refinement of anti-money laundering measures. In addition, the Task Force further developed co-operation with a number of international organisations concerned with the combat of money laundering.
2. On 28 April 1998, FATF Ministers and the European Commissioner for Financial Services endorsed the report prepared by the FATF which defines a five year plan -- 1999-2004 -- to spread the anti-money laundering message to all continents and regions of the globe. To this end, Ministers urged FATF to foster the establishment of a world-wide anti-money laundering network based on adequate expansion of the FATF membership, the development of FATF-style regional bodies such as the Caribbean FATF and the Asia/Pacific Group on Money Laundering, and close co-operation with all the relevant international organisations, in particular the United Nations Office for Drug Control and Crime Prevention (UNODCCP) and the International Financial Institutions. They also agreed that other important tasks of the FATF for the next five years should include improving the implementation of the forty Recommendations within its own membership and strengthening the review of money laundering trends and countermeasures.
3. As in previous rounds, the Task Force devoted a considerable part of its work to the monitoring of members' implementation of the forty Recommendations on the basis of the self-assessment and mutual evaluation procedures. Through an enhanced process, which now includes a question and answer session at a Plenary meeting, the 1997-1998 self-assessment exercise showed that members had continued to make progress in implementing the forty Recommendations. Furthermore, the mutual evaluation procedure, which provides for a thorough examination of the counter-measures in place and their effectiveness, continues to be an irreplaceable monitoring mechanism. Sixteen FATF members have now been examined in the second round of mutual evaluations. Summaries of the eight mutual evaluation examinations (Canada, Switzerland, Germany, the Netherlands, Italy, Japan, Norway and Greece) which were conducted during FATF-IX are contained in Part II of the report.
4. The assessment of current and future money laundering threats, an essential part of the FATF's work, confirmed the trends observed in previous exercises. The annual survey of money laundering typologies¹ clearly noted the emergence of new areas which are not yet fully mapped: electronic money, new payment technologies, remittance businesses, non-financial professions, the insurance sector and stock exchange dealers. The FATF also continued the dialogue which has been opened with the private sector through a second Forum with representatives from the international financial services industry. The event provided an opportunity for representatives from the industry to meet with FATF government delegates and discuss issues of importance such as the need to provide feedback to reporting financial institutions. During the round, experts from FATF members and several international organisations continued the work commenced in 1997 on estimating the magnitude of money laundering.

¹ See Annex C.

5. The FATF's strategy for relations with non-members is directed towards supporting the various activities of other regional and international bodies involved in the fight against money laundering. In this regard, it should be noted that a Select Committee of the Council of Europe and the Offshore Group of Banking Supervisors commenced mutual evaluation programmes of the anti-money laundering measures taken by their members. While the Caribbean FATF pursued its anti-money laundering activities, notably its mutual evaluation programme and typologies exercise, a major event during 1997-1998 was the first meeting of the Asia/Pacific Group on Money Laundering, which was held in March 1998 and which was attended by 23 countries and territories throughout the region. Finally, in September 1997, the FATF carried out a mission to Cyprus and in October 1997, it organised, with the Bank of Russia, an international money laundering Conference in St. Petersburg.

6. The necessary development of in-depth international co-operation in combating money laundering was clearly demonstrated at the highest level when Mr. Michel Camdessus, Managing Director of the International Monetary Fund², and Mr. Pino Arlacchi, Executive Director of the United Nations Office for Drug Control and Crime Prevention, addressed the February 1998 FATF Plenary meeting. To meet the request for technical assistance from its member States, particularly in fulfilling their obligations to counter money laundering deriving from the 1988 Vienna Convention, the United Nations launched, in 1997, their Global Programme against Money Laundering. Furthermore, the 1998 June Special Session of the United Nations General Assembly provided an opportunity for governments to renew their commitment to combat the drug problem, including the countering of money laundering. In 1997-1998, the UNODCCP and the FATF co-operated in several anti-money laundering meetings. The Task Force also initiated contacts with the regional development banks, particularly the Inter-American Development Bank.

7. According to the objectives decided in the review of the FATF's future, the issue of enlarging FATF membership will need to be addressed in 1998-1999. This critical task will be carried out under the Presidency of Japan, which will commence on 1 July 1998.

² See Annex A.

INTRODUCTION

8. The Financial Action Task Force was established by the G-7 Summit in Paris in 1989 to examine measures to combat money laundering. In 1990, the FATF issued forty Recommendations for action against this phenomenon. These were revised in 1996 to reflect changes in money laundering trends. Membership of the FATF comprises twenty six governments³ and two regional organisations⁴, representing major financial centres of North America, Europe and Asia. The delegations of the Task Force's members 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.

9. In July 1997, Belgium succeeded Italy in holding the Presidency of the Task Force for its ninth round of work. Three Plenary meetings were held in 1997-1998, two at the headquarters of the OECD in Paris and one in Brussels. Two special experts' meetings were held; the first in November 1997 in Paris to consider trends and developments in money laundering methods and counter-measures and the second in May 1998 to work on the issue of estimating the size of money laundering. In addition, a meeting of the FATF Ministers was held in the margins of the OECD Council meeting at Ministerial level on 28 April 1998.

10. The FATF co-operates closely with international and regional organisations concerned with combating money laundering. Representatives from the Asia/Pacific Group on Money Laundering (APG), the Caribbean Financial Action Task Force (CFATF), the Council of Europe, the Commonwealth Secretariat, the European Bank for Reconstruction and Development, the International Monetary Fund (IMF), the Inter-American Development Bank (IDB), the Inter-American Drug Abuse Control Commission (CICAD), Interpol, the International Organisation of Securities Commissions (IOSCO), the Offshore Group of Banking Supervisors (OGBS), the United Nations Office for Drug Control and Crime Prevention (UNODCCP), the World Bank and the World Customs Organisation (WCO) attended various FATF meetings during the year.

11. A major element of the deliberations of the Task Force during 1997-1998 was the review of its future mission. Part I of the report sets out the conclusions of this review, which were endorsed by all FATF member governments. Parts II, III and IV of the report outline the progress made over the past twelve months in the following three areas:

- monitoring the implementation of anti-money laundering measures by its members;
- reviewing money laundering methods and countermeasures; and
- promoting the widest possible international action against money laundering.

³ Australia; Austria; Belgium; Canada; Denmark; Finland; France; Germany; Greece; Hong Kong, China; 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. THE FUTURE MISSION OF THE FINANCIAL ACTION TASK FORCE

12. In 1994, five years after the FATF was established by the 1989 G-7 Summit, its members decided that the Task Force -- which is not a permanent international organisation -- should continue its work for a further five years, i.e. until 1999. It was also agreed that no final decision on the future of FATF should be taken until 1997-1998, at which time it would be necessary to consider how the fight against money laundering could best be carried forward. Therefore, an in-depth review of the FATF's needs, mission and work programme, which is summarised in the paragraphs below, was carried out during FATF-IX.

A. PROGRESS ACHIEVED

13. The FATF issued in 1990 and revised in 1996, forty Recommendations which cover legal, financial regulatory, law enforcement and international action which governments should take to combat money laundering. The FATF's forty Recommendations have become an internationally accepted benchmark in this area.⁵ Since 1991, the FATF has concentrated on the following three main tasks: establishing standards and reviewing money laundering methods; monitoring the implementation of anti-money laundering measures by member governments; and promoting the adoption of counter measures by non-member countries.

14. Considerable progress has been made in the implementation of anti-money laundering measures by FATF members. By mid-1999, every member will have undergone two evaluations of their anti-money laundering systems. The first round of evaluations dealt with the question of whether all members had adequately implemented the forty Recommendations, while the second round deals with the effectiveness of the anti-money laundering system in each member. The FATF has also conducted an ambitious programme of missions and seminars in non-member countries to promote awareness of the money laundering problem and to encourage them to take action. While the FATF's forty Recommendations have gained some international prominence, a large number of countries around the world still need to implement anti-money laundering systems.

15. There is no doubt that the FATF has played a key role over the last eight years in building an international consensus on the measures that need to be taken to combat money laundering. It has also helped to persuade many countries to implement these measures. In this process, it has helped to create a "network" of money laundering experts in each of the FATF members, improving co-operation and the flow of information, both at the domestic level and internationally. Moreover, the FATF has achieved this with very limited permanent resources.

B. FUTURE MISSION AND PROGRAMME OF WORK

(i) *The need for continued action against money laundering and the major tasks to be accomplished*

16. Although considerable progress has been made in the fight against money laundering since 1989, much remains to be done and there is an obvious need for continued mobilisation at the international level to deepen and widen anti-money laundering action. The major tasks are described hereafter.

(a) To establish a world-wide anti-money laundering network and to spread the FATF's message to all continents and regions of the globe

⁵ See Annex B.

17. The FATF has decided to foster the establishment of a world-wide anti-money laundering network based on :

- an adequate expansion of the FATF membership to strategically important countries which already have certain key anti-money laundering measures in place (criminalisation of money laundering; mandatory customer identification and suspicious/unusual transactions reporting by financial institutions), and which are politically determined to make a full commitment towards the implementation of the forty Recommendations, and which could play a major role in their regions in the process of combating money laundering;
- the development of FATF-style regional bodies, especially in areas where FATF is not sufficiently represented and strengthening of work of bodies which already exist (the CFATF, the Asia/Pacific Group on Money Laundering, the Council of Europe, the OAS/CICAD and the OGBS); and
- close co-operation with relevant international organisations, in particular the United Nations bodies and the International Financial Institutions.

(b) Improve the implementation of the forty Recommendations in FATF members

18. Improving the implementation of the forty Recommendations in FATF members is an important and challenging policy objective to be pursued. There is a need to ensure that all members have implemented the revised forty Recommendations in their entirety and in an effective manner. It was therefore agreed to review the existing monitoring mechanisms so as to establish a renewed assessment process, focusing on compliance with the 1996 Recommendations, and involving the following elements:

- an enhanced self-assessment process; and
- a third round of simplified mutual evaluations for all FATF members starting in 2001, focusing exclusively on compliance with the revised parts of the Recommendations, the areas of significant deficiencies identified in the second round and generally the effectiveness of the counter-measures.

(c) Strengthen the review of money laundering trends and countermeasures

19. Money laundering is an evolving activity, the trends of which should continue to be monitored. It is therefore crucial for FATF members to acquire the best possible experience and knowledge of money laundering trends and techniques and to assess the effectiveness of the FATF Recommendations. There is also a need to extend the geographical scope of the future typologies exercises. The latter may raise the issue of the need for new countermeasures. If this occurs, the FATF must be at the forefront of the elaboration of these new countermeasures. In order to achieve a set of Recommendations to counter actual money laundering threats, the FATF could embark, if necessary, on a further updating exercise in 2003/2004, covering new countermeasures as well as perhaps reviewing those Recommendations which currently ask members simply to consider and decide whether action should be mandatory or not, incorporating the input from FATF-style regional bodies. In any case, FATF must ensure that the forty Recommendations remain the most effective and widely-respected international standard in the anti-money laundering area.

(ii) Future Direction, Duration and Objectives of the FATF

20. Action to combat money laundering must rely on effective co-operation between experts from a wide range of disciplines: legal and judicial, financial and regulatory, and law enforcement. The success of the FATF's work so far demonstrates that there is no alternative international organisation, body or

group, which has the necessary expertise, i.e. of a multidisciplinary nature with the experience and ability to assume responsibility of the FATF in a flexible and efficient way.

21. The medium to long term objectives of the FATF are: the development of credible and effective FATF-style regional bodies and an adequate expansion of its membership to include strategically important new members. At the beginning of 2005, the FATF should ideally have achieved its objective of promoting the establishment of a world-wide anti-money laundering network. In any case, an assessment of the FATF's achievements and strategy between 1999 and 2004, and future should be carried out in 2003-2004.

C. POLITICAL SUPPORTS TO THE FATF'S FUTURE MISSION

22. A Ministerial meeting of the FATF, held on 28 April 1998 in the margins of the OECD Council meeting at Ministerial level, fully endorsed the conclusions of the review of the future of the Task Force and the continuation of its work until 2004. The Ministers stressed that the major focus of FATF's future work should be to promote the establishment of a world-wide anti-money laundering network encompassing all continents and regions of the globe. They particularly supported the intention to bring into the FATF some additional strategically important countries which are committed to the combat of money laundering and to foster the development of further regional anti-money laundering bodies, in addition to the Caribbean FATF and the Asia Pacific Group on money laundering.

23. Further expressions of support towards the FATF's future mission were made at political level. In their April 1998 Communiqué, the Ministers of the OECD "welcomed the decision of the FATF Ministerial meeting to extend its work for a further five years and the new strategy it has adopted" and also noted the "FATF decision to promote the establishment of a world-wide anti-money laundering network based on adequate expansion of membership".

24. On 8 May 1998, the G-7 Finance Ministers "commended the work that FATF has carried out since its creation to develop and promote action against money laundering" and endorsed the decision of the FATF to continue its mandate for a further five years and the new strategy it has adopted". The G-7 Finance Ministers also called on the FATF to make recommendations on what can be done to rectify the abuses raised by a "number of countries and territories, including some financial offshore centres, which continue to offer excessive banking secrecy and allow screen companies to be used for illegal purposes".

25. Finally, on 17 May 1998, the G-8 Heads of State and Government "welcomed the FATF decision to continue and enlarge its work to combat money laundering in partnership with regional groupings" and "placed special emphasis on the issues of money laundering and financial crime, including issues raised by offshore financial centres".

II. MONITORING THE IMPLEMENTATION OF ANTI-MONEY LAUNDERING MEASURES

26. A considerable part of FATF's work focuses on monitoring the implementation by its members of the forty Recommendations. FATF members are clearly committed to the discipline of multilateral surveillance and peer review. All members have their implementation of the 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.

A. 1997/1998 SELF-ASSESSMENT EXERCISE

(i) Process

27. 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 implementation⁶

(a) Legal issues

28. The overall state of implementation is very similar to the situation recorded in the previous round, which reflects that almost all members are in compliance with a large majority of the Recommendations, though there are still a few areas of weakness. It is satisfying to note that the Vienna Convention has now been ratified and implemented by twenty-three members, and that the remaining three members will soon be in a position of full compliance.

29. In regard to most Recommendations the position is quite satisfactory. All members have enacted laws to make drug money laundering a criminal offence, and all but three members have enacted an offence which covers the laundering of the proceeds of range of crimes in addition to drug trafficking. The overall level of compliance will improve considerably when Japan, Luxembourg and Singapore have extended their drug money laundering offences to serious crimes. In Luxembourg, a Bill extending money laundering offences beyond drug trafficking is about to be enacted. In Japan, a Bill of a similar type has been submitted to the Diet. Singapore expects to put in place laws to criminalise serious crimes money laundering before the end of 1998.

30. A number of members also still need to take measures in relation to confiscation and provisional measures, both domestically and pursuant to mutual legal assistance. In relation to domestic confiscation, nineteen members are in full compliance, with six in partial compliance, whilst for mutual legal assistance in this area, there are seventeen members in full compliance, five partially comply, and three are out of compliance (Canada, Greece and the United States). These figures reflect only a marginal increase in compliance over the past few years, and despite the attention paid by FATF to this issue, there needs to be urgent action by some members to bring themselves into compliance with the relevant Recommendations.

(b) Financial issues

31. The 1997-1998 self-assessment exercise generally showed a slight improvement in the overall implementation of the FATF Recommendations on financial issues. Significant improvements were recorded in relation to two new recommendations that were introduced in 1996, namely Recommendation 13 dealing with the need to pay attention to new technologies, and Recommendation 25 dealing with shell corporations. However, differences still remain in the relative state of implementation between the banking sector and the non-bank financial institution sector. On an individual country basis, Finland and Switzerland made significant progress following the enactment of new legislation.

⁶ A copy of the summary of compliance with the legal and financial recommendations is at Annex D.

32. Almost all members comply fully with customer identification and record-keeping requirements for banks, but there are some persistent gaps in coverage with respect to certain categories of non-bank financial institutions. However, as mentioned in the mutual evaluation section of this report, the serious concerns regarding the anonymous passbooks for residents in Austria have not been resolved, and are being pursued through the FATF non-compliance procedures.

33. In relation to the requirement for financial institutions to report suspicious transactions and related measures, the position is generally very satisfactory in relation to banks and almost as good for non-bank financial institutions. However there is still room for improvement with respect to non-bank financial institutions and the need to pay attention to large, unusual transactions and the obligation to develop internal controls. For banks, almost all members have now established anti-money laundering guidelines and taken steps to guard banks against control or acquisition by criminals, and though there were improvements, a number of countries still have to take similar measures for all categories of non-bank financial institutions. Canada and Iceland need to take urgent measures to bring themselves into full compliance with respect to various categories of non-bank financial institutions, and additional measures also need to be taken in the banking sector. In the United States, there is also a pressing need to finalise and implement the proposed regulations to significantly enhance anti-money laundering controls over many categories of non-bank financial institutions, particularly bureaux de change, money remitters, check cashers, issuers and sellers of money orders and travellers cheques, casinos and securities brokers and dealers. The United States is also urged to place additional money laundering controls on insurance companies.

(iii) Summary of performance

34. The overall conclusion from the 1997-1998 self-assessment exercise is that a large majority of members have reached an acceptable level of compliance with the 1996 forty Recommendations, and notable progress was made during the year by some members. However, as mentioned above, a number of members still need to take steps to widen their money laundering offence, or to implement a fuller range of anti-money laundering measures in the financial sector. It is important that these changes be brought in as soon as possible.

(iv) Gulf Cooperation Council

35. In May 1997, the GCC agreed to carry out, in conjunction with the FATF, an evaluation of the anti-money laundering measures that had been taken by its six member States - Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (U.A.E), and as a first step self-assessment questionnaires were sent in August 1997. However, due to partial and incomplete replies from some GCC members, the FATF is currently unable to determine the level of compliance with the forty Recommendations. It was therefore agreed that a high level mission will meet with the relevant officials in the Secretariat General of the GCC and the U.A.E. in order to obtain more information on the implementation of the forty Recommendations in the GCC member States and to discuss how to improve the implementation of effective anti-money laundering systems in the Gulf region.

B. MUTUAL EVALUATIONS

(i) Objective and process of the second round of mutual evaluations

36. The second and major 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 three or four selected experts drawn from the legal, financial and law enforcement fields of other members. 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 effective measures to counter money laundering and to highlight areas in which further progress may still be required.

(ii) Summaries of reports

Canada

37. The largest source of criminal proceeds laundered in Canada comes from narcotics trafficking (approximately 70%), however numerous other types of profitable criminal activities exist such as tobacco and alcohol smuggling, illegal gambling, smuggling and white collar crimes such as fraud, counterfeiting and computer/ telecommunications crimes. Money laundering mechanisms in Canada involve the use of a wide range of techniques and methods in many different parts of the financial and non-financial sectors. Money laundering has occurred through deposit taking institutions, currency exchanges, the securities industry, real estate, incorporation and operation of shell companies, dealings in gold and precious metals, the insurance industry, gambling facilities (lotteries and casinos), automobile and boat dealerships, professionals (lawyers and accountants), and cross border movement of illicit proceeds. The pattern of money laundering has changed in recent years, with a movement from bank to near-banks/currency exchanges by money launderers, whilst an important external factor is the location of Canada next to the United States.

38. Canada's money laundering control scheme is based on a strong penal response through the prosecution of money launderers and the confiscation of the proceeds of crime. There have been a limited number of significant direct changes made to the anti-money laundering regime since the first evaluation, though some amendments have indirectly strengthened the regime. The most significant legislative changes were measures contained in organised crime legislation enacted in May 1997 which widen the money laundering offences, and introduce a power to freeze and confiscate the instrumentalities of organised crime offences. Other amendments improved several aspects of the forfeiture legislation, and give the police extra powers with respect to "sting" and controlled delivery operations. Another significant measure was the creation of 13 new Integrated Proceeds of Crime (IPOC) units to combat money laundering and organised crime. In the financial sector, the Office of the Superintendent of Financial Institutions published new anti-money laundering guidelines in 1996.

39. The penal legislation appears to be working well, though the extension of the more serious money laundering offence to all serious crimes, together with some minor changes to the forfeiture legislation, would make the system even more effective. Canada must be strongly commended for the willingness to apply significant resources into tackling the problem of proceeds of crime - a measure which will undoubtedly result in many more prosecutions and forfeited proceeds. Considerable efforts have also been made in relation to international co-operation and the only major weakness is the inability to effectively and efficiently respond to requests for assistance in relation to restraint and forfeiture. The use of domestic money laundering proceedings to seize, restrain and forfeit the proceeds of offences committed in other countries is recognised as sometimes ineffective, and legislation to allow Canada to enforce foreign forfeiture requests directly should be introduced.

40. In the law enforcement area the suspicious transaction reporting regime does not appear to be working effectively, and there needs to be an urgent resolution of the internal review process which has been continuing since 1993. The examiners consider that the most essential improvements are to create a new regime, consistent with the Charter of Rights and Freedoms, which makes reporting mandatory, and to create a new financial intelligence unit which would deal with the collection, management, analysis and dissemination of suspicious transaction reports and other relevant intelligence data. Other measures which would assist are detailed guidance on what transactions may be suspicious, a penal or administrative sanction for failing to report, and improved general and specific feedback. In addition, detailed proposals need to be created and taken forward for a system of cross border reporting and ancillary powers for Customs officers. The adoption of these measures, when combined with the new IPOC units, should lead to a much more effective system.

41. Changes are also required in the financial sector, where the mixture of federal, provincial and self regulation, the lack of uniformity and the combination of requirements laid down by law and also by guidelines, makes the system complex. The limited customer identification obligations in relation to corporations and beneficial owners of accounts is not in conformity with Recommendation 11, and additional measures should be enacted to remove this discrepancy. The legislation should also be extended to cover other types of non-bank financial institution such as money remitters and check cashers, as well as non-financial businesses such as casinos. The threat posed by professional facilitators of money laundering should also be examined. The regulations and systems for compliance review, internal controls, education and training for the different parts of the non-bank financial sector need to be more comprehensive and uniform, and there needs to be greater co-ordination and support by government agencies.

42. The Canadian anti-money laundering system as a whole is substantially in compliance with the almost all of the 1990 FATF forty Recommendations. In those areas where it has been proactive such as prosecutions, forfeiture, and general international assistance it has achieved considerable success. It now needs to expeditiously extend this proactive response, and resolve the deficiencies identified above. By doing so it will create a law enforcement and regulatory system which should combat money laundering most effectively.

Switzerland

43. Switzerland's central geographical location, its relative political, social and monetary stability, the current context of liberalisation and the professional secrecy that characterises the country's financial system are attractive to all investors, whether the origin of their funds is legal or illegal. In addition, advanced technology and a great diversity of institutions in the financial centre expose Switzerland to being used in international money laundering schemes. In this context, Switzerland is used primarily, but not exclusively, at the "layering" stage of the money laundering process.

44. There are three main facets to Swiss anti-laundering policy: a very broad definition of laundering offences involving assets derived from any crime; a system of self-regulation in the financial sector (banking and non-banking) accompanied by State monitoring; a "reporting right", which since 1994 has authorised financial intermediaries to convey their suspicions and which was replaced on 1 April 1998 with a "reporting obligation".

45. For some years, the Swiss authorities have been endeavouring to toughen the penal law in order to step up the fight against new forms of crime, particularly economic offences and organised crime. As a result, on 1 August 1990, Articles 305 *bis* and 305 *ter* of the Penal Code), on the offences of money laundering and lack of due vigilance in financial transactions respectively, entered into force. This arsenal of criminal law was supplemented on 1 August 1994 by a second round of measures against organised crime which strengthened powers of confiscation and authorised financial intermediaries to report suspicious transactions (CP: Article 305 *ter*, paragraph 2). In addition, the Federal Act of 7 October 1994

on the Central Offices of the Federal Criminal Police set up an organisation vital to improved prosecution of persons involved in organised crime.

46. In the financial sector, the Federal Banking Commission (CFB) issued a circular of 18 December 1991 to all licensed banks and auditing firms containing guidelines for preventing and combating money laundering. Concerning the obligation to identify, CFB circular 91/3 mirrors the Agreement on the Banks' Obligation of Diligence (CDB).

47. A Law on counter-laundering in the financial sector ("the Money Laundering Act", or LBA) was adopted by the Parliament on 10 October 1997. Under this legislation, all physical and legal persons active in the financial sector would be subject to special obligations of diligence (to ascertain the identity of customers and beneficial owners, to clarify certain transactions and to establish and keep certain documents). These persons must also take organisational measures to prevent money laundering. The LBA calls for the creation of a Money Laundering Control Authority responsible for monitoring the compliance of financial intermediaries with anti-laundering obligations. Intermediaries will also be required to file reports with the Money Laundering Reporting Office and to freeze suspicious assets if they have reason to suspect that money is being laundered. The Act entered into force on 1 April 1998.

48. Although the penal aspect of the Swiss system has been significantly improved, prevention for the non-banking sector should be in accord with FATF Recommendations with the entry into force of the LBA. In order to comply with the new Recommendation 15, the LBA introduces a reporting obligation. However, as this obligation only exists when business relations are established, compliance with this Recommendation would not be fully met if a restrictive interpretation should be made of it. Before the entry into force of the LBA, Switzerland did not comply with Recommendation 17. The LBA introduces a prohibition to inform the customer during the period of freezing established by Article 10, this prohibition will be generally relayed by a decision of the penal cantonal authorities which are competent to decide during the entire investigation. In general, the current proposals to remedy shortcomings pointed out in the first evaluation are significant, but their application is too slow.

49. Switzerland is nevertheless to be congratulated on the LBA definition of professionals subject to its anti-money laundering obligations, which spans the entire financial sector, including financial activities carried on professionally by lawyers. However, assessment of compliance with the new obligations of vigilance by non-banking professions will have to await implementation of the LBA, even though Article 305 ter already imposed an obligation of vigilance in financial transactions.

50. At this stage, it is impossible to assess the effectiveness of the system for reporting suspicions, given the lack of appropriate statistics. The LBA will contribute to an appreciable improvement in this system with the introduction of an obligation to declare suspicions of which the incomplete nature of the obligation, due to the fact that the latter arises only at the establishment of business relations, should be noted as well as the restrictive interpretation of it by financial institutions. The Swiss financial sector rather tends to protect itself against money launderers by being scrupulous in entering into business relations and hence gives preference to refusal to enter business relations with suspect customers. Although the LBA is intended to change this state of affairs, the role of the supervisory authorities, including the CFB, the Money Laundering Control Authority as well as the Reporting Office in particular, will be vital in convincing the entire financial sector of the need actively to participate in preventing money laundering. As regards the non-banking sector the Money Laundering Control Authority, as empowered by the LBA, has to act effectively, particularly in sectors at present not covered such as money changers.

51. In legal terms, the provisions on seizure and confiscation and on offences under the Criminal Code which largely reflect Recommendation 4, are to be welcomed. The absence of real prosecution powers at federal level is an obstacle to effective prosecution. Giving power to the public prosecutor of the Confederation as is at present being considered, is a first step, but does not seem to go far enough.

Real progress would be made by giving the Confederation -- as proposed in the draft overall revision of the Constitution -- power to legislate on criminal procedure.

Netherlands

52. The major sources of illegal proceeds in the Netherlands are believed to be fraud and drug trafficking. The patterns of money-laundering have changed as a result of the enactment of the anti-money laundering legislation and the growing awareness by financial and non-financial institutions of the phenomenon of money-laundering. The carriage of cash across borders with neighbouring countries has increased, as has the use of money transfer businesses. Whilst the number of bureaux de change has decreased significantly, other areas of money laundering concern remain. One issue is the inflow of money from some countries of the former Soviet Union and Eastern Europe, the origin of which cannot be checked, whilst another is the operation by representative offices of certain foreign banks of “collection accounts” to send money on behalf of their nationals back to the country of origin.

53. The principal aims of the Dutch anti-money laundering system are to protect and maintain the integrity of the financial system, and to detect and prosecute activities concerning money laundering. The heart of the system is the mandatory reporting of unusual transactions on the basis of objective and subjective indicators. The investigation and prosecution of financial crime is a priority for the government, as is the exchange of information and co-operation, both nationally and internationally. Since the first evaluation, some of the more significant changes have been the enactment of the Identification (Financial Services) Act (the Identification Act) and the Disclosure of Unusual Transactions Act (the Disclosure Act); the licensing and supervision of bureaux de change; and the expansion of the reporting obligation to credit card companies, bureaux de change and casinos.

54. The anti-money laundering system in the Netherlands is comprehensive and progressive, and is subject to a continuous process of review and improvement. The government has responded positively to many of the suggestions for improvement in the first mutual evaluation report, and the result is a system which meets, and in many areas goes beyond, the forty Recommendations. The solid legislative basis has been complemented by an active system of supervision, co-operation, education and training in the financial sector. All relevant parts of government, supervisors and the private sector are involved in the fight against money laundering, and the general approach is one of professionalism and commitment by all agencies concerned. Despite this, there are some areas for improvement.

55. The penal offence has a broad scope as it covers all predicate offences, and the mens rea extends to reasonable suspicion. The legislation will be strengthened though if money laundering is made an offence separate from receiving, and the position regarding the elements that need to be proved in relation to foreign predicate offences is clarified. The confiscation system also appears to have a solid legal foundation, though it is unclear from the statistics how well the system is working. However, it is most important that a solution be quickly found to the problems caused in the “Bucro” case, which prevents the seizure and confiscation of assets held in the name of a third party legal entities, even if they are derived from criminal activity. These issues are currently being examined.

56. Measures taken in the financial sector regarding such matters as customer identification and the supervision of institutions such as bureaux de change provide a model that could be followed in other countries. Through the government committees and working groups, the major financial institutions and their associations have shown a high level of commitment, and these result in strong interaction between the government and the private sector, and a constant examination and review of potential sources of weakness. The system of reporting unusual transactions to the financial intelligence unit (MOT), which then reports the suspicious transactions to law enforcement appears to be working effectively in most respects. However there are some potential risks which need to be addressed - in particular there needs to be an increased emphasis on non-cash money laundering and continued attention needs to be paid to the lack of reports from the securities and insurance sectors. The extension of the reporting system to

professionals such as lawyers, notaries and accountants should be seriously examined, and minor refinements could be made in relation to feedback and the exemptions available to reporting institutions.

57. The Netherlands is party to a wide range of international instruments which allow it to provide and make requests for all types of assistance. This would be further strengthened if the requirement of a treaty or agreement was removed. Administrative co-operation between MOT and other similar bodies needs to be further improved through entering more agreements (memoranda of understanding) for the exchange of information at an international level.

58. Overall, the legal and administrative structure for the anti-money laundering system appears to be an effective one, with strong efforts made to promote and co-ordinate anti-money laundering activities in many parts of government and the financial sector. The results in several areas are not apparent because of the lack of statistics, and this makes it difficult to judge the true effectiveness of the system. However the basic structure is a strong one, and combined with the firm commitment at all levels and the resolution of the deficiencies identified above, this will result in a very strong anti-money laundering system.

Germany

59. The major sources of illegal proceeds in Germany are believed to be from drug trafficking, property offences, and the smuggling of alcohol and cigarettes. Other crimes which generate significant profits for organised crime include subsidy fraud against the European Union, counterfeiting, illegal arms sales, extortion, prostitution and investment fraud. The amount of international criminal activity and the profits generated from crime have increased considerably since the last evaluation. It appears that criminals have increasingly resorted to areas where no safeguards have been taken or where regulatory bodies do or did not exist, such as bureaux de change, money remittance and cross border transportation of cash etc. A large amount of money is transferred to Germany from Eastern Europe and the C.I.S states, often through cash importation, but the source of that money is unknown in most cases. Other money laundering techniques and trends which have been observed include the purchase of luxury goods, and the increasing use of so-called collective accounts of foreign credit institutions or the representative offices of such.

60. A twofold approach has been adopted to counter money laundering. Measures within the financial sector are intended to have a preventive effect, while criminal provisions such as the money laundering offence and confiscation laws will punish the offender for the criminal activity as well as depriving him of any illegal benefits. Since the first evaluation, the most significant changes have been the extension of the list of predicate offences for money laundering to include less serious offences committed on a commercial and gang basis, and an amendment to the Banking Act which made bureaux de change, money transmitter agencies, brokers, and other companies offering financial services subject to banking supervision. Legislation is also pending which will, inter alia, extend the list of predicate offences for money laundering and criminalise money laundering activity by the predicate offender; facilitate the provisional seizure of suspicious amounts of money; raise the threshold for customer identification in occasional transactions over DM 30,000 (US\$ 16,700); and increase the involvement of the tax authorities in combating money laundering.

61. In most respects the legal framework for the German anti-money laundering system is comprehensive and strong, and in compliance with the forty Recommendations. Certain deficiencies were identified by the German authorities and this has led to amendments which have either been brought into force or are proposed, and all these measures will substantially strengthen the system. The penal legislation in relation to money laundering and the seizure and forfeiture of criminal proceeds is basically sound and comprehensive, and though the number of convictions obtained for money laundering is disappointing, there is a significant commitment to pursuing this offence. The offence will be strengthened by making the predicate offender liable for laundering his own proceeds. The confiscation legislation provides for a wide

range of measures, but the available statistics indicate that the amount of money confiscated is quite small, and this suggests that there is a significant problem of implementation. The amendments to deal with the claims of victims and the issue of “urgent suspicion” will help to make the system more effective, but consideration should also be given as to how the concept of extended forfeiture can be used more effectively within the limits of court decisions. There would also be benefit if the concept of units dedicated to the proceeds of crime and money laundering issues were introduced.

62. Law enforcement powers and resources in relation to money laundering are sufficient, and bilateral co-ordination and co-operation appears to work reasonably well. However, as stated in the first mutual evaluation report, there is an urgent need to implement a more efficient and effective structure to centralise the STR reporting procedure. The establishment of a central reception point or financial intelligence unit would be the most effective option, and an extension of the joint financial investigation group concept which is currently operating may be a solution. If this is not realistic within the political context, then a minimum requirement must be the creation of a central data-base accessible to all law enforcement agencies. Given that steps have already been taken by the ZKA to develop a system, this project should be completed and implemented as soon as possible, and should be supplemented by ensuring that all relevant law enforcement agencies have access to the databases maintained by the Länder.

63. The results of the suspicious transaction reporting system show that the number of cases generated from STRs has remained fairly static and that the vast majority of reports come from banks, with insurance companies also contributing a significant number. The system could be improved through efforts to resolve weaknesses such as the comparatively modest number of reports, the over-emphasis on cash transactions, and the lack of reports from outside the banking and insurance sectors. The quality of STR reporting would also improve if there was increased feedback to financial institutions.

64. Measures in the financial sector are characterised by extensive obligations and a comprehensive framework in certain parts of the financial system, but with distinct areas of weakness and inconsistency in other parts. The extensive and thorough guidelines, the innovative training and education process, active supervision of banks and insurance companies’ anti-money laundering compliance, and the commitment of such institutions are most commendable and provide an example for other jurisdictions. However, the extensive obligations in the Money Laundering Act (the Act) impose some unnecessary burdens. The increase of the threshold for customer identification in relation to large cash transactions to DM 30,000 is helpful, but should be accompanied by measures to eliminate the requirements to identify customers making cash withdrawals. The use of s.154 of the Fiscal Code for customer identification when opening an account creates several weaknesses, and the legislation would be strengthened if this obligation was set out in the Act. One matter of concern is the lack of specific sanctions for: (a) failing to comply with the obligation under s.154, (b) breach of the FBSO and FISO guidelines, and (c) non-compliance with the requirements laid down in ss.6, 11 & 14 of the Act (suspicious transaction identification, STRs and safeguards). All these requirements should be made subject to sanctions such as administrative proceedings and a possible fine. Stricter supervision of NBFIs, and particularly casinos, which are supervised by Land authorities is needed, though the situation should improve with the transfer of supervisory responsibilities to the FBSO.

65. The framework for mutual legal assistance is fundamentally very sound, and with a few minor modifications would be an exemplary system. Co-operation at an administrative level is made more complex by the federal system, fragmented nature of the law enforcement response to money laundering, and the lack of any centralised database for all STR. Co-operation with police and Customs authorities in other countries appears to be working well, but the inability to directly exchange information with so-called administrative FIUs is a weakness. Consideration should be given to entering into agreements or understandings which would give law enforcement agencies which have access to all STR the ability to co-operate directly with such bodies, provided they observe similar obligations of secrecy as exist in Germany.

Italy

66. The main sources of illegal proceeds in Italy are derived from fraud, corruption, international drug trafficking, extortion as well as organised crime. The structure of the organised crime, based on associations (clans, families) which control drug trafficking, smuggling, etc., means that a large part of the illicit proceeds is channelled into domestic financial and/or commercial circuits. This implies that these organisations (“cosa nostra”, “ndrangheta”, “camorra”, “sacra corona unita”), exercise a firm control on the territory where they are located as well as on local business activities. In some recent cases, it has been noticed that organised crime (especially “cosa nostra”) has been engaging in increasingly sophisticated money laundering activities, with the help of highly skilled external consultants or independent organisations. The internationalisation of the Italian criminal organisations means that funds are transferred to less regulated countries, thus reducing the chances of being detected. However, this does not rule out an interest by organised crime in local investments including financial ones.

67. Law no. 197 of July 1991 instituted measures to curtail the use of cash and bearer instruments in financial transactions and to prevent the criminal use of the financial system for money laundering purposes. Its key provision is the prohibition of transfers of cash and bearer instruments in amounts greater than L 20 million (about US\$ 12,000), except when such transfers are carried out by means of authorised intermediaries which are required to identify customers and register transactions. Other main provisions deal with the reporting of suspicious transactions and the monitoring of financial intermediaries' compliance with the law.

68. The provisions establishing money laundering as an offence were amended in 1993, to widen the original scope of predicate offences to "all intentional criminal offences". Recently, a Legislative Decree (no. 153/97 of 26 May 1997) amended the laws in force by three important measures: firstly, so as to enhance compliance with the obligation to report suspicious transactions, ensuring that the identity of any person reporting such information be kept absolutely confidential; secondly, the centralisation of the reporting of suspicious transactions to the Ufficio Italiano dei Cambi (UIC) a public institution chaired by the Governor of the Bank of Italy and thirdly, operational links were established for money laundering between financial, investigative and judicial authorities as far as organised crime is concerned. In the near future, the Government is planning to extend the scope of specific categories of non-financial businesses to anti-money laundering measures. Moreover, a review of the anti-money laundering legislation has already started in order to strengthen it by introducing new provisions or eliminating redundancies.

69. The Italian Government has made significant progress in combating money laundering since its last mutual evaluation in 1993. The changes it has effected are for the most part quite recent and derive from the latest anti-money laundering legislation, Legislative Decree no. 153/97. The most significant change provided for in the Decree is the designation of a single recipient for suspicious transaction reports, namely, the Ufficio Italiano dei Cambi, thus in effect becoming Italy's Financial Intelligence Unit (FIU). Previously, reports from financial institutions were reported to the local police.

70. Law enforcement efforts also focused on the financial aspects of organised crime have aided Italy in achieving a degree of sophistication which the new reporting system should further strengthen. This observation also applies for the legal measures because Italian anti-money laundering legislation has been developed taking also into account the need for combating organised crime. The scope of the Italian legislation is now very wide and the legislative base both for confiscation and money laundering offence is sound domestically and also, following new legislation in 1993, internationally. However, extending the anti-money laundering provisions to cover corporate liability would improve the system. In addition, the decision of the Italian Government to consolidate all the various laws into a more accessible form would also assist in training and in general use.

71. Measures in the financial sector are characterised by extensive obligations and a comprehensive framework. However, the implementation of these measures by non-bank financial institutions not subject to

prudential supervision presents some weaknesses in comparison with the very innovative internal procedures and training programmes carried out by the banks and other financial institutions regulated in a similar manner. Further supervision, guidance and training is therefore needed for non-bank financial institutions not subject to prudential supervision in order to improve their participation in the reporting of suspicious transactions. It is also quite clear that the envisaged extension of the anti-money laundering provisions to individuals or companies carrying out activities which are particularly liable to being used for money laundering purposes will considerably strengthen the Italian anti-money laundering system. For all these reasons, it is hoped that the new legislation will be enacted soon.

72. Overall, the legal and administrative framework of the Italian anti-money laundering system appears to be fundamentally sound, characterised by commendable efforts to improve the major deficiencies identified in the first mutual evaluation. In addition, the strong and firm commitment at political and high civil servant level to combat money laundering is evident. The establishment of an Interagency Policy Commission, comprising all the ministries and agencies concerned, if properly implemented, should be able to exercise strong and effective oversight. The lack of available statistics in certain areas and the weaknesses related to the previous system for reporting suspicious transactions, make it difficult to judge the true effectiveness of the system. However, it is expected that the full implementation of Decree Law no. 153/97 will result in an effective anti-money laundering system.

Norway

73. Drug trafficking together with smuggling and illegal trade in goods subject to high rates of taxation - such as alcohol and tobacco - remain the most significant sources of illegal income. Various types of economic crime, such as national and international investment fraud, invoicing frauds, tax and VAT fraud, and bankruptcy fraud against creditors also appear to be generating a large amount of illegal proceeds and the problem is increasing. As regards money laundering trends, there are indications of increasing cash movements across the borders, and criminals residing in Norway are depositing cash into banks in foreign countries, before transferring the money back to Norway as loans. Like many other countries, Norway has a problem with funds related to persons or companies from the former Eastern Bloc Countries, due to the difficulty of clarifying whether the funds are legal or not. Non-financial businesses or professions are also regularly used in the various stages of the money laundering process.

74. Norwegian control policy on money laundering is based on international initiatives, and an old preventive principle of Norwegian law that crime shall not pay. Measures that are considered important in meeting Norway's anti-money laundering objectives are: (a) increasing the risk of detection and prosecution; (b) improving the tracing and confiscating of illegal proceeds; and (c) facilitating international co-operation. The most significant changes since 1993 have been amendments which entered into force on 1 January 1997, and which extended the predicate offences for suspicious transactions reporting to offences with a sentence greater than six months; extended the preventive measures to the Central Bank, Postbank and more non bank financial institutions; and made available to ØKOKRIM information gathered pursuant to the system of reporting of foreign exchange transactions and the notifications of import and export of cash. The 1988 Vienna Convention and the 1990 Council of Europe Convention on Money Laundering were both ratified in 1994.

75. The money laundering offence, which covers both money laundering and general receiving offences, is very broadly worded and provides a firm basis for prosecution. However, consideration could be given to a specific money laundering offence, which is not part of the general receiving offence. The present confiscation legislation provides a basic structure, and if the recommendations of the Commission on Confiscation are fully implemented, the system should be a strong and effective one. The proposals to reverse of the burden of proof, extend provisions so as to allow illegal assets to be recovered from third parties and extra measures relating to provisional measures and enforcement are all to be commended. Further administrative resourcing measures are required, as are training initiatives, and staff dedicated to the issue of proceeds of crime in the police districts. In relation to international co-operation, Norway is party to

a wide range of international instruments which allow it to provide assistance. This would be further strengthened if operational co-operation between ØKOKRIM and similar foreign bodies were improved through an easing of the secrecy requirements and the entering of more memoranda of understanding to exchange information.

76. The efforts of ØKOKRIM have enhanced the suspicious transaction reporting system, but further changes are required to make the operational and investigative aspects of law enforcement more effective. An increase in resources allocated to ØKOKRIM will allow it to effectively fill the central role that has been allocated to it. The Norwegian police appear to have a more limited knowledge of anti-money laundering procedures and need comprehensive training on the issue of money laundering, so that they can successfully investigate and prosecute such cases. Customs should be taking an increased co-operative role in relation to investigations through an enhanced input in relation to cross-border transactions and more effective measures to combat smuggling and related money laundering. Implementation of the recommendations of the Commission on Investigative Methods should lead to an improved legal framework in relation to new investigative techniques and these measures should be used more frequently in practice.

77. The basic structure of the anti-money laundering measures for the financial sector as set out in the Financial Services Act and Regulations is sound. All the basic elements are there, and the amendments of 1 January 1997 helped to considerably strengthen the legislation. The larger banks are fully supportive of the anti-money laundering initiatives, and are co-ordinate with government authorities, though they would like to increase the degree of contact and exchange of information. However, some further measures would enhance the system.

78. Insurance companies need to be expressly referred to in the Act. A careful and comprehensive study should be made of the categories of non-financial businesses or professions which should be brought under the Act and Regulations. The STR provisions are strong ones, and the system of feedback is excellent, but there is a need to encourage greater and more widespread reporting through increased training and education. The more active involvement of Kredittilsynet in a number of these issues will also improve the implementation of anti-money laundering measures throughout the financial sector.

79. In general, the anti-money laundering system in Norway is solidly based and meets almost all the requirements of the FATF forty Recommendations, and in certain areas the anti-money laundering legislation and system has the potential to be very effective. The positive response to many suggestions of the 1993 FATF report has led to an enhancement of the system, and this has been complemented by the strong role provided by ØKOKRIM in seeking to make the anti-money laundering system effective. Increased expertise and support from other parts of government, together with implementation of the further changes referred to above, will make the system a fully effective and efficient one.

Japan

80. It may be assumed that substantial volumes of criminal gains are laundered in Japan although these acts are not all criminalised. The principal sources of these laundered gains are probably drug crime and fund-raising offences (illicit gaming, extortion, illicit betting, as well as violent crime and property-related offences of all kinds) committed by criminal organisations, e.g. the Boryokudans (Japanese mafia). The latter commit a variety of crimes in pursuit of a vast amount of funds, sometimes abusing legitimate corporate activities. The laundering in Japan, whether each act is criminalised as a money laundering offence or not, of an appreciable volume of gains from foreign crime cannot be ruled out either.

81. Until recently, the Japanese Government had focused its attention on combating drug money laundering. The most important piece of legislation in this respect is the Anti-Drug Special Law (ADSL) which was adopted by the Diet on 2 October 1991, and became effective on 1 July 1992. The ADSL penalises money laundering by prescribing the offences of concealment and receipt of illicit proceeds derived from drug offences. It also enlarges the system of confiscation (including value-based confiscation) and introduces freezing of illicit proceeds, as well as the suspicious transactions reporting system of which the only target is illicit proceeds from drug offences. In accordance with the FATF forty Recommendations and ADSL, financial supervisory authorities have put financial institutions under an obligation to identify their customers on the occasion of certain transactions, and to make suspicious transaction reports (STRs) to their respective supervisory authorities if they suspect that properties taken might be proceeds deriving from drug crimes.

82. However, the Japanese government intends to step up action against money laundering and to reinforce the legal measures at its disposal, as follows:

- the catalogue of predicate offences for money laundering is to be substantially enlarged so as to include all criminal offences of fundamental significance, which will make it easier for financial institutions to report suspicious transactions and the provisions for freezing and confiscating assets are to be extended; and
- a financial intelligence unit (FIU) is to be established in the Financial Supervisory Agency, in conjunction with a new STR system, in which this FIU evaluates the suspicious transaction reports and pass them on through official channels to the law enforcement agencies.

83. To this end the Japanese Government has submitted to the Diet a new Anti-Organised Crime Law (hereafter referred to as "AOCL"), which would provide for the above-mentioned anti-money laundering measures. Upon the enactment of AOCL, strict enforcement of the latter and ADSL would be an effective way to further enhance the combat against money laundering.

84. The Japanese government did not begin until 1996 to remedy some of the defects identified in the first mutual evaluation (the limitation of predicate offences for money laundering to drug crimes, the lack of guidelines for STRs by financial institutions, the lack of a central agency for the receipt of STRs and the limited access of investigatory authorities to these reports). Thus guidelines on STRs were issued in July 1996 and the police are now notified of STRs without an express request. To date, however, this has not brought any decisive improvement in combating money laundering. The low number of STRs shows that investigators are still deprived of the information from financial institutions that is very useful for initiating and assisting investigations. Effective improvements in action to counter money laundering may be expected should the draft of the AOCL come into effect. This applies in particular to the extension of the catalogue of predicate offences and the installation of an FIU at the Financial Supervisory Agency.

85. Pending the adoption of the AOCL, the current legal anti-money laundering provisions of Japan can be assessed as virtually ineffective because of the limited scope of the money laundering predicates

and the direct tracing requirements placed on law enforcement. In addition, these provisions have seldom been used in the fight against money laundering. Compared with other leading international financial centres, the low level of STRs in Japan demonstrates obvious weaknesses in the anti-money laundering system. While the uniqueness of the Japanese economy may contribute to a lower level of STR than western economies, it is difficult to comprehend why an economy of Japan's size and its drug problem should not have led to a more reasonable level of disclosures.

86. While the police appeared to be highly motivated towards money laundering investigations, they do lack valuable tools to assist them in their efforts. In addition, law enforcement and prosecutors must become more proactive in their approaches to detecting and prosecution money laundering. Additional measures, such as setting up independent anti-money laundering units in the investigatory authorities, close co-operation among law enforcement authorities, the Financial Supervisory Agency and its FIU, and use of special investigation methods including electronic surveillance which is incorporated in the AOCL, would greatly assist in the fight against money laundering.

87. The Japanese financial institutions have shown some appreciation of the money laundering problem in Japan and the vulnerability of the financial system. Nevertheless, in practice, there are doubts as to how well their appreciation of the money laundering problem is translated into anti-money laundering action, and whether front-line staff are properly and adequately trained and encouraged to identify and report suspicious transactions. In addition, more industry-specific and detailed guidelines to money changers, securities dealers, insurers and other financial institutions, including those drawn from international typology experience should help to improve the system.

88. As a whole, the current Japanese anti-money laundering system is not effective in practice. In this context, Japan's intention to step up action against money laundering is more than welcome. However, it will not be possible to assess the effectiveness of the future system until it has been in place for several years.

Greece

89. Drug trafficking remains the major concern for Greek authorities, and it is estimated that it accounts for a large part, probably in excess of 50%, of the proceeds of all Greek criminality. Other serious crimes of concern include smuggling, particularly in the antiquities trade, usury, major fraud and other crimes connected with organised crime, as well as other economic crimes such as tax evasion. There is a lack of strong evidence clearly identifying money-laundering trends, however cash placement still seems to be the main problem. The influx of refugees and so-called "economic migrants" from neighbouring Balkan countries has led to increased crime, whilst the activities of some émigrés from the former Soviet Union have been the subject of suspicious transaction reports. There has also been an increase in the physical cross-border transportation of cash, especially foreign banknotes, with such money being deposited temporarily in Greece and then transferred abroad.

90. Greece has attached a high priority to the development of its anti-money laundering framework and policies, and since the first mutual evaluation has worked to build up a satisfactory legislative framework, an effective organisational structure, and an adequate mechanism to ensure compliance and enforcement. The most significant changes were the enactment of : (a) Law 2331 of 24 August 1995 which established the money laundering offence, dealt with confiscation and provisional measures, and introduced provisions to enhance co-operation between law enforcement authorities and financial institutions and suspicious transaction reporting (STR). It also laid the groundwork for the establishment of a central authority (the "Competent Committee"), the functioning of which was completed by Presidential Decree 401/10 December 1996; and (b) the creation of the Financial and Economic Crimes Office with powers to investigate economic crimes, including money laundering.

91. The money laundering offence extends to 20 predicate offences, and makes it an offence if the defendant knew that the property was derived from criminal activity. This could be strengthened if the offence was extended to at least all serious offences, and the mental element of the offence widened to at least gross negligence, though perhaps with less severe penalties than provided for the intentional offence. The provisions relating to confiscation and provisional measures are generally adequate, though some provisions such as article 3(1) Law 2331, which reverses the burden of proof, have the potential to be very effective. However the provisions to confiscate and seize property from non bona-fide third party owners could be enhanced, and it is a matter of concern that no confiscations and few seizures have taken place. This problem should be considered and rectifying measures taken where needed. As regards international co-operation, the most important step is for Greece to ratify and fully implement the 1990 Council of Europe Convention as soon as possible.

92. The creation of the Competent Committee as the financial intelligence unit for Greece has set up a unique structure for the receipt, investigation and analysis of STR. The Committee has a wide range of experience available in its membership, and possesses extensive powers, but because it is a part-time body it will need to carefully monitor its workload and the administrative arrangements with other Greek authorities as they develop. The suspicious transaction reporting system has only been in full operation for 18 months and it is too early to fully assess how effective the system is, and though the results so far are modest, they appear to be progressing the right direction. Some further measures or issues which should be considered include extending the obligation to report to all criminal offences, supplementing the guidance and education which is provided in relation to reporting, whether the time period in which the Committee must consider reports is adequate, and enhancing general and specific feedback.

93. The basic structure of the anti-money laundering measures for the financial sector as set out in Law 2331 and ancillary provisions is sound, though the system of laws, guidelines, education and training appears to have been much more effective in the banking sector than in the non-bank financial sector. The Hellenic Banking Association and the Bank of Greece, and more recently the Competent Committee, have taken a strong and active role in promoting anti-money laundering measures and must be commended for this. Although there also appears to be a preparedness to adopt anti-money laundering measures by non-bank financial institutions, the progress has been considerably slower. The supervisory authorities, and particularly the supervisor for the insurance sector, need to take a more active role in checking the implementation of effective anti-money laundering measures in the non-bank financial sector, through a program of increased supervision, guidance and training.

94. Since the first mutual evaluation in 1994 Greece has made considerable advances and the platform that has been built will provide a sound springboard for the future. The Greek anti-money laundering system now meets most of the 40 Recommendations, and though lack of statistics and data, as well as the fact that major legislative and regulatory measures are quite recent, made it difficult to accurately assess the effectiveness of the system, it appears to be working reasonably well in several areas. Despite this, the results achieved so far, though moving in the right direction, are modest, and Greece will need to continue to monitor the system and implement the necessary changes to make the system more effective.

C. APPLICATION OF THE FATF POLICY FOR NON-COMPLYING MEMBERS

(i) Principles

95. Being aware that it could not expect others to do what certain of its members fail to do, FATF defined in 1996, a policy for dealing with its members which are not in compliance with the initial forty Recommendations. The measures contained in this policy represent a graduated approach aimed at enhancing peer pressure.

(ii) Steps applied in 1997-1998

Austria

96. In accordance with the request made at the June 1997 FATF meeting, Austria reported back to the FATF in February 1998 on the anti-money laundering measures it had taken between June 1997 and February 1998, and the plan of action that it proposed to remove the problems identified in the report. Austria advised that it had:

- amended the common note of interpretation so as to require identification of trustors by lawyers, notaries and certified public accountants;
- acted to clarify other identification requirements;
- created guidelines concerning the protection of employees of credit and financial institutions which act as witnesses;
- set up procedures to obtain extra statistics; and
- published a draft Bill regarding the removal of the monetary threshold of ATS 100,000 in Art 165 Penal Code.

97. However, Austria also advised that the Austrian government had not altered its position in relation to anonymous passbook for Austrian residents. In consequence of this failure, the President wrote a letter to the Austrian government indicating the concern of the FATF regarding the lack of progress in removing the anonymous passbooks. Due to the failure of the Austria to indicate that it would be taking positive steps to remove the passbooks, it was decided to pursue the measures in the FATF policy for non-complying members, i.e. to send a high level mission to Vienna in order to reinforce this expression of concern.

Canada

98. It was suggested during the discussion of the second Canadian mutual evaluation report in September 1997 that Canada provide a progress report, in view of serious concerns over its failure to comply, or to comply fully, with a number of the forty Recommendations. Canada provided a progress report at the June 1998 Plenary meeting and advised that:

- The Department of the Solicitor General had issued a public consultation paper which sets out proposals for :
 - a) a mandatory suspicious transaction reporting (STR) system, which would be based on sets of indicators;
 - b) offences for failing to file a report and filing a false report, as well as a “tipping-off” offence;
 - c) protection from criminal and civil liability for any person or body which makes a report;
 - d) the establishment of a federal authority as a new financial intelligence unit (FIU) which would be at arms-length from law enforcement, and which would receive all STR, as well as reports on cross-border transactions, and information from foreign FIU;

- e) a cross border reporting system for currency and monetary instruments greater than C\$ 10,000, as well as powers to seize as forfeited if no declaration is made. An administrative process for remission of penalty might also be included.
- the Solicitor General has indicated that following the consultation period, Canada intends to table legislation as soon as possible, and probably during autumn 1998;
 - Canada was considering signing the 1990 Council of Europe Convention, and will consider in the future the question of amending its legislation to allow enforcement of foreign confiscation orders. However no timeframe has been set for these measures;
 - in relation to customer identification, including beneficial ownership, Canada is reviewing the existing regulations and practices with a view to issuing fuller and more comprehensive draft regulations for public comment in autumn 1998, which could come into force in spring 1999;
 - it will review the existing coverage of its anti-money laundering regulations with a view to expanding coverage to further categories of non-bank financial institutions such as check cashers, money remitters and postal money order business;
 - it will review existing guidelines on matters such as customer identification, record keeping, internal controls and Recommendation 21, with a view to closing any gaps. The federal guidelines will be reviewed initially and revised as appropriate for all federally regulated financial institutions. Furthermore, the federal government will be working with provincial governments and regulators regarding their role in furthering compliance with the FATF Recommendations through the provision of appropriate guidance to provincially regulated financial institutions. Additional measures will be taken with respect to sectors which are not subject to supervision. It was indicated that Canada hopes to achieve some results by spring 1999, although noting that any initiatives are likely to be developed and implemented over the longer term.

Canada offered to provide a further report to the Plenary at the FATF meeting in February 1999.

III. REVIEWING MONEY LAUNDERING METHODS AND COUNTER-MEASURES

99. The FATF conducted a further survey of money laundering methods and countermeasures which provides a global overview of trends and techniques. In this context, the issues of money laundering through new payments technologies (smart cards, banking through Internet), and the non-financial businesses and remittance companies were addressed. Two other areas of work were the issues of how to improve the appropriate level of feedback which should be provided to reporting financial institutions, and the continuation of work on estimating the magnitude of money laundering. Finally, the FATF convened a second Forum with representatives of the world's financial sector institutions.

A. 1997-1998 SURVEY OF MONEY LAUNDERING TRENDS AND TECHNIQUES

100. The FATF typologies exercises provide a forum for the exchange of information and intelligence on prevailing trends in money laundering and effective countermeasures, through an annual meeting of experts from member law enforcement agencies and regulatory authorities. The following paragraphs summarise briefly the conclusions of this year's survey.⁷

101. In addition to money laundering via non-financial professions and businesses, which was the main subject for the FATF-IX typology exercise, the experts also discussed issues relating to companies which specialise in international money transfers, and new technology payments. With regard to new

⁷ The Report of FATF-IX on Typologies is at Annex C.

technology, much work has still to be done before all the related money laundering dangers have been clearly identified and before any possible specific counter-measures can be considered. However, even at present, the speed at which transactions are performed in this sector, admittedly an advance in itself, seems to pose grave threats to the adequacy of the traditional anti-money laundering methods as they relate to the systems of new payment technologies. With regard to companies specialising in international money transfers, consideration and action were both further advanced, judging from the scale of counter-measures already in place in many FATF member countries.

102. Among other typologies of interest, particular emphasis was placed on money laundering through the gold market. Although FATF has already devoted considerable attention to sectors such as insurance or money changing, the involvement of both in money laundering is still clearly on the increase. With regard to the bureaux de change sector, it is clear that further consideration must be given to the consequences of the conversion of European currencies into the Euro. Finally, the survey of money laundering trends in non-member countries again proved most instructive. Although progress is being made in implementing anti-money laundering measures outside the FATF membership, much still remains to be done to mobilise many countries which remain somewhat passive and complacent about the financial, economic, political and social dangers posed by money laundering.

103. The 1997-1998 typologies exercise was marked by a more targeted form of discussion than in previous exercises. Since the classic mechanisms for laundering are now well identified, the main challenge in the future will be to survey the emergence of new areas which are not yet fully mapped, such as electronic money and new-technology forms of payment, non-financial professions, the insurance sector and stock exchange dealers.

B. OTHER AREAS OF WORK

(i) Providing feedback to financial institutions

104. Following consideration of the range of general and specific feedback that was being provided in FATF members, and having regard to the importance of providing appropriate and timely feedback, it was decided that a set of guidelines indicating current best practice would be prepared. The guidelines recognise that ongoing law enforcement investigations should not be put at risk, that secrecy laws in some countries may prevent their financial intelligence unit from disclosing significant feedback, and that general privacy laws can also limit feedback. Therefore, the guidelines are not mandatory requirements, but are meant to provide assistance and guidance to financial intelligence units, law enforcement and other government bodies which are involved in the receipt, analysis and investigation of suspicious transaction reports, and in the provision of feedback to reporting institutions on those reports. The Guidelines⁸ were discussed with representatives of the financial services sector at the Second FATF Financial Services Forum in June 1998.

105. Amongst the recommendations relating to general feedback are the following : (a) statistics be kept on the reports received and on the results obtained, together with appropriate breakdowns of that information; (b) the statistics on the reports received are cross referenced with results so as to identify areas where money laundering and other criminal activity are being successfully detected; (c) new money laundering methods or techniques, as well as trends in existing techniques are described and identified, and that institutions are advised of these trends and techniques; (d) that sanitised cases be made available to reporting institutions, and that each case could include a description of the fact, a summary of the result, a description of the inquiries made by the FIU if appropriate; and a description of the lessons to be learnt from the reporting and investigative procedures that were adopted in the case.

⁸ See Annex E.

Consideration should also be given to providing other general information, such as an explanation on money laundering process, the legal obligations regarding reporting, the procedures and processes etc.

106. The guidelines also consider the methods by which such feedback can be provided, and these include annual reports, regular newsletters, videos, electronic information systems such as websites, electronic databases or message systems, meetings with institutions, conferences and workshops, and working or liaison groups. When deciding on the methods of general feedback to use, each country should take into account the views of the reporting institutions as to degree to which reporting of suspicious or unusual transactions should be made public knowledge.

107. Specific feedback is more difficult to provide than general feedback, for both legal and practical reasons. Practical concerns include not putting ongoing law enforcement investigations at risk and the issue of resource implications, while legal issues can involve secrecy laws relating to the financial intelligence unit or general privacy laws. Finally, there is a need to ensure the safety of the staff of institutions, and to protect them from being called as witnesses in court. Having regard to all these matters, it is recommended that whenever possible, the following specific feedback is provided:

- receipt of the report should be acknowledged by the FIU;
- if a report will be subject to a fuller investigation, the institution could be advised of the agency that will investigate the report, if this would not adversely affect the investigation; and
- if a case is closed or completed, whether because of a concluded prosecution, because the report was found to relate to a legitimate transaction or for other reasons, then the institution should receive information on that decision or result.

(ii) Estimating the magnitude of money laundering

108. During 1997-98 work continued on the study to estimate the magnitude of money laundering. An Ad Hoc group, chaired by the head of the United States delegation, has considered a number of studies that had been completed previously as well as some current ongoing studies that consider issues relating to estimating the volume of criminal proceeds. One important strand of the work is being principally carried out by the IMF, which is updating a previous study it made in 1996 on the "Adjusted Demand for Money Model". This model estimates the impact of money laundering associated with crime on the demand for currency and money balances in the banking system, and concludes that it can have a significant impact.

109. The major part of the work of the group has focussed on obtaining agreement for a sound but practical methodology for using microeconomic data and techniques to estimate the amount of criminal proceeds available in relation to a range of serious profit generating crimes, and the amount of such proceeds available for money laundering. A meeting of experts from members and international organisations sponsored by the Chair of the Ad Hoc Group on 28-29 May 1998, considered the alternative methods and data sources that are available for making the necessary calculations. The meeting also considered a United Kingdom study that was being prepared in the context of efforts by the European Union to develop estimates of the proceeds of certain illegal activities for national accounts purposes.

110. It was recognised that the complex questions arise concerning the availability, reliability and comparability of national and international data, and in relation to the methodology which should be adopted; however it was agreed that the FATF should continue to develop this study and that all FATF member jurisdictions should participate. The study will therefore continue during FATF-X, and will focus on researching the available national and international data, and on finalising details as to how that data can be gathered and analysed.

C. SECOND FORUM WITH THE FINANCIAL SERVICES INDUSTRY

111. One of the FATF's goals is to encourage cooperation with the private financial sector in the development of policies and programmes to combat money laundering. To further this aim, two years after the first international meeting between the FATF and representatives of the financial services industry, a second Forum was convened during FATF-IX. The purpose of this event was to discuss with the private sector, areas of common interest and ways to best develop measures to prevent and detect money laundering through the financial community.

112. Representatives from FATF members, 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, Federation of Latin American Bankers Association, International Federation of Accountants, the Central Bank of the Russian Federation) attended a Forum organised by the FATF in Brussels. Five general topics were addressed in the Forum: money laundering typologies exercises and the development of FATF policy; the nature of the money laundering threat and the countermeasures in the non-bank financial institutions; the implications of the new technologies (including direct banking) for money laundering and the use of these media to detect suspicious/unusual transactions; providing necessary feedback to financial institutions reporting suspicious transactions; and the role of the accounting profession in anti-money laundering action.

IV. FATF'S EXTERNAL RELATIONS AND OTHER INTERNATIONAL ANTI-MONEY LAUNDERING INITIATIVES

113. As the third component of its mission, the FATF undertakes external relations actions designed to raise awareness in non-member nations or regions to the need to combat money laundering, and offers the forty Recommendations as a basis for doing so. In promoting the adoption of anti-money laundering measures, it is important to bear in mind that the FATF does not act in a vacuum. A number of international organisations or bodies play a significant role in this respect. The following paragraphs describe the most important developments which occurred in 1997-1998 in the international fight against money laundering.

114. In general, the FATF continued to collaborate with the relevant international organisations/bodies rather than launch new initiatives. The FATF participates in anti-money laundering events organised by other bodies so that it can observe the developments taking place in non-members and in particular the adoption of money laundering counter measures. The United Nations Global Programme on Money Laundering will contribute significantly to the implementation of these measures through the provision of training and technical assistance.

115. To increase the effectiveness of international anti-money laundering efforts, the FATF and the other organisations and bodies endeavour to co-ordinate their activities. Regular co-ordination meetings of the regional and international bodies concerned with combating money laundering take place in the margins of the FATF Plenaries.

A. FATF'S EXTERNAL RELATIONS INITIATIVES

Cyprus

116. A FATF mission to Cyprus took place at the beginning of September 1997, with the participation of an OGBS's representative, to discuss money laundering issues with the competent Government departments and the Central Bank of the Republic of Cyprus. It was quite clear that a number of important steps had been taken to fight money laundering, particularly the enactment of the Law on the Prevention and Suppression of Money Laundering Activities in April 1996. Among other measures, the Law contains a definition of a serious crimes money laundering offence and a requirement to report suspicious transactions to the Unit for Combating Money Laundering. The Republic of Cyprus has also ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime. However, the FATF mission recommended that the Cypriot authorities continue their efforts, specifically with respect to the coverage of the non-bank financial sector. The mission also strongly encouraged Cyprus to undergo a joint Council of Europe/OGBS mutual evaluation of its money laundering system so that further progress can be made. This evaluation was carried out in the spring of 1998.

Russian Federation

117. A joint FATF/Bank of Russia Money Laundering Conference took place on 9-10 October in St. Petersburg, as a follow-up to the FATF high-level mission to Moscow of 1996. The Conference was attended by participants from nine FATF countries. The Russian Federation was represented by numerous delegates from the Bank of Russia, the Ministry of Finance, the Ministry of Justice, the Customs Committee, the Federal Service on Foreign Exchange and Export Control, the Ministry of the Interior, the Federal Security Service, the State Tax Service, the Tax Police, the General Prosecutor, and the Association of Russian Banks.

118. The Conference discussed the role of the financial and credit institutions in the combat of money laundering with particular emphasis on the regulatory bodies. It was pointed out that the Bank of Russia has taken a major anti-money laundering step by creating a national system of preventive measures aimed at safeguarding the banking community against dirty money. In July 1997, the Bank of Russia issued recommendations to prevent illegal funds passing through banks and credit institutions; a Directive on organising internal banking controls and a Guideline on how to organise internal controls in credit institutions which participate in financial markets. Due to a lack of legislation, these texts will assist banks and credit institutions to undertake anti-money laundering work. For the elaboration of the above-mentioned texts, the Bank of Russia used as a basis the forty FATF Recommendations.

119. Participants from the FATF countries expressed their support for the joint efforts undertaken by the Federal Government bodies and the Bank of Russia in creating a national system to prevent dirty money from entering into the economy. They also expressed the wish that the Bill on "Countering Legalisation (Laundering) of Illegally Gained Incomes" which has been pending in the Duma for more than a year, will be expedited.

B. ANTI-MONEY LAUNDERING ACTION BY "FATF-STYLE" REGIONAL BODIES

Caribbean FATF

120. Since its inception, participation in the CFATF has grown to twenty-four states of the Caribbean basin.⁹ The CFATF has instituted measures to ensure the effective implementation of, and compliance with, the Recommendations. The CFATF Secretariat monitors members' implementation of the Kingston Ministerial Declaration through the following activities:

- self-assessment of the implementation of the Recommendations;
- on-going programme of mutual evaluation of members;
- co-ordination of, and participation in, training and technical assistance programmes;
- bi-annual plenary meetings for technical representatives; and
- annual Ministerial meetings.

121. To further its mandate to identify and act as a clearing house for facilitating training and technical assistance needs of members, the Secretariat works closely with regional Mini-Dublin Groups, the diplomatic representatives of countries with interest in the region. Prominent here are Canada, France, the Netherlands, the United Kingdom and the United States. There is also close liaison with CARICOM, the Caribbean Customs Law Enforcement Council (CCLEC), the Centre Interministériel de Formation Anti Drogue (CIFAD) in Martinique, the Association of Caribbean Chiefs of Police (ACCP), the Commonwealth Secretariat and the International United Nations Drug Control Programme (UNDCP).

122. Supported by, and in collaboration with UNDCP, the CFATF Secretariat has developed a regional strategy for technical assistance and training to aid effective investigation and prosecution of money laundering and related asset forfeiture cases. The development of this regional strategy parallels and closely co-ordinates with similar initiatives by the European Commission and with efforts arising from the Summit of the Americas Ministerial in Buenos Aires.

123. The FATF strongly supports the significant progress which has been made by the CFATF under both the chairmanships of Costa Rica and Barbados. Three mutual evaluation reports were discussed (Costa Rica, Panama, Barbados), and six on-site visits took place (Antigua and Barbuda, Bahamas, Bermuda, the Dominican Republic, St. Vincent and the Grenadines, Turks and Caicos) in 1997-1998 together with the adoption of a firm timetable for the remainder. The CFATF also pursued its active typologies programme and the development of important internal processes, which are all significant advances.

Asia/Pacific

124. The Working Party meeting of the Asia/Pacific Group on Money Laundering (APG) which was held in Beijing in July 1997 made valuable progress. Countries in the region have started to exchange information and examine the strengths and weaknesses of their systems through the mechanism of jurisdiction reports. Measures are also proposed for improving technical assistance and training, enhancing mutual legal assistance and improving cooperation with the financial sector. The Working Party also recognised that, although regional differences need to be taken into account, the FATF forty Recommendations provide guiding principles for action in establishing an effective anti-money laundering system. The FATF stands ready to assist the APG in its consideration of how international standards such as the forty Recommendations can best be implemented in the region.

⁹ See the list of CFATF members at Annex B.

125. The Asia/Pacific Group currently consists of 16 members¹⁰ in the Asia/Pacific region comprising members from South Asia, Southeast and East Asia and the South Pacific. In March 1998, the first annual meeting of the APG was held in Tokyo and attended by 25 jurisdictions from the region. A revised Terms of Reference was agreed, as well as an action plan for the future. The Tokyo meeting represented the full establishment of the APG as a cohesive regional group following on from the earlier awareness-raising efforts. The Asia/Pacific Group provides an essential foundation for countering the global threat of money laundering. It will lead to more effective anti-money laundering legislation in each country, and to enhanced international cooperation.

126. In addition to a statement issued on 6 April 1997 by the Finance Ministers of the Asia Pacific Economic Cooperation (APEC) welcoming the establishment of the APG, the leaders of the 1998 Asia-Europe Meeting (ASEM) asked their Finance Ministers to encourage enhanced co-operation between Europe and Asia in the fight against money laundering.

C. MUTUAL EVALUATION PROCEDURES CARRIED OUT BY OTHER BODIES

General

127. The FATF has adopted a policy for assessing the implementation of anti-money laundering measures in non-member governments. The rationale for this policy is that the implementation of a mutual evaluation procedure will encourage countries and territories not only to get on with implementing anti-money laundering laws but also to improve the counter-measures already in place. The Task Force has already validated and supported the mutual evaluation processes of other bodies which have agreed to carry out mutual evaluations of their members. In this respect, the FATF assessed the CFATF, the Council of Europe and the OGBS's mutual evaluation procedures as being in conformity with its own principles. As the latter is comprised of representatives of banking supervisory authorities, the FATF has sought formal political endorsement of the procedures and the forty Recommendations from those governments of the members of the OGBS which are not represented in either the CFATF or the FATF.

128. The FATF believes that the mutual evaluation procedures of the CFATF, the Council of Europe and the OGBS will contribute to secure the adoption of adequate anti-money laundering measures in many non-member countries and territories. The FATF has therefore furthered its co-operation with these bodies. First, it stands ready to provide assistance in the training of mutual evaluators of non-FATF bodies. Second, FATF member countries will supply observer examiners, if requested, by one of the three bodies/organisations mentioned above.

CFATF

129. CFATF member governments have made a firm commitment to submit to mutual evaluations of their compliance both with the Vienna Convention and with the CFATF and FATF Recommendations. Signalling this firm commitment is the fact that the October 1997 CFATF Council of Ministers in Barbados adopted a mandatory schedule of mutual evaluations. According to the latter, the CFATF's first round of mutual evaluations will be completed by the year 2000. In the past eighteen months of the schedule, eight members have undergone mutual evaluations: Costa Rica, Panama, the Dominican Republic, Barbados, St. Vincent and the Grenadines, the Bahamas, Antigua and Barbuda, and Turks and Caicos Islands. Even before this, in 1995, the Cayman Islands and Trinidad and Tobago were evaluated. By the end of 1998, Bermuda, St. Lucia, St. Kitts and Nevis, and Nicaragua will increase the number of members to have been mutually evaluated.

Council of Europe

¹⁰ See the list of APG members at Annex B.

130. In September 1997, the Committee of Ministers of the Council of Europe established a Select Committee (PC-R-EV) to conduct self- and mutual assessment exercises for member states of the Council, which would be modelled on FATF processes. Over a two year period ending in December 1999, mutual evaluations are to be conducted for the members of the Council which are not also members of the FATF. Experts from member countries of the FATF will assist with and participate in those evaluations. The process commenced with evaluations of Slovenia and Cyprus (conducted in conjunction with the Offshore Group of Banking Supervisors), and the mutual evaluation reports for those two countries were considered and adopted at a meeting of the PC-R-EV in June 1998. Further evaluations (e.g. Czech Republic, Slovakia, Malta, Hungary, Lithuania and Andorra) will be conducted during the second half of 1998.

131. In March 1998, the Council of Europe, in conjunction with the Belgian Presidency of the FATF and the European Commission, organised in Brussels a training seminar for persons from non-FATF countries who would be participating as evaluators in the mutual evaluation process. This event, which was well attended by participants from those countries, discussed the applicable international conventions and instruments, the practical aspects of the process, and the legal, financial and law enforcement components of anti-money laundering systems.

OGBS

132. FATF has received ministerial letters indicating political endorsement of the forty Recommendations and the mutual evaluation procedure from all but one member of the Offshore Group of Banking Supervisors (Lebanon). The Task Force has therefore endorsed the commencement of the OGBS mutual evaluation process, except for the aforementioned country which, as a result, has been changed from full membership of OGBS to observer status. The OGBS is taking steps to carry out its first mutual evaluations before the end of 1998; these will concern Jersey, Guernsey, the Isle of Man and possibly Vanuatu. Two other members of the OGBS -- Cyprus and Malta -- have been or will be covered by a joint Council of Europe/OGBS mutual evaluation.

D. OTHER INTERNATIONAL ANTI-MONEY LAUNDERING ACTION

United Nations

133. The Global Programme against Money Laundering (GPML), a research and technical co-operation programme implemented by the UN Office for Drug Control and Crime Prevention (ODCCP), is now in operation. Its aim is to increase the effectiveness of international action against money laundering through comprehensive technical co-operation services offered to Governments. The Programme is carried out in cooperation with other international and regional organisations. In the context of the GPML, the UNODCCP organised several important international anti-money laundering events in 1997-1998, including two awareness-raising seminars for West Africa in Ivory Coast on 1-3 December 1997 and for South Asian countries plus Myanmar and Thailand in New Delhi on 2-4 March 1998.

134. Finally, the United Nations General Assembly was convened on 8-10 June 1998 in New York for a Special Session devoted to the fight against the illicit production, sale, demand, traffic and distribution of narcotic drugs and psychotropic substances and related activities, including money laundering. The General Assembly adopted a Political Declaration in which the Member States of the United Nations undertake to make special efforts against the laundering of money linked to drug trafficking and recommend that States which have not yet done so, adopt by the year 2003 national anti-money laundering legislation and programmes in accordance with relevant provisions of the Vienna Convention and a package of measures for countering money laundering, adopted at the same session.

Commonwealth

135. Commonwealth Heads of Government at recent summits have repeatedly called for concerted action to combat money laundering which has been and continues to be a high-priority activity for the Commonwealth Secretariat. Following their last meeting in Edinburgh, in October 1997, a joint meeting of finance and law officials was convened so that a co-ordinated approach could be developed to consider further measures to combat money laundering. The joint meeting was held in London on 1-2 June 1998 and considered the four following main items:

- improving domestic co-ordination through national interdisciplinary co-ordinating structure;
- the special problems of dealing with money laundering in countries with large parallel economies;
- strengthening regional initiatives for more effective implementation of anti-money laundering measures; and
- self-evaluation of progress made in implementing anti-money laundering measures in the financial sector.

Inter-American Development Bank

136. The IDB, in conjunction with the Banking Superintendent of Colombia and the Andean Development Corporation, sponsored a seminar on the subject of asset laundering during the 1998 annual meeting of the Board of Governors in Cartagena de Indias (Colombia). The session addressed the multifaceted aspects of asset laundering activities as well as international approaches to combat money laundering on the basis of presentations made by the United Nations, the OAS/CICAD, the IDB, the IMF, the Federation of Latin American Bankers Association and the FATF. The seminar ended with certain common goals, focusing on a multilateral approach to combating asset laundering in Latin America and the Caribbean, as well as current and future activities in the region. The IDB was encouraged to: (a) use its own funds and to seek additional funding for programmes, including the training needs of supervisors, regulators and financial institutions, particularly on the detection and prevention of new laundering techniques on a regional and/or national basis; (b) serve as a clearing house for such proposed programmes, sources of funding, and potential executing entities; (c) strengthen the dialogue between private banking sectors and government regulators; and (d) use its good offices to encourage implementation of effective laws and regulatory frameworks to address the issue of asset laundering.

OAS/CICAD

137. The CICAD Group of experts to Control Money Laundering has continued to put into effect the Buenos Aires Plan of Action.¹¹ The CICAD Group of Experts, which meets twice a year, at its last meeting in May 1998 approved a training programme for judges, prosecutors, FIU personnel and law enforcement. It also undertook to amend the Model Regulations to expand the predicate offence for money laundering and to provide for the creation of national forfeiture funds. In addition, the Group finalised a directory of contact points for the purpose of effecting information exchange and mutual legal assistance which would be accessible through the OAS's web-page.

¹¹ In December 1995, the Ministers responsible for addressing money laundering in the States of the Western hemisphere met in Buenos Aires where they endorsed a Statement of Principles to combat money laundering and agreed to recommend to their Governments a Plan of Action reflecting this Statement of Principles for adoption and implementation. The Plan of Action specifically provided that the Governments intended to institute on-going assessments of the implementation of the Plan of Action within the framework of the OAS. This and other activities identified in this Plan were remitted to the CICAD for action.

CONCLUSION

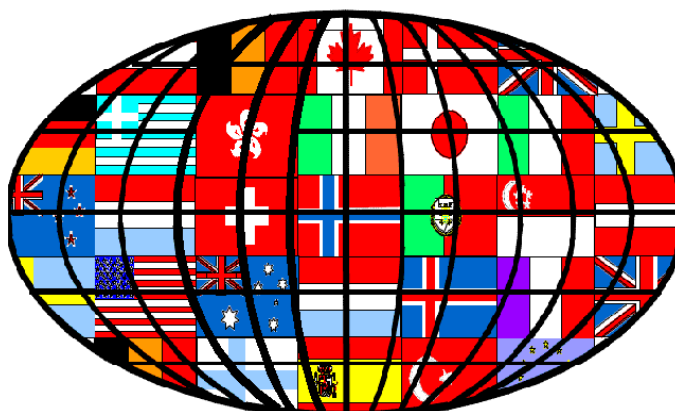
138. During 1997-1998, further progress was again made in combating money laundering, both within and outside the FATF membership. However, the need for continuing action against money laundering is obvious. It is for this reason that it was decided that the Task Force should continue its work for a further five years and focus its efforts to spread the anti-money laundering message to all continents and regions of the globe.

139. The globalisation of financial markets -- and financial crime -- implies that the counter-measures necessary to combat money laundering must be universally applied. To this end, the FATF will work to foster the establishment of a world-wide anti-money laundering network based on an adequate expansion of the FATF membership, the development of the FATF-style regional bodies such as the Caribbean FATF and the Asia/Pacific Group on Money Laundering, and close co-operation with all the relevant international organisations. As money laundering is an evolving phenomenon, it will also be essential to strengthen the review of money laundering trends and countermeasures. In addition, improving the effective implementation of the forty Recommendations within the FATF membership will be a critical challenge.

140. As the world-wide mobilisation against money laundering has now become the priority goal of the FATF, external action will be given a high priority in the forthcoming years. This vital task will be carried forward in 1998-1999 under the Presidency of Japan.

FATF-IX

**FINANCIAL ACTION TASK FORCE ON
MONEY LAUNDERING**



ANNEXES

**1997-1998
ANNUAL REPORT**

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ANNEX A



Money Laundering: the Importance of International Countermeasures

Address by Michel Camdessus

Managing Director of the International Monetary Fund
at the Plenary Meeting of the Financial Action Task Force
on Money Laundering
Paris, February 10, 1998

The statement at the October 1996 Annual Meetings in Washington D.C. of the IMF's Interim Committee—its highest decision-making authority—featured money laundering as one of the most serious issues facing the international financial community. This is a confirmation, if at all needed, of our wish to develop our relationship with you as the main body for dealing with money laundering, and this is also why I wished to come here today to honor your remarkable work, which has been most impressive in its scope and the speed with which it has been geared up. Let me do so by putting this question before you: why is money laundering viewed as such a serious threat to the global monetary system? And if it is a threat, what is the role that the IMF can play in assisting the work of the FATF? How can we limit this threat, which can take on such proportions that it undermines the effectiveness of macroeconomic policy?

* * * * *

Macroeconomic impact of money laundering

I hardly need say that the IMF regards the anti-money laundering actions advocated by the FATF as crucial for the smooth functioning of the financial markets. While we cannot guarantee the accuracy of our figures—and you have certainly a better evaluation than us—the estimates of the present scale of money laundering transactions are almost beyond imagination—2 to 5 percent of global GDP would probably be a consensus range. This scale poses two sorts of risks: one prudential, the other macroeconomic. Markets and even smaller economies can be corrupted and destabilized. We have seen evidence of this in countries and regions which have harbored large-scale criminal organizations. In the beginning, good and bad monies intermingle, and the country or region appears to prosper, but in the end Gresham's law operates, and there is a tremendous risk that only the corrupt financiers remain. Lasting damage can clearly be done, when the infrastructure that has been built up to guarantee the integrity of the markets is lost. Even in countries that have not reached this point, the available evidence suggests that the impact of money laundering is large enough that it must be taken into account by macroeconomic policy makers. Money subject to laundering behaves in accordance with particular management principles. There is evidence that it is less productive, and therefore that it contributes minimally, to say the least, to optimization of economic growth. Potential macroeconomic consequences of money laundering include,

but are not limited to: inexplicable changes in money demand, greater prudential risks to bank soundness, contamination effects on legal financial transactions, and greater volatility of international capital flows and exchange rates due to unanticipated cross-border asset transfers.

Moreover, I should add that while, from the viewpoint of the Fund as a financial institution, I emphasize the economic costs, we must also remember the social and political dimensions of crime and related money laundering—the suffering of the victims and the overall weakening of the social fabric and collective ethical standards. All of this lends urgency to anti-laundering efforts, which attack criminal activity at the most vulnerable point—where its proceeds enter the financial system.

But does this mean that we should abandon the liberalization of the financial markets? This high-minded argument is often raised by those of our critics who believe that the IMF should halt its efforts to move its members away from control-based, towards market-based, financial systems because such systems open up possibilities for money launderers. Some have argued that keeping in place centralized credit allocation and foreign exchange control systems is necessary to identify money launderers—even if we now know that such systems are inimical to economic growth. However, I am reassured that Recommendation 22 of the FATF’s 40 Recommendations is very clear on this point: “Countries should ... monitor the physical cross-border transportation of cash and bearer instruments—without impeding in any way the freedom of capital movements.” Information, rather than control of the transactions, is the key to the basic “know your customer” approach of the FATF. More generally, the value of adequate information to guide the supervision of financial markets has been made very clear by recent events in South-East Asia. It is not just free financial markets that the IMF advocates, but also modern financial markets—in which there is a good measure of transparency and prudential regulation to ensure the fairness, soundness, and legality of the systems. Adoption of the FATF’s recommendations is an important part of that aspect of market development. On the other hand, controls of all kinds and state interventions do not have an impressive record in avoiding money laundering, while they frequently create opportunities for corruption. Does this still hold true in a context of globalization?

Globalization and money laundering

Globalization of financial markets is one of the most important contemporary developments. What are its implications for the fight against money laundering? Clearly, globalization implies that the prevention strategies must be universally applied. All countries must participate—and participate enthusiastically—or the money being laundered will flow quickly to the weakest point in the international system. It is in this respect that the FATF plays an especially important role. It has developed a comprehensive and authoritative set of international standards for anti-money laundering policies, and procedures for their application and enforcement. Through its so-called “typologies” exercises, the FATF has pooled the intelligence of its members regarding financial instruments and institutions used by the money launderers, and this is reflected in its standards. The FATF has also been energetic in spreading its message beyond its own membership, which is comprised largely of the industrial countries. Like the IMF, it has found the “mission” format, by which groups of FATF experts visit nonmember countries, to be valuable in disseminating and promoting its policies. But this process is even more effective when the countries concerned are members of the FATF group—and can enjoy the immediacy, “ownership,” and self-evaluation that come with membership.

It is therefore a significant achievement that the FATF has established, within the few years since its own formation, two regional offshoots—the Caribbean FATF, and very recently, the Asia/Pacific Group on Money Laundering. These regional bodies will play an important role in promoting the “modern” financial markets that I referred to earlier—taking into account the special features and state of development of the regional systems.

Good governance

Much has been accomplished, but much remains to be done—on your part and our own. Our efforts and your efforts cannot be separated from the global strategy of improving governance. The IMF is increasingly incorporating governance issues within its overall mandate. The IMF’s Interim Committee, at its meeting in Washington in September 1996, adopted a declaration which identified “promoting good governance in all its aspects, including ensuring the rule of law, improving the efficiency and accountability of the public sector, and tackling corruption” as an essential element of a framework within which economies can prosper. Particularly in countries where there is significant participation of government institutions or officials in illegal activities—which yields proceeds that must then be laundered—the adoption of anti-laundering policies can have far-reaching effects on governance. In such countries, the IMF is actively using its available leverage to persuade the authorities to take the necessary steps. The global nature of the IMF’s surveillance and technical assistance activities offers opportunities for raising awareness of the need for a robust international anti-money laundering system—pointing to the need for governments to adopt effective anti-laundering legislation, and to contact the FATF for its expert assistance in developing detection and enforcement capabilities. An important step toward full international coverage of this system will be the creation of further regional FATFs—notably for the transitional economies of Europe, and in the African and Middle Eastern regions.

Role of banking supervision

Another area of the Fund’s work that has a close association with the fight against money laundering is that of banking supervision. The Core Principles for Effective Banking Supervision, approved by the Basle Committee in September 1997, state that “Banking supervisors must determine that banks have adequate policies, practices and procedures in place, including strict ‘know-your-customer’ rules, that promote high ethical and professional standards in the financial sector and prevent the bank being used, intentionally or unintentionally, by criminal elements.” The IMF provides extensive policy and technical assistance to central banks and other national institutions around the world in building up their supervisory capabilities. This assistance has been framed around, and in fact has contributed to, the core principles. Recent developments have shown an acute need for actions to strengthen the infrastructure for prudential supervision in some countries that otherwise have relatively advanced financial markets, but where inadequate supervision remains an “Achilles heel.” Top priority must be given to developing supervision of financial sectors. Such supervisory frameworks will also constitute an important means of generating close adherence to the FATF’s principles. They are in the best interest not only of the international system, but also, and first and foremost, of the individual countries concerned.

In the context of banking supervision, I would like to say a special word about offshore banking centers. With the widespread elimination of exchange controls and the emergence of domestic derivative finance, the traditional role of the offshore centers has

diminished. However, the proliferation of smaller offshore centers offering “tax and regulatory services,” including secrecy and confidentiality, is a cause for concern. Some of the offshore centers feature prominently in international discussions of serious money laundering problems. Even with the government’s best will—and that is sometimes not present—very small countries or territories tend to lack the expert resources needed to supervise large numbers of offshore banks. Caution thus dictates that licenses to operate offshore facilities in such countries should be granted only to proven institutions that are adequately supervised in their respective countries of origin. I am not sure that this is always the case, and the question is whether the international community can continue to tolerate these weak links in its organization.

Other related work of the IMF

What other aspects of the IMF’s activities bear on the money laundering problem?

- First, in many countries, the IMF provides technical and policy assistance to members in drafting new central bank and commercial banking laws. This provides a good opportunity to remind countries of the need for anti-laundering provisions, such as the obligation to verify the identity of customers and to report suspicious transactions to the police or similar enforcement groups. Model laws, which draw together expertise of other countries, can provide a very useful start to this process.
- Then there are the IMF’s *research and statistical functions*. It probably does not surprise you to know that IMF staff have been active in researching underground economies and the closely related money laundering problem for almost two decades now. Good analysis is necessary to determine the scope and form of the money laundering problem, and to help direct enforcement resources efficiently to the key aspects of the problem. Good data are also necessary—money laundering is by definition a hidden activity—and therefore indicators must be drawn from a wide range of economic and social data. Although not directly usable to identify money laundering, extensive international financial and cross-border data compiled by the IMF have been used in a number of economic studies of money laundering. In fact, money laundering is now an important consideration for compilers of international data because it creates global asymmetries in the data.
- Finally, there is the IMF’s work on fiscal issues, and on *tax evasion* in particular. Although some members’ anti-money laundering legislation does not apply to the proceeds of tax evasion, there are inevitably close linkages between the two. Money that has evaded taxes must be disguised, and laundered money must be kept hidden from the tax authorities. The IMF’s policy and technical work to help its members improve their tax collections therefore assists the fight against money laundering—directly or indirectly, depending on the relevant legislation in the individual country.

* * * * *

I will conclude by emphasizing once again that there is no conflict between free, competitive markets and anti-money laundering regulations. On the contrary, there is considerable synergism between the two. The same oversight and supervision mechanisms that operate to ensure the smooth functioning of the market-oriented

financial system make a strong contribution to the information base and the general environment of integrity that supports the FATF policies. Conversely, money-laundering seriously undermines the functioning of markets, with a consequent negative impact on economic growth. It is true that the regulatory policies to achieve both sets of aims are by necessity those of sovereign nations and cannot simply be imposed on them. But unquestionably, they deserve the support of all—the international financial and enforcement communities, as well as the individual banks, nonbank intermediaries, and regulators in each of the countries. And we as international bodies must ensure that the policies are *perceived* as being in the self-interest of all. It need hardly be said that the quality of our cooperation will only add to the strength of our common message!

ANNEX B

Sources of support for the forty Recommendations outside FATF

CFATF

The Caribbean Financial Action Task Force (CFATF) endorsed the original forty FATF Recommendations in the Kingston Declaration of November 1992.¹²

The current CFATF members¹³ are: Antigua and Barbuda, Anguilla, Aruba, the Bahamas, Barbados, Belize, Bermuda, the British Virgin Islands, the Cayman Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Jamaica, Montserrat, the Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Turks and Caicos Islands, Trinidad and Tobago and Venezuela.

Commonwealth

In October 1997, the Commonwealth Heads of Government (CHOGM) welcomed the endorsement by Finance Ministers of the updated forty Recommendations of the FATF.

The Commonwealth members, which are not members of FATF,¹⁴ are: Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Cameroon, Cyprus, Dominica, Gambia, Ghana, Grenada, Guyana, India, Jamaica, Kenya, Kiribati, Lesotho, Malawi, Malaysia, Maldives, Malta, Mauritius, Mozambique, Namibia, Nauru, Nigeria, Pakistan, Papua New Guinea, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Seychelles, Sierra Leone, Solomon Islands, South Africa, Sri Lanka, Swaziland, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Republic of Tanzania, Vanuatu, Western Samoa, Zambia and Zimbabwe.

Council of Europe

The Council of Europe Select Committee of Experts on the Evaluation of Anti-money Laundering Measures takes into account, as one of the relevant international standards, the forty Recommendations of the FATF (cf. Specific terms of reference adopted by the European Committee on Crime Problems for the Select Committee).

The membership of the Committee is comprised of the Council of Europe member States which are not members of the FATF: Albania, Andorra, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Liechtenstein, Lithuania, Moldova, Malta, Poland, Romania, Russian Federation, San Marino, Slovakia, Slovenia, "The Former Yugoslav Republic of Macedonia" and Ukraine.

¹² In the Kingston Declaration, the governments of the CFATF members also made a commitment to implement the 19 additional CFATF Recommendations. The CFATF has been conducting a typologies exercise evaluate and to determine whether any interpretative notes and/or amendments to the FATF revised Recommendations and the CFATF 19 recommendations are appropriate.

¹³ Aruba and the Netherlands Antilles are part of the Kingdom of the Netherlands, which is a member of FATF.

¹⁴ The Commonwealth members which are members of the FATF are: Australia, Canada, New Zealand, Singapore and the United Kingdom.

Offshore Group of Banking Supervisors

The conditions for membership of the Offshore Group of Banking Supervisors (OGBS) include a clear commitment to be made to the FATF's forty Recommendations.

In addition, the following members of the OGBS, which are not members of the FATF or the CFATF, are formally committed to the forty Recommendations through individual Ministerial letters sent to the FATF President during 1997-1998: Bahrain, Cyprus, Gibraltar, Guernsey, Isle of Man, Jersey, Malta, Mauritius and Vanuatu.

Riga Declaration

In a Declaration signed at Riga in November 1996 by their Prime Ministers, Estonia, Latvia and Lithuania committed their Governments to the fight against money laundering. The preamble of the Declaration states, inter alia, that these governments are committed to implementing anti-money laundering measures based on the forty Recommendations of the FATF.

Asia/Pacific Group on Money Laundering (APG)

The revised Terms of Reference for the APG, adopted in Tokyo on 10-12 March 1998, recognised that the FATF's forty Recommendations are accepted international standards.

The members of the APG are: Australia, Bangladesh, Chinese Taipei, Fiji, Hong Kong, China, India, Japan, New Zealand, Peoples Republic of China, Republic of Korea, Republic of the Philippines, Singapore, Sri Lanka, Thailand, United States of America and Vanuatu.

ASEM

The Communiqué of the Asia-Europe meeting (ASEM2) held in London on 3-4 April 1998, stated that "The development of policies against money laundering has been helped by the FATF's forty Recommendations which are now the internationally accepted standard."

United Nations

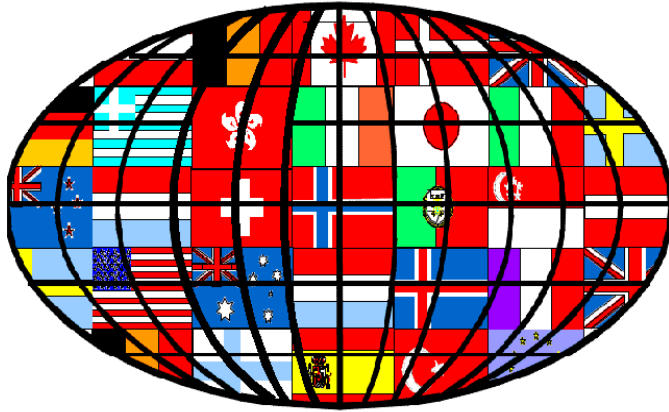
In a Declaration of 10 June 1998, the United Nations General Assembly in Special Session on the world drug problem recalled that the 1996 Resolution 5 of the United Nations Commission on Narcotic Drugs noted that "the forty Recommendations of the Financial Action Task Force remain the standard by which anti-money laundering measures adopted by concerned States should be judged;"

In December 1997, in Gand-Bassam (Ivory Coast), participants in the United Nations Workshop on Money Laundering recommended that States should adopt or take into account the Recommendations of the Financial Action Task Force on Money Laundering.

In March 1998, a United Nations Conference on Money Laundering awareness-raising for South and South West Asia recommended that "in drafting their legislation, States should have regard to the standards set out in the 40 Recommendations of the Financial Action Task Force on Money Laundering; ...".

ANNEX C

**FINANCIAL ACTION TASK FORCE
ON MONEY LAUNDERING
FATF**



**1997-1998 REPORT ON
MONEY LAUNDERING TYPOLOGIES**

12 February 1998

FATF-IX REPORT ON MONEY LAUNDERING TYPOLOGIES

I. Introduction

1. The group of experts met in Paris on 19-20 November 1997 under the chairmanship of Mr. Pierre Fond, deputy Secretary-General of TRACFIN (*Traitement du renseignement et action contre les circuits financiers clandestins* -- Treatment of information and action against illicit financial circuits). The meeting took place at the Conference Centre of the French Ministry of the Economy, Finance and Industry in Paris. The group comprised representatives of the following FATF members: Australia, Austria, Belgium, Canada, Denmark, European Commission, Finland, France, Germany, Greece, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. Experts from non-member international organisations with observer status, namely Interpol, the International Organization of Securities Commissions (IOSCO), the World Customs Organisation (WCO) and the United Nations International Drug Control Programme (UNDCP), also attended the meeting.

2. The purpose of the 1997-1998 typologies exercise was to provide a forum for law enforcement and regulation experts to discuss recent trends in the laundering of criminal proceeds, emerging threats and effective countermeasures. While the discussions focused principally on money laundering developments in FATF member countries, the experts also sought to pool available information on prevailing money laundering patterns in non-member countries or regions.

3. In the context of work on the more targeted typologies, the present report focuses mainly on areas which still have to be mastered, such as new methods of payment, but also on the non-financial professional activities that constituted the central subject of the 1997-1998 exercise. The report also deals with the question of laundering through fund transfer companies and presents other interesting typologies noted by the experts. The final part of the report seeks to give a picture of the laundering situation in regions of the world where FATF has few or no members.

II. Analysis of specific trends in laundering in FATF countries

(i) Present trends in money laundering

4. A number of delegations stated that there had been no really new developments since the previous exercise. Drug trafficking and financial crime continue to be the chief sources of illicit proceeds. Several members cited increased cigarette and alcohol smuggling as the main origin of capital for laundering. Others cited usury, investment and VAT fraud, false invoicing and financial fraud. A shift of some laundering activities from the traditional financial sector to non-financial professions or enterprises was noted.

5. While it would not be strictly true to say that new segments of the financial sector are being used by launderers, new developments have been observed as regards *bureaux de change* and insurance companies. Manual currency exchange operations, which formerly were used essentially at the placement stage, are now being used also at the layering stage. Where insurance is concerned, relatively complex cases involving single premium contracts have recently been discovered which reveal less rapid procedures and less liquid transactions, allowing longer-term laundering that may offer a degree of safety to criminals. This complexity and diversification of laundering techniques, also to be found in the securities and futures trading sector, underscores the need for further investigative work in these areas. The other notable development in 1997 was the surge of new payment technologies in the banking and financial networks of FATF member countries.

(ii) New payment technologies

a. *Present status of new technology systems and developments since the last typologies exercise*

6. Although many members stressed that there had been little innovation relative to laundering, it was generally found that the new technology systems were in a phase of steady development or even rapid expansion. In Sweden, one of the country's largest banks now has 100 000 customers with an account on the Internet, with the same 24-hour services as those offered at the counter. An increasing number of banks have their own website and some have even introduced virtual counters permitting most of the conventional banking operations: consultation of accounts, transfers, etc. In some countries (Belgium, for example) these services are at present confined to domestic transactions.

b. *How may the new technology systems facilitate money laundering?*

7. Although no case of laundering has been detected in this sector, the experts endeavoured to show what might be the risks posed by the new technologies. The fact that no laundering operation has been identified to date may mean that the appropriate services lack the necessary means and capability of detection or else that the new payment technologies do not carry any particular laundering risks. However, this second possibility should probably be discounted in view of several features of these technologies such as the rapidity of transaction performance, the numerous opportunities for anonymity that are offered, and the risk of a break in the audit trail and withdrawal from the traditional banking system. The experts exchanged views on these questions in regard to the following systems: electronic purses, banking on the Internet and direct (distance) banking. Most members saw more inherent danger in Internet transactions than in smart cards, although other delegations stressed the dangers of the latter.

8. The vulnerability of electronic purses would be limited by the following conditions:

- limitation of the amount of any one transaction;
- distribution of cards by issuers connected to financial institutions, and linkage to a bank account;
- restriction of payment card operations to the national territory.

9. Electronic purse systems would present a laundering risk in future if their upper limits were to be raised substantially or even removed altogether. However, some of these limits are already quite high. In the United Kingdom, most smart cards have a payment capacity of between £ 100 and £ 200 (i.e. between roughly US\$ 150 and US\$ 320), but a few go as high as £ 500 (about US\$ 820), in which case it could easily be imagined that criminals would not hesitate to practise "smurfing".

10. Electronic purse systems also present increased risks of laundering when they can be used for cross-border transactions. This risk is very real, given that the one corporation is preparing to introduce such a system, which will certainly pose problems of international co-operation as regards jurisdictional competence and the site of legal proceedings. Finally, the dangers of laundering are evident with the development of cyberpayment systems involving direct transfer from cardholder to cardholder so that there is no audit trail.

11. The Internet sites opened by duly authorised banks are not particularly disturbing in themselves. It seems natural that banks should use this new commercial technique like other business enterprises. What is clearly a problem, however, is the opening of bank sites on the Internet in breach of banking regulations. In this case, the difficulty is to bring proceedings against the perpetrator, given the international character of the Internet and the difficulty of locating a site, which may be different from the one where the illegal practices were identified, and identifying the national law that would apply. As

yet only one case of this kind has been encountered, namely that of the Antigua-based “European Union Bank” which explicitly proposed completely anonymous investments (see also paragraph 72).

12. The new payment technologies present features very similar to those of electronic funds transfers: rapidity of execution, dematerialisation and magnitude of transactions. These features pose difficulties as regards traceability of payments and law enforcement intervention only after the event. At the same time, the new technologies could theoretically provide effective means of record keeping. In practice, all that can be established at present is the fact that the necessary adaptation of controls to combat criminal activity has not kept pace with the industrialisation of transactions.

13. Apart from banking on the Internet and electronic purse systems, delegations noted that the development of banking by telephone and of casinos on the Internet could make laundering easier. The intensive use of 24-hour telephone banking services has created a significant obstacle to investigations of laundering. Direct banking implies the establishment of a distance between the banker and his client, and hence the lessening or even disappearance of the physical contact on which the traditional conception of client identification rested. While these services clearly have practical advantages for clients in terms of flexibility, they make it more difficult to detect laundering activities since the traditional methods of supervision cannot be applied. As regards information available on the Internet, casinos in several countries offer complete anonymity to potential gamblers, the latter placing their bets by way of credit card. The risk of laundering is even more patent if the casinos in question also manage the accounts of their Internet customers.

c. Implementation of countermeasures

14. Before introducing any countermeasures, law enforcement authorities should make certain that such measures will be of a nature compatible with the real risks and the constraints imposed on financial institutions and should engage in consultations with the private sector for this purpose. If one is to avoid the emergence of a two-speed system of anti-laundering action, with the traditional banking system on the one hand and the new technology systems on the other, controls will have to be adapted to the latter.

15. A number of countries have set up task forces on this question: in Australia, following a 1996 report by AUSTRAC (Australian Transaction Reports and Analysis Centre) to the Commonwealth Law Enforcement Board, a research group on electronic trading has been established to provide advice to the Board and Government. In Belgium, a task force on the Internet has been set up by the Minister of Justice, notably to study prevention and indictment of all forms of criminal action committed on the network. In Sweden, a government commission is currently working on various problems connected with electronic money, including money laundering, and has produced a partial report. The final report is scheduled for the end of July 1998.

16. Of the different approaches envisaged, members decided to consider how the existing laws could be adapted as opposed to the introduction of new legislation. The need to apply different policies according to type of transaction was also mentioned. Finally, the importance of international co-operation in this area was stressed.

17. In more concrete terms, particular consideration might be given to the following measures:

- making not only issuers but also distributors of instruments linked with the new technologies subject to anti-laundering legislation, given the shift of laundering away from the financial sector and the fact that the agents of these systems are not all financial institutions;
- authorisation and surveillance of issuers of new technology products, since anti-laundering measures are better complied with when they apply to a regulated and controlled sector;

- a possible adjustment of existing anti-laundering measures, notably as regards client identification and the audit trail, so as to enable issuers of new technology products to help the competent authorities to detect the circulation of anonymous instruments of payment for criminal purposes.

(iii) Funds transfer enterprises or activities (formal and informal)

a. *Brief overview of the sector*

18. In most FATF countries, international funds transfers are performed essentially by the banks. However, there are other possibilities of transferring funds abroad through money remitters, who normally provide a valid and legitimate financial service. Enterprises performing this activity receive from their clients cash sums which are transferred to designated beneficiaries against payment of a commission. Money remitters traditionally serve the non-banking segment of the population, notably new immigrants, permit-holding or clandestine foreigners or any other person not having a bank account. Funds are often transferred to the least advanced regions of the world where no proper banking services exist.

19. The different operations may be classified as follows:

- funds transfer companies possessing separate networks (like Western Union and Money Gram);
- money transfer systems connected with clandestine banks (underground banking);
- money transfers by way of the collection accounts of foreign banks (accounts opened with subsidiaries or branches, or even representative offices of foreign banks which transfer the earnings of immigrant workers to their countries of origin);
- international money orders.

b. *Use of international funds transfer for laundering purposes*

20. The law enforcement services of different member countries have discovered an increasing number of suspicious transactions involving money remitters. The authorities of one member estimate that this is one of the principal laundering methods used in their territory. In a member country, the average sum transferred abroad is about US\$ 4 900 and these transfers are often made under false identities. In an Asian member country, a money remitter operating without authorisation from the competent ministry transferred a total of about US\$ 93 million to China over a period of three years. A member has established that Colombian cartels use certain money remitters operating in its territory to launder their proceeds from drug trafficking.

21. The risks of laundering are not confined to the funds transfer networks serving ethnic groups, they may also apply to official networks like those of the postal service. For example, the authorities of a Scandinavian country have noted a steep increase in international money orders to the countries of ex-Yugoslavia. In a member country, the mail services are being used to send packages containing large cash sums and also drugs anonymously.

22. Other laundering activities through funds transfer systems involve *bureaux de change*. The authorities of a member have identified several proprietors of exchange offices and remittance services who have links with drug traffickers and receive sums from them for transfer to other parts of the world. Another member noted that remittances on behalf of ethnic groups may also go through *bureaux de change*, although performance of these notional transfers by manual exchange operations is regarded as an illegal banking activity.

23. On the whole it is considered that systems based on trust rather than on a professional and legal foundation favour anonymity and make it difficult to identify the actual recipient of funds. Another problem, mentioned by Australia, is the insufficiency of hard evidence of laundering, although numerous investigations have been opened in this sector.

c. Countermeasures in place or planned

24. The dangers of laundering in the funds transfer sector have been taken seriously by all countries. Many have already introduced a set of measures or about to do so, even though the professions or activities in question are not specifically targeted by the present FATF Recommendations. A first approach has been to bring funds transfer companies within the scope of anti-laundering legislation (as in Australia, Belgium and Germany). In the Netherlands, money remitters will be made subject to the requirement to report unusual transactions and a system of surveillance will be introduced. In Spain, the competent authorities are preparing a decree regulating the activities of offices handling international funds transfers, which are already covered by the general rules regarding prevention of laundering in the financial system. The decree will serve to tighten supervision of the activities concerned. In February 1997, the Hong Kong police published specific directives for funds transfer corporations and *bureaux de change* advising them to adopt anti-laundering measures similar to those of the banks, as regards client identification, record keeping and reporting of suspicious transactions. In a number of countries, the international postal money order services, too, are subject to the anti-laundering law (as in France).

25. In Germany, the fact that suppliers of funds transfer services are subject to the anti-laundering law makes it possible also to cover the case of foreign banks' representative offices that perform transfers. The banking supervision authorities plan to introduce supplementary measures for money remitters, such as the lowering of client identification thresholds to DM 5 000 (about US\$ 2 700), the requirement to supply monthly statistics on the number of transfers and their amounts, and additional measures as regards identification record keeping. In the Netherlands identification thresholds have also been lowered, from NLG 10 000 to 5 000 (approximately US\$ 4 800 to US\$ 2 400). While the lowering of these thresholds is an appropriate measure, there is still the question of the effects which this may produce, notably an increase in "smurfing" operations. Consequently, it is necessary to think about ways of detecting such activities. It is also important to ensure better identification of the recipients of funds, or at least to be able to detect any convergence of transactions on a sole operator located abroad.

26. As regards transfers made by agencies of international corporations like Western Union and Money Gram, these are covered by anti-laundering law in many member countries. In Switzerland, for example, transfers made through Western Union will be subject to the new law on money laundering as of 1 April 1998, and notably to the reporting requirement. In Sweden, a constructive dialogue appears to have begun between the NFIS (National Financial Intelligence Service) and Western Union representatives. However, in some countries, the sub-agents and agents of Western Union operating through "kiosks" are not covered by the anti-laundering regulations.

27. Several members pointed out that the introduction of measures should be reinforced by action to alert the professions concerned. In the United Kingdom, the National Criminal Intelligence Service (NCIS) is seeking to make fund transmitters aware of their obligations under anti-laundering law so that more information will be forthcoming from this sector. In Hong Kong, the police services have recently made on-the-spot visits to explain the content of the directives they have issued to money changers and fund transmitters.

28. Finally, there are more specifically targeted controls like the United States GTO (Geographic Targeting Order). These orders impose, relative to the Banking Secrecy Act, stricter requirements on financial services providers as to disclosure of suspicious transactions and the keeping of records for a limited period and in a specific geographic area. A GTO of 7 August 1996 was applied to 12 money transmitters and 1 600 agents in the metropolitan area of New York, requiring them to report all cash transfers of over US\$ 750 to Colombia. The initial order, valid for 60 days, was renewed six times so as

to terminate in October 1997. Its coverage was also extended to 23 licensed transmitters and about 3 500 agents. The result of the New York GTO was an immediate and spectacular reduction in the flow of drug trafficking proceeds to Colombia (down 30 per cent in volume). About 900 money transmitters ceased their activity and some of them were even arrested.

(iv) Other observed trends in laundering

a. *The insurance sector*

29. The written submissions and presentations made at the meeting of the group of experts revealed some diversification of laundering activities in other segments of the financial sector, like insurance. A member noted the use of single premium insurance contracts to conceal illicit income. In two other member countries, reports of suspicious activities from the insurance sector reveal the practice of early redemption of capital invested, in spite of possible penalties.

b. *Money changing*

30. The *bureaux de change* sector continues to be a very important link in the laundering chain: cash proceeds from drug trafficking and other criminal activities often transit through this sector. For some years now the authorities of a member have noted a shift of certain very large-scale exchange transactions from the banks to small *bureaux de change*, and this development, which is the direct consequence of the rules of vigilance introduced by the banking sector, is becoming more pronounced. Thus a report of suspicious activity from a money changer implicated two individuals who had jointly made a US dollar/local currency exchange transaction amounting to US\$ 5 million. The unusual feature of this transaction was that used dollar bills were changed into local notes which were then utilised, on the same day and in the same *bureau*, to purchase unused dollar bills. In another member country an investigation revealed a case of laundering in which an exchange office had changed more than US\$ 50 million at a foreign bank over a period of 13 months (see Case No. 6).

31. In an European FATF member, during the first nine months of 1997 a total of 92 actions were initiated against 289 persons having used *bureaux de change* for transactions amounting in all to about US\$ 45 million. In another member country, the law enforcement services have observed a strong and growing tendency for *bureaux de change* to be used by criminal organisations. Two main techniques are reported at present: the changing of large amounts of criminal proceeds in local currency into low bulk continental currencies for physical smuggling out of the country, and electronic funds transfers to offshore centres. Underground exchange mechanisms are obviously also being widely used for money laundering purposes (see Case No. 8).

32. With regard to exchange transactions, the member countries of the Economic and Monetary Union should consider whether existing anti-money laundering provisions are appropriate to the exceptional circumstances resulting from the period of conversion of national currencies to the Euro which will start in four years.

c. *Cross-border transportation of cash and electronic funds transfers*

33. Hard evidence of the growth and sophistication of cross-border transportation of cash was supplied by several members (see Case No. 3). In Spain, the government is considering expanding the current obligations to declare the import of cash at the customs.

34. Two other members pointed out that electronic funds transfers feature very often in layering operations. One of the most popular techniques is simply to transfer illicit funds through several different banks in order to blur the trail to the funds' source. Another method is to make transfers from a large number of bank accounts, into which deposits have been made by "smurfing", to a principal collecting account which is often located abroad in an offshore financial centre. In this regard, the

adequacy of present anti-laundering measures can be questioned: to obtain the relevant information concerning an international electronic transfer made in one day, the investigating services have to wait an average of about two years for the results of an investigation by jurisdictional delegation.

d. The gold market

35. The FATF experts considered for the first time the possibilities of laundering in the gold market. The scale of laundering in this sector, which is not a recent development, constitutes a real threat. Gold is a very popular recourse for launderers because of the following characteristics:

- a universally accepted medium of exchange;
- a hedge in times of uncertainty;
- prices set daily, hence a reasonably foreseeable value;
- a material traded on world markets;
- anonymity;
- easy changeability of its forms;
- possibility for dealers of layering transactions in order to blur the audit trail;
- possibilities of double invoicing, false shipments and other fraudulent practices.

36. Gold is the only raw material comparable to money. Although other precious metals and diamonds are used in cases of recycling, gold is preferred by launderers. Moreover, the drug routes, especially for heroin, coincide fairly clearly with the gold routes. The “hawala” alternative banking system, which is widespread in South Asia and the Middle East, is also connected with the gold circuits. The investigating services are having the greatest difficulty in piercing this system which facilitates both currency exchange and the purchase and sale of gold.

37. Two members instanced specific legislation to combat gold market laundering. In Australia, gold traders are subject to the requirements of client identification and disclosure of transactions in excess of A\$ 10 000 (about US\$ 6 700). In Italy, a procedure, similar to the US Geographic Targeting Order, requires all the financial institutions in a town where gold was refined to disclose all relevant transactions.

38. The question of laundering in the gold market most certainly needs to be examined in greater depth. It would be extremely useful to continue to study it in future typologies exercises as a specific subject, after collecting written submissions on the different regulations in force in member countries.

III. Money laundering and non-financial professions

39. For the first time FATF has made an in-depth analysis of laundering in the non-financial sector, treating this question as a special subject in the 1997-1998 typologies exercise. The method used was to assemble all the facts indicating involvement in money laundering and the magnitude of the problem, together with the existence of specific or general countermeasures, on a strictly sectoral basis.

40. Given the development of anti-laundering legislation in many countries, criminals are having increasing recourse to intermediaries other than those of the banking and financial sectors. In view of this trend, governments have started to tackle the problem. In one member country, a recent study has identified a number of professions in which laundering activities are intensively pursued (dealers in motor vehicles, boats and real estate, lawyers and accountants, lotteries, horse races and casinos). In the framework of the European Union, a high-level task force on organised crime has called for measures to be developed to shield certain vulnerable professions from influences of organised crime in general and recommends that the obligation in the money laundering Directive to report suspicions should be extended to persons and professions outside the financial sector. Article 12 of the Directive already

provides a basis for such extension, although delicate questions such as the professional secrecy of certain professions, will have to be addressed.

41. Several countries are in the process of enacting legislation to bring non-financial professions under their anti-laundering regimes. In Belgium, an extension of the scope of the Act of 11 January 1993 to bailiffs, notaries, company auditors, external auditors, real estate agents, casinos and funds transport firms is the subject of a Bill for the implementation of the government's plan of action against organised crime. In Finland, a new law on prevention and detection of laundering will require casinos, betting offices and real estate agents to identify their clients and report suspicious transactions. In Italy, the provisions of the anti-laundering Act No. 197/91 will soon be extended to companies practising activities particularly liable to be used for laundering purposes (casinos, lawyers, accountants, jewellers). In Sweden, a Bill is under consideration for the introduction of reporting requirements, but not a complete incorporation of the non-financial professions into the anti-laundering regime.

42. Even in countries where the non-financial professions are already covered by anti-laundering legislation, attempts are being made to improve existing measures. For example, in the present state of law of one member, non-financial professions are required to report to judicial authorities the facts of laundering of which they have knowledge, as opposed to simply their suspicions. This provision, which has yielded few results (about ten cases in seven years), greatly diminishes the effectiveness of anti-laundering action, for in many files it is clear that the suspicious nature of the operation may have been discovered much earlier, in particular by the real estate agents or notaries concerned. The possibility of aligning the obligations of non-financial professions connected with real estate transactions (agencies, notaries) with those of financial institutions is therefore being studied.

(i) Lawyers, notaries and accountants acting as advisers or financial intermediaries

43. Several members cited cases involving lawyers. In one member country, one of the laundering techniques used is to deposit cash in solicitors' client accounts, in several amounts under about US\$ 6 700, and then use the total credit balance for a real estate investment. In another member, a recent enquiry revealed how a lawyer could use a client account to launder the proceeds from a credit fraud offence. The funds were paid into the lawyer's client account, then converted by him into cheques drawn on a bank of another country which were subsequently cashed by a correspondent designated by the lawyer concerned.

44. In one member country, thanks to information transmitted to the public prosecutor's office in real time by a local banking establishment, the criminal investigation department was able to arrest *in flagrante delicto* a lawyer from another country who had appeared at the counter of the bank concerned to withdraw the money in his correspondent's account by way of a power of attorney in due form. Investigations with foreign authorities confirmed that the account holder was being held in their country on charges of large-scale drug trafficking. The account holder's credit balance amounted to about US\$ 600 000.

45. In one member country, a solicitor transferred funds to a colleague, explaining that they were the proceeds from a sale of assets bequeathed by an individual in his will. The second solicitor was not satisfied with this explanation and reported his suspicions. The subsequent enquiry confirmed these suspicions about the legitimacy of the purported asset transactions.

46. In one member country, a prominent attorney performed services for a whole clientele of launderers. A client with US\$ 80 million, proceeds from an insurance fraud, used the lawyer to transfer the money to financial institutions in countries where there are few or no anti-laundering regulations. The attorney opened accounts in various banks under false names of individuals or corporations. The illegal funds were placed in the form of cash or cheques in banks in the member in question, then wired to the different accounts controlled by the attorney. It should be noted that because of his professional

repute the domestic banks never considered it necessary to look more closely at the nature of the transactions in question (see Case No. 4).

47. Accountants may also be involved in various cases of laundering. In one member, an accountant was recently sentenced to three years' imprisonment for laundering drug money. He had received 10 per cent commission on a total sum of about US\$ 700 000 in profits of criminal origin. At the same time it has to be acknowledged that accountants can also be useful sources of information in anti-laundering action. Technically, they are among the professionals best fitted to detect the fraudulent mechanism that may underlie an unusual transaction. Accountants and auditors are very present in the business sector, and less directly in charge of their clients' interests than lawyers. In France, for example, the association of accountants, concerned about its reputation and aware of its responsibilities in combating the scourge that criminal money has become, has contacted the authorities to see what contribution it might make. Needless to say, the inclusion of accountants in the scope of anti-laundering legislation can be effective only if they become familiar with the typologies of criminal money recycling.

48. The need for relevant training of this profession, but also of lawyers and notaries, was stressed by several delegations, even in the case of countries where an anti-laundering system is already in place. In the United Kingdom, solicitors and accountants respectively have to comply with professional codes of conduct and guidelines, but to date they have made very few declarations of suspicion. In the Netherlands, notaries are required to check the identity of their clients and that their services are being used for legal purposes. A list of relevant indicators has been issued by the association of notaries. If the checks do not confirm legality, the notary must refuse to provide his services.

49. Because of their central position in the legal system applying to real estate transfers and other important transactions, and in some countries the setting up of corporations, notaries are liable to experience instances of laundering. Their involvement may range from simple acquiescence to facilitation or even active participation in the laundering operation with full knowledge of the facts. In one member country, nationals of a Central European country were reported for having, on numerous occasions, paid cash sums into the account of a notary up to a total of about US\$ 700 000. Another case revealed a swindle perpetrated by a European company for the benefit of another company located in a tax haven, the deal being founded on a contract signed in due form in the presence of a notary. The sum in question amounted to about US\$ 840 000.

50. The problem confronting legislators in many countries is to establish a clear distinction between the financial intermediary and advisory activities not only of notaries but also of lawyers. In Switzerland professionals offering financial services will be subject to the money laundering legislation as of 1 April 1998. They will then have two years in which to register with a self-regulatory body.

51. The examples cited in this section of the report, both as to cases and as regards countermeasures, are applicable only to the individual countries concerned, since the definitions of the legal professions vary greatly from one country to another. It would therefore be useful to have a complete picture of the anti-laundering legislations applicable in the different member countries, bearing in mind that the responses to the new annual self-assessment questionnaires should also yield some interesting information in this regard.

(ii) Shell corporations and company formation enterprises

52. Shell corporations, in countries where these exist, continue to be a widely used tool for recycling illegal money (see Case No. 2). In this connection two delegations provided a good example of a case that also involved a company supplying secretarial services (see Case No. 5).

53. The role that company formation enterprises might play was mentioned by the United Kingdom. NCIS has therefore recently published a set of guidelines for such enterprises, some of which are covered by the anti-laundering regulations.

(iii) Casinos and gambling

54. In this other part of the non-financial sector, cases of laundering abound. In one member country, methods reported during the past year include the purchase and repayment of gambling tokens in multiple amounts of less than about US\$ 6 700, the receipt by casino clients of winner's cheques made out in the name of third persons, and the use of tokens for purchases of goods and services and for drug purchases. Other delegations cited different cases involving casinos, gaming businesses and various lotteries, including horse-racing. These entities provide ample opportunities for laundering, given the amount of cash that changes hands there.

55. Casinos are the site of the first stage in the laundering process, i.e. converting the funds to be laundered from banknotes (circulating currency) to cheques (bank money). In practice the method is to buy chips with cash and then request repayment by cheque drawn on the casino's account. The system can be made more opaque by using a chain of casinos with establishments in different countries. Rather than request repayment by cheque in the casino where the chips were purchased with cash, the gambler says that he will be travelling to another country in which the casino chain has an establishment, asks for his credit to be made available there and withdraws it in the form of a cheque in due course.

56. Gaming businesses and lotteries, too, are being used increasingly by launderers. One member has evidence of multiple financial transactions made by the same person by way of cheques drawn on gambling agencies: loto, horse-racing and also casinos. This suggests that circuits have been set up to organise systematic buy-back of winning tickets from their legitimate holders. Another laundering technique connected with horse-racing and gaming has emerged. In this case the person will actually gamble the money to be laundered, but in such a way as to be reasonably sure of ultimately more or less recovering his stake in the form of cheques issued by the gambling or betting agency and corresponding to perfectly verifiable winnings from gaming. This method is much more reliable than the previous one, since the police investigation service, once it has verified the reality of the gaming operation and the person's winnings, will in principle have a great deal of trouble in going further and identifying the source of the money staked.

57. Countermeasures specific to the gambling sector, mainly for casinos, have been enacted by some FATF members. The closing of casinos in Turkey, which took effect on 10 February 1998, is anticipated by that country to contribute to anti-money laundering efforts as well. In the Netherlands, casinos belong to a public establishment named Casinos of Holland. Casinos are covered by the anti-laundering legislation, and only winnings from gambling are accepted for electronic transfer to a bank account. This arrangement might prove effective in countries where casinos offer a wide range of financial services, as in the United States. Other examples of countermeasures are to be found in the United Kingdom where emphasis is being placed on the importance of client identification, the concept of gamblers' "profiles" and the need to involve all the authorities concerned. Since the gambling sector is not covered by anti-laundering regulations, a code of conduct for the gaming profession has been adopted.

58. In the United States, comments have been requested on a new declaration form for casinos entitled SARC (Suspicious Activity Report by Casinos), which is already in use in the State of Nevada. In Belgium the introduction of a requirement for casinos to report to the CTIF (*Cellule de Traitement des Informations Financières* -- financial information processing cell) is envisaged. Casinos and the gambling sector in general should therefore constitute a genuine subject of concern for FATF, given that it is an expanding industry which is central to the development of tourism in many countries. Gambling is also becoming increasingly international in scale. Finally, the consequences of the growth of non-casino types of gambling and their development on the Internet (e.g. Bingonet) should be examined very carefully.

(iv) Other non-financial professions, including real estate agents and sellers of high-value objects

59. The real estate sector is now fully within the sphere of money laundering activities. Investment of illicit capital in real estate is a classic and proven method of laundering dirty money, particularly in FATF countries enjoying political, economic and monetary stability. Laundering may be effected either by way of chain transactions in real estate to cloak the illicit source of funds, or by investment in tourist or recreational real estate complexes which lend an appearance of legality.

60. Numerous cases of laundering were cited by the experts. One of the methods used is to buy and sell properties under false names. In a recent case presented by one member, two criminals were arrested for laundering about US\$ 270 000 through a real estate agency. One member was apprised of an interesting case involving a real estate agent located in an offshore centre and a notary (see Case No. 1). In another member, many suspicious real estate transactions take place in the south and involve amounts of the order of several million francs. In the Netherlands, thanks to the vigilance of banks, unusual transactions involving real estate agents have been reported to the MOT (Office for reports of unusual transactions). The government of that country is currently consulting the profession on its possible contribution to anti-laundering action.

61. In a Scandinavian country, a recent case was based on information concerning a previously convicted drug trafficker who had made several investments in real estate and was planning to buy a hotel. An assessment of his financial situation did not reveal the source of his income. Following his arrest and further investigations, he was sentenced for drug trafficking and money laundering to seven and a half years' imprisonment and about US\$ 4,4 million was confiscated (see Case No. 7). In another Scandinavian country, despite a strict system of recording all real estate transactions, the authorities have identified a few cases involving low-interest loans of suspect origin obtained abroad for purposes of investment in that country.

62. Finally, sellers of high-value objects like artworks are unquestionably a significant presence in laundering activities. Within the European Union, systems of national heritage protection have been adopted, particularly in France where exports of cultural goods require prior authorisation by the Ministry of Culture. In the previously mentioned case concerning real estate, another part of the drug profits had been laundered by the director of a art museum from another country, who received about US\$ 15 000 for producing false certificates of sale of art objects.

63. Another case, reported by a member, concerns the use of a rather special technique whereby a financial swindler on a international scale made one of his companies available to a major trafficker and launderer seeking to establish a source of funds. The latter would make periodic cash remittances to the money manager/swindler, who paid them into his company's accounts. Transfers were immediately made to Monaco and to other banking establishments in this member, in company accounts of which the launderer was the economic beneficiary. The purpose put forward to justify these transfers was the purchase of paintings by a master artist (Goya), either as payments on account or as settlements. The paintings were in fact fakes and, moreover, were never shipped. The payments in question were for amounts on the order of about US\$ 1 million. With this technique it is obviously possible to launder extremely large amounts of illicit money.

64. As regards these latter categories of professions in the non-financial sector, existing legislation appears even more disparate than for the legal professions or gambling activities. Where reporting requirements exist, very few disclosures are forthcoming from these professionals, as pointed out by several delegations. This is another area where intensive efforts will have to be made to alert professionals to suspicious or unusual transactions through appropriate education.

IV. Assessment of world trends in money laundering

65. Money laundering is obviously not a problem restricted to FATF countries. Thanks to the implementation of countermeasures in those countries, the experts have been able to make the relatively detailed analyses that figure in the preceding sections of this report. The information available on money laundering in non-member countries is much less comprehensive; consequently, the following assessment by FATF of world trends in laundering does not claim to be exhaustive.

(i) Asia/Pacific

66. Sources of information on laundering activities in this vast region of the world are fairly scarce. The situation will be considerably improved when Interpol, in co-operation with the US agency FinCEN (Financial Crimes Enforcement Network), produces its reports on individual Asian countries. It should be noted that the Interpol group FOPAC (*Fonds provenant des activités criminelles* -- proceeds from criminal activities) has already produced similar reports on the Central and Eastern European Countries, and that the second series on Asian countries has been given high priority.

67. Two delegations considered that there were no really new laundering developments in this part of the world. The main factors observed in previous typologies exercises are still present. Thus in South Asia and India money laundering is still linked with drug trafficking and is undoubtedly facilitated by the parallel remittance systems known as "hawala" and "hundi".

68. In South-East Asia the countries that seem to warrant particular attention are Indonesia and Malaysia. Given the absence of appropriate legislation and the regime of strict bank secrecy in Indonesia, money laundering is only part of the financial crime that prevails there essentially in the shape of large-scale fraud and corruption. Several other countries in the region, notably Malaysia, offer numerous features attractive to launderers: provision of a wide range of financial services, facilities for setting up trust companies and offshore structures. Bank fraud is still a very important source of money for laundering.

69. In the Pacific region, Vanuatu is featuring increasingly in the laundering circuits. The offshore legislation in place there has created a favourable climate for laundering and the country's financial institutions have been cited in several cases.

70. Generally speaking, it would clearly be desirable to have more information on the Asia/Pacific region. FATF members therefore greatly welcomed the fact that the region's new anti-laundering group, set up at a symposium on money laundering in Asia and the Pacific at Bangkok in March 1997, would shortly be conducting its own typologies exercise. This initiative is a follow-up to the earlier workshops on Disposal of Proceeds of Crime, Money Laundering Methods organised by the FATF Asia Secretariat and Interpol in Hong Kong in 1995 and 1996.

(ii) Central America, South America and the Caribbean Basin

71. All these parts of the world continue to attract money laundering activities. As regards the Caribbean, FATF members welcomed the activities conducted by the Caribbean Financial Action Task Force (CFATF) in respect of typologies. The approach used by the latter is somewhat different from that of FATF, but it should nevertheless give rise to some very useful and interesting work, as regards both analysis of regional trends and assessment of the countermeasures to be adopted. The CFATF typologies exercise is phased over a number of years. Since February 1997 the CFATF experts have studied the forms of money laundering in domestic financial institutions and in the gambling sector. Future meetings will address the following themes: offshore financial establishments and international business corporations, financial institutions and cybermoney.

72. Laundering in the Caribbean region continues to be a serious problem and appears to concern the following countries in particular: Antigua, the Dominican Republic and St Vincent and the Grenadines. Suspect operations have also been detected in the French overseas departments, particularly in the areas of exchange and gaming. Russian organised crime operating out of Miami and Puerto Rico continues to be active in forming front companies all over the region in order to launder illicit profits. A case in point here is the European Union Bank set up in Antigua and famed as the first offshore bank operating via the Internet. The two Russian founders absconded with the deposits and subsequently the bank failed and was closed down in August 1997. Free trade zones, including those in Aruba and Panama, continue to be a target for money launderers using the black market peso exchange system to purchase and smuggle goods into Colombia (see Case No. 8). The Aruban and Panamanian governments are to be commended for taking aggressive steps to address this difficult problem.

73. The Dominican Republic and Jamaica were likewise mentioned in connection with money laundering circuits. In the United States, Dominican launderers use fund transfer companies to send sums not exceeding US\$ 10 000 to the Dominican Republic under false names. Consequently the US Department of the Treasury this year issued a Geographic Targeting Order which requires the reporting of all transfers of over US\$ 750 from Puerto Rico and the New York Metropolitan area to the Dominican Republic. In Jamaica, a recent case of money laundering concerned an offshore bookmaking operation by telephone for a total amount of several million dollars. Where no specific measures regarding cross-border currency movements exist, cash transportation seems to be a common method of laundering.

74. The nations of Latin America also continue to be affected by laundering of illegal funds, essentially the proceeds from drug trafficking. In Mexico numerous anti-laundering measures have been enacted in the past year. Banks are now required to report suspicious transactions to a central agency for financial information. In spite of these efforts, money laundering is still a problem to be taken very seriously, especially now that the Mexican drug cartels have parted company with their Colombian counterparts and have acquired some predominance in the region. One of the most favoured techniques continues to be outbound currency smuggling, along with electronic transfers, Mexican bank drafts and the “parallel” peso exchange market. Corruption remains the chief impediment to Mexico’s anti-laundering efforts.

75. Another Central American country experiencing a growth of laundering activities is Costa Rica, notably by way of large-scale currency smuggling and investment by Colombian cartels in the tourist real estate sector. In Guatemala and Honduras laundering potential continues to increase in the absence of appropriate legislation. In Panama the target of launderers remains the Colon Free Zone. It should be pointed out, however, that anti-laundering measures applicable to the banking sector have been extended to the Zone. In Colombia, billions of dollars in drug money are being laundered through the “parallel” peso exchange market, which in fact is run by drug traffickers (see Case No. 8).

76. Within the framework of OAS (Organization of American States) the Inter-American Drug Abuse Control Commission (CICAD) has decided to launch its own typologies exercise through its group of experts on money laundering. FATF members welcomed this initiative, which will cover nearly all the countries of South America. Many countries in that region have recently introduced anti-laundering legislation following the Summit of Americas Ministerial Conference of December 1995. Despite these efforts, drug trafficking and money laundering are still major problems in this part of the world. It is therefore encouraging to see that the next Summit of Americas, to take place in Santiago, Chile in April 1998, will again address the subject of money laundering as a priority.

(iii) Middle East and Africa

77. In the absence of proper regional anti-money laundering groups, information on laundering in these areas is extremely limited. But numerous factors which assist laundering are present in the Gulf States with the international finance centres in Bahrain and the United Arab Emirates (in particular Abu Dhabi and Dubai), the hawala “banking” system and free trade zones. It should be noted, however, that

the Gulf Co-operation Council (GCC) has recently launched an evaluation of the anti-laundering measures adopted by its members (United Arab Emirates, Oman, Saudi Arabia, Qatar, Bahrain and Kuwait) which will provide a picture of the status of legislation in the region.

78. In the Near East the lack of anti-laundering legislation in Lebanon remains a matter of significant concern to FATF. It is hoped that a bill will soon be passed into law in Israel, where the authorities are facing general problems with organised crime and need to tackle the dangers of laundering in the diamond industry. In Cyprus the authorities have vigorously built up a comprehensive anti-laundering scheme since relevant legislation was passed in April 1996, and a unit has been established to receive suspicious transaction reports from banks. FATF experts visited Nicosia in September 1997 and noted the resolute and praiseworthy efforts being made by the Cypriot authorities to counter money laundering even if the name of Cyprus still appears in cases of laundering transactions at the layering stage.

79. Crime groups are increasingly turning to sub-Saharan Africa to conduct their activities, including money laundering. A few countries have begun to respond by introducing legislation, but significant obstacles have still to be overcome, notably the lack of resources available to operational services in Africa. One trend observed in West Africa concerns the use by organised crime of bank accounts of commercial businesses. Illicit funds can be moved via undercover banking systems and evade exchange control regulations. All FATF members acknowledge that the chief problem in West Africa continues to be fraud by Nigerian organised crime. It was accepted that this problem, which has been going on for too long, would merit appropriate international collective action. Nigerian organised crime is also active in South Africa, which is progressively becoming an entry point to the rest of the continent for crime groups.

(iv) Central and Eastern Europe

80. The East European countries continue to be a significant and indeed growing concern for the European members of FATF. The greatest difficulty concerning funds connected with individuals or companies in Central and Eastern European countries is in clarifying their source, which is very often impossible. The frequent use by some CEEC nationals of expertly forged identity papers, designed to get round strict application of the principle of customer identification by financial institutions, was noted. In addition, transcription from Cyrillic to Roman is often used to change identities, or provide multiple identities. Cases of dual nationality (Russian/Greek or Russian/Israeli, for example) are frequent, and hold similar potential for disguising true identity. Armenian or Georgian nationals claim Greek origins. The most significant problem in transactions with Russia is that the true beneficiary is not known.

81. As in previous years, the experts noted numerous cases involving Russian organised crime and from other members of the Commonwealth of Independent States. Most of the shell companies operating in one member are carrying on quite legitimate business, but their finance comes from fraud and criminal activities in Eastern Europe. A competent unit of this country, which has detected growing sophistication at the layering stage, with substantial use of offshore companies, is going to follow developments in this area very closely from 1998. The refinement of the methods used by organised Russian crime groups was also noted by the police of one member in a case involving letters of credit issued by a Russian bank for a total of US\$ 100 million. Very substantial sums are involved in cases relating to nationals of Central and Eastern European countries or to CEEC-related financial transactions. One case detected in another member concerned US\$ 13 million overall.

82. But there are other problem countries as well, notably the countries of the former Yugoslavia, as was noted by one member, which considers this to be the most serious problem that it comes across, in particular in relation to drug trafficking. In one member, a case covering a wide range of currencies (the equivalent of around US\$ 300 000 involved Serbian immigrant workers. In Croatia, the authorities face a significant problem with the establishment of organised groups specialising in particular types of crime. These structures provide links with crime groups in Italy or Germany, and those operating in Russia, Serbia and Bosnia.

83. In the Black Sea region, only two countries (Greece and Turkey) belong to FATF. Their closeness to fifteen countries of the former Soviet Union raises a particular problem with regard to laundering. Another problem encountered by the banks of a member country has been massive inflows of funds from Albania, linked to the pyramid savings scandal. Investigations following the suspicious transaction reports have shown that considerable amounts in cash, around US\$ 20 million, were deposited at banks in a neighbouring country during the summer of 1997. This is a problem which affects several FATF members. In addition, after the deliberate failures of many banks in Bulgaria, triggered by their owners' corruption, they were bought up by groups of white-collar criminals who could then help themselves to the bank assets.

84. Some progress has nonetheless been made in adopting and implementing counter-measures over the past year. The Czech Republic, Slovakia, Hungary and Slovenia have developed anti-laundering programmes, and now have financial intelligence units in operation. But the anti-money laundering Bill tabled in the Russian Parliament in late 1996 has still not been passed.

85. In the summer of 1997 the Central Bank of the Russian Federation issued guidelines to banks on customer identification and the prevention of money laundering. Together with FATF it organised an international seminar on money laundering in St. Petersburg in October 1997. But these efforts will only yield really practical results when the anti-laundering obligations of the financial sector are spelt out in law.

86. Reference should finally be made to a vital recent initiative by the Council of Europe, which launched its programme to evaluate anti-laundering measures in those of its members which do not belong to FATF. The countries in question are not all in Central and Eastern Europe, but the programme should give a considerable boost to enhancing or introducing anti-laundering legislation in that part of the world over the coming years.

V. Conclusions

87. The November 1997 meeting of the group of experts on typologies was marked by a new form of discussion, with in-depth treatment of more targeted topics than in previous exercises. Since the classic mechanisms for laundering are now well identified, the purpose will in future be to survey the new ground being broken by imaginative launderers, and to demonstrate how and why given new laundering practices are being developed. In short, the FATF's strategy needs to be tailored to the emergence of new areas which are not yet fully mapped: electronic money and new-technology forms of payment, non-financial professions, the insurance sector and stock exchange dealers.

88. In addition to laundering via non-financial professions and companies, which is the main subject for the FATF-IX typology exercise, the experts also examined issues relating to companies specialising in international money transfers, and new-technology means of payment. These are both essential areas that FATF needs to understand more fully in order to develop effective counter-measures. With regard to new technology, much work still has to be done before all the related laundering dangers are clearly identified and before any possible specific counter-measures can be considered. Even at present, the speed at which transactions are performed in this sector, admittedly an advance in itself, poses grave threats to the adequacy of the traditional anti-laundering methods to the systems of new payment technologies. As a result, this topic is likely to recur systematically at forthcoming typology meetings. With regard to companies specialising in international money transfers, consideration and action are both much further advanced, to judge from the scale of counter-measures already in place in many FATF member countries. This is in fact an area where exchanges of information on current regulations, and of practical experience, can no doubt be of benefit to those countries which have not yet really tackled the problem.

89. Among other typologies of interest, particular reference should be made to the gold market. While this is not a new topic, discussions showed that it was an area where FATF should also expend

energy in order to identify the problems more clearly. It is accordingly planned to make this a priority item for one of the forthcoming typology exercises. In any case, although FATF has already devoted considerable attention to sectors such as insurance or manual currency exchange, the involvement of both in money laundering is still clearly on the increase. With regard to the exchange bureaux sector, it is clear that further consideration must be given to the consequences of the conversion of European currencies into Euro.

90. Last, the survey of laundering trends in non-Member countries again proved most instructive. Although progress is being made in implementing anti-laundering measures outside the FATF members, much still remains to be done to mobilise a fair number of countries which remain somewhat passive and complacent about the financial, economic, political and social dangers posed by laundering.

12 February 1998

ANNEXES TO THE 1997-1998 FATF REPORT ON MONEY LAUNDERING TYPOLOGIES

Selected cases of money laundering

Case No. 1:	Real estate agents and notaries
Case No. 2:	Shell corporations
Case No. 3:	Cross-border cash
Case No. 4:	Lawyers
Case No. 5:	Shell corporations and secretarial companies
Case No. 6:	Exchange bureaux
Case No. 7:	Lawyers, real estate sector
Case No. 8:	Colombian black market peso exchange: exchange bureaux, money laundering through trade, use of shell accounts

Case no. 1

Real Estate agents and Notaries

Facts

A real estate agent in a tax haven jurisdiction opened an account at a bank in a European country. The account was used to encash a cheque drawn by a foreign notary. Once the cheque had cleared, part of the funds were withdrawn as cash, part were re-transferred back to the original jurisdiction, and the balance was credited to the account of a notary in that country and used to purchase real property there.

The information that was acquired from the police authorities showed that the different persons involved in the transactions had been involved in fraud. Although the system put in place by the perpetrators appeared to be legal, inquiries showed that the account opened at the bank was only used as a temporary transfer account for the laundering of the proceeds of financial crime.

Results

The financial intelligence unit transferred the case to the judicial authorities, on the basis of the serious indications of money laundering.

Lessons

1. This case shows the need to be vigilant when considering possible money laundering cases, as even transactions which initially do not appear to be particularly suspicious can involve money laundering.
2. It also shows the importance of the “know your customer principle”, since the criminal past of the persons involved in this case was the only indicator which led to the discovery that the transactions in this case involved money laundering.

Case no. 2

Shell Corporations

Facts

A drug trafficker used drug trafficking proceeds to purchase a property of which part was paid in cash and the remainder was obtained through a mortgage. He then sold the property to a shell corporation, which he controlled, for a nominal sum. The corporation then sold the property to an innocent third party for the original purchase price. By this means the drug trafficker concealed his proceeds of crime in a shell corporation, and thereby attempted to disguise the origin of the original purchase funds.

Results

The accused pled guilty and an order of forfeiture was granted. The property which was part of the money laundering scheme is being disposed of by the authorities.

Lessons

1. The need to carefully trace the ownership history of a property, in order to identify possible links between owners and any suspicious transfers that may indicate attempts to commingle assets.
2. The need for enforcement agencies to be familiar with the general rules and practice regarding the purchase of property in relevant jurisdictions, and the need to be aware that transfers involving nominal amounts can be easily structured in some jurisdictions.

Case no. 3

Cross border cash

Facts

Three suspicious transaction reports were received relating to a number of transactions which were carried out at Danish banks whereby large amounts of money were deposited into accounts and then withdrawn shortly afterwards as cash. The first report was received in August 1994, and concerned an account held by Mr. X. Upon initial investigation, the subjects of the reports (X, Y and Z) were not known in police databases as being connected to drugs or any other criminal activity. However further investigation showed that X had imported more than 3 tonnes of hashish into Denmark over a 9 year period. Y had assisted him on one occasion, whilst Z had assisted in laundering the money.

Most of the money was transported by Z as cash from Denmark to Luxembourg where X and Z held 16 accounts at different banks, or to Spain and subsequently Gibraltar, where they held 25 accounts. The receipts from the Danish banks for the withdrawn money were used as documentation to prove the legal origin of the money, when the money was deposited into banks in Gibraltar and Luxembourg. It turned out that sometimes the same receipt was used at several banks so that more cash could be deposited as "legal" than had actually been through the Danish bank accounts.

Results

X and Y were arrested, prosecuted and convicted for drug trafficking offences and received sentences of six and two years imprisonment respectively. A confiscation order for the equivalent of US\$ 6 million was made against X. Z was convicted of drug money laundering involving US\$ 1.3 million, and was sentenced to one year nine months imprisonment.

Lessons

1. Financial institutions should not accept proof of deposit to a bank account as being equivalent to proof of a legitimate origin.
2. Carrying illegal proceeds as cash across national borders remains an important method of money laundering.

Case no. 4

Lawyers

Facts

A prominent attorney operated a money laundering network which used sixteen domestic and international financial institutions, many of which were in offshore jurisdictions. The majority of his clients were law abiding citizens, however a number of clients were engaged in various types of fraud and tax evasion, and one client had committed an US\$ 80 million insurance fraud. He charged his clients a flat fee to launder their money and to set up annuity packages to hide the laundering activity. In the event there were to be any inquiries by regulators or law enforcement officials, the attorney was prepared to give the appearance of legitimacy to any withdrawals from the “annuities”.

One of the methods of laundering was for him to transfer funds from a client into one of his general accounts in the Caribbean. This account was linked to the attorney in name only, and he used it to commingle various client funds, before moving portions of the funds accumulated in the general account via wire transfers to accounts in other countries in the Caribbean. When a client needed funds, they could be transferred from these accounts to a U.S. account in the attorney’s name or the client’s name. The attorney indicated to his clients that they could “hide” behind the attorney-client privilege if they were ever investigated.

Another method of laundering funds was through the use of credit cards. He arranged for credit cards in false names to be issued to his clients, and the credit card issuer was not aware of the true identity of the individuals issued the cards. When funds were needed the client could use the credit card to make cash withdrawals at any automated teller machine in the United States. Once a month the Caribbean bank would debit the attorney’s account in order to satisfy the charges incurred by his clients. The attorney knew the recipients of the credit cards.

Results

The attorney pleaded guilty to money laundering.

Lessons

1. Banks and their employees should be alert to “layered” wire transfers which utilise instructions such as “for further credit to”. This may occur more frequently with correspondent accounts of “offshore banks”. Suspicious transactions can then be identified and reported.
2. Banks should utilise “know your customer” requirements when issuing credit cards. In this case, the banks were issuing the credit cards to the attorney for further issuance to his clients.
3. Investigators should be aware that in a number of countries lawyer/attorney-client privilege is not applicable if the lawyer/attorney and his client were directly involved in criminal activity, and they should consult prosecutors if such an issue arises.

Case no. 5

Shell corporations and secretarial companies

Facts

During 1995/1996 financial institutions in a European country made suspicious transaction reports to the financial intelligence unit which receives such reports. The reports identified large cash deposits made to the banks which were exchanged for bank drafts made payable to a shell corporation based and operated from an Asian jurisdiction. The reports identified approximately US\$ 1.6 million being transferred in this way to an account held by the shell corporation at a financial institution in the Asian jurisdiction.

At the same time police had been investigating a group in that country which were involved in importing drugs. In 1997 police managed to arrest several persons in the group, including the principal, who controlled the company in the Asian jurisdiction. They were charged with conspiring to import a large amount of cannabis. A financial investigation showed that the principal had made sizeable profits, and a large percentage of this has been traced and restrained. A total of approximately US\$ 2 million was sent from the European country to the Asian jurisdiction, and subsequently transferred back to bank accounts in Europe, where it is now restrained.

Two methods were used to launder the money. The principal purchased a shell company in the Asian jurisdiction which was operated there by a secretarial company on his instructions. The shell company opened a bank account, which was used to receive cashiers orders and bank drafts which had been purchased for cash in the country of origin. The principal was also assisted by another person who controlled (through the same secretarial company) several companies, which were operated for both legitimate reasons and otherwise. This person laundered part of the proceeds by sending the funds on to several other jurisdictions, and used non-face to face banking (computer instructions from the original country) to do so.

Results

Seven persons including the principal are awaiting trial in the European country on charges of drug trafficking, and the principal and three other persons face money laundering charges.

Lessons

1. It shows how desirable and easy it is for criminals (even if not part of international organised crime) to use corporate entities in other jurisdictions, and to transfer illegal proceeds through several other jurisdictions in the hope of disguising the origin of the money.
2. It demonstrates the ease with which company incorporation services can be obtained, and shows that many of the companies which sell shelf/shell companies, as well as the secretarial companies which operate them, are not likely to be concerned about the purpose for which the shell company is used.
3. Highlights the need for financial institutions to have a system which identifies suspicious transactions not just at the front counter, but also for non-face to face transactions such as occurred in this case.
4. The length of time it can take to conduct international financial investigations and to trace the proceeds of crime transferred through several jurisdictions, and the consequent risk that the funds will be dissipated.

Case no. 6

Bureaux de change

Facts

A bureau de change ('The Counter') had been doing business in a small town near the German border for a number of years when exchange offices became regulated, and it became subject to obligations to prevent money laundering. The Counter often had a surplus of bank notes with a high denomination, and the owner (Peter) knew these notes were not popular and therefore had them exchanged into smaller denomination notes at a nearby bank. Prior to the legislation taking effect persons acting on behalf of The Counter regularly exchanged amounts in excess of the equivalent to US\$ 50 000, but immediately after the legislation took effect the transactions were reduced to amounts of US\$ 15 000 to US\$ 30,000 per transaction. The employees of the bank branch soon noticed the dubious nature of the exchanges which did not have any sound economic reason, and the transaction were reported.

Peter had a record with the police relating to fencing and dealing in soft drugs, and because of this he transferred the ownership of The Counter to a new owner with no police record (Andre). Andre reports The Counter to the Central Bank as an exchange office and is accepted on a temporary basis. The financial intelligence unit consults various police files and establishes that the police have been observing this exchange office for some time. The suspect transactions are passed on to the crime squad in the town where The Counter has its office, and it starts an investigation. A few months later, the crime squad arrests Andre, house searches are made, expensive objects and an amount equivalent to more than US\$ 250 000 in cash are seized. The records of The Counter show that many transactions were kept out of the official books and records. For example, over a period of thirteen months The Counter changed the equivalent of more than US\$ 50 million at a foreign bank without registering these exchange transactions in the official books and records. The investigation showed that The Counter and its owners were working with a group of drug traffickers, which used the exchange office to launder their proceeds, and this formed a substantial part of the turnover of the business.

Results

The drug traffickers were prosecuted and convicted and are now serving long prison sentences. Andre was sentenced to six years in prison for laundering the proceeds of crime and forgery. Peter moved abroad with his family. A separate legal action is still pending to take away Andre's profits, the confiscated objects and the cash found. The Counter has been closed and its registration as an exchange office was refused.

Lessons

The need for banks and large, legitimate bureaux de change to pay attention to their business relations with smaller bureaux, particularly when supplying or exchanging currency with them.

Case no. 7

Lawyers, real estate

Facts

The financial intelligence unit received information that a previously convicted drug trafficker had made several investments in real estate and was planning to buy a hotel. An assessment of his financial situation did not reveal any legal source of income, and he was subsequently arrested and charged with an offence of money laundering. Further investigation substantiated the charge that part of the invested funds were proceeds of his own drug trafficking. He was charged with substantive drug trafficking, drug money laundering and other offences.

In the same case the criminal's lawyer received the equivalent of approximately US\$ 70 000 cash from his client, placed this money in his client's bank account and later made payments and investments on the client's instructions. He was charged with negligent money laundering in relation to these transactions. Another part of the drug proceeds was laundered by a director of an art museum in a foreign country who received US\$ 15 000 for producing forged documents for the sale of artworks which never took place.

Results

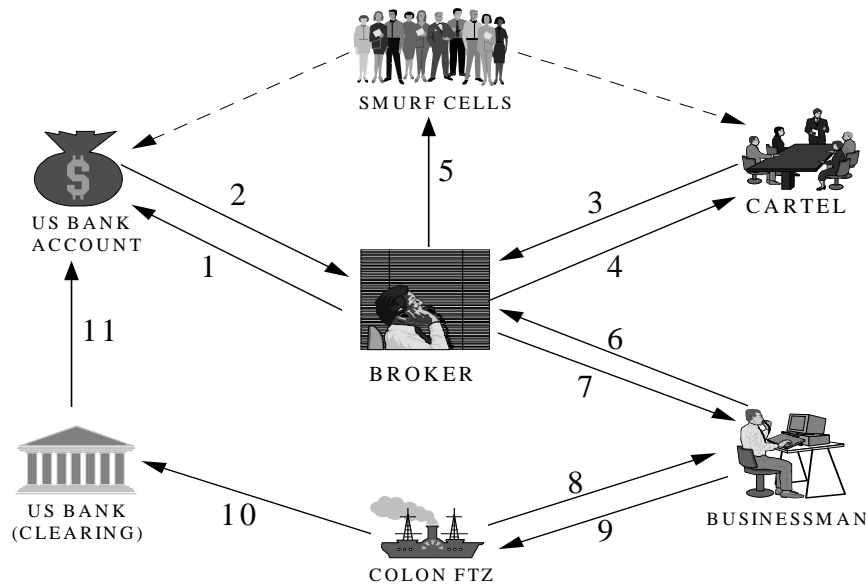
The drug trafficker was convicted of drug trafficking, was sentenced to seven and a half years imprisonment, and a confiscation order was made for US\$ 450 000. The lawyer was convicted and sentenced to 10 months imprisonment. The art museum director could not be prosecuted as there was insufficient evidence that he knew the money was the proceeds of drug trafficking, but he has accepted a writ to confiscate his proceeds.

Lessons

1. The purchase of real estate is commonly used as part of the last stage of money laundering (integration). Such a purchase offers the criminal an investment which gives the appearance of financial stability, and the purchase of a hotel offers particular advantages, as it is often a cash intensive business.
2. The value of a money laundering offence with a lower scienter or mens rea requirement is shown in the prosecution of the lawyer in this case. There was insufficient evidence to prove that the lawyer knew the money was illegal drug proceeds, but sufficient evidence to show that he "should have known" on the facts available to him.

Case no. 8

Example of widely used money laundering technique - Colombian Black Market Peso Exchange, Casa de cambio, money laundering through trade, use of “shell accounts”



Drug traffickers in the U.S. collect and stockpile cash from illegal drug sales in “stash houses” located throughout the U.S. and this creates a logistical problem for the traffickers. The solution is as follows:

1. Black market money brokers in Colombia direct Colombians visiting or residing in the U.S. to open personal cheque accounts at U.S. banks, and deposit minimal amounts.
2. Cheques on these accounts are signed in blank by the customers and given to the brokers who pay them US\$200-400 for each account. The brokers keep a stock of signed cheques on these “shell” U.S. accounts.
3. Colombian drug cartels sell their stockpiled cash at a parallel or “discounted” exchange rate to the Colombian money brokers in exchange for pesos which are paid in Columbia.
4. The brokers purchase the dollars at the discounted rate and the cartels lose a percentage of their profits but avoid the risks of laundering their own drug money.
5. Once the drug money is purchased, the broker directs his network *smurfs* to pick up the cash, and structure deposits into the various “shell” cheque accounts.
6. The broker then offers to sell cheques drawn on these accounts to legitimate Colombian businessmen (who need U.S. dollars to conduct international trade) at a “parallel” exchange rate.
7. The broker fills in the dollar amount on the signed cheque, but leaves the name of the payee blank. The broker also stamps his symbol on the cheque as a means to guarantee his payment on the cheque in the event there are ever insufficient funds in the “shell” checking account.
8. The businessman can then fill in the payees name when he uses the signed cheque as a U.S. dollar instrument to purchase goods (perfume, gold, etc.) in international markets such as Free Trade Zones.
9. The businessman then ships or smuggles the goods into Colombia.

10. The Free Trade Zone distributor, who is often a knowing participant in the black market exchange process, forwards the cheque to his U.S. bank account or it may even clear through his local bank account.

11. Once cleared, the cheque account is debited, and the distributor's U.S. account is credited.

Through this scheme:

Drug cartels in Colombia receive their profits from the U.S. drug trade in Columbia, without having the normal expenses of money laundering. The brokers make a profit on the "discounted" purchase of U.S. dollars from the drug cartels and a second profit on the subsequent sale of the dollars to Colombian businessmen at the "parallel exchange rate." The businessmen save money by exchanging their pesos for U.S. dollars on the "parallel" exchange market, and avoiding government scrutiny and taxes.

For more information about the Colombian Black Market Peso Exchange Process, visit the FinCEN Home Page at [Http://www.ustreas.gov/treasury/bureaus/fincen](http://www.ustreas.gov/treasury/bureaus/fincen). This information can be found in the advisory section.

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ANNEX D

FATF-IX SELF-ASSESSMENT SURVEY COMPLIANCE WITH MANDATORY RECOMMENDATIONS ON LEGAL ISSUES

Recommendation No.	Members in compliance	Members in partial compliance	Other
1	23 (20)	-- (--)	3 (6)
2	25 (25)	1 (1)	-- (--)
3 et 34	23 (23)	2 (2)	1 (1)
4	23 (23)	3 (3)	-- (--)
5	26 (26)	-- (--)	-- (--)
7	21 (21)	5 (5)	-- (--)
32	26 (26)	-- (--)	-- (--)
33	20 (22)	2 (--)	4 (4)
36	23 (23)	3 (3)	-- (--)
37	23 (23)	3 (3)	-- (--)
38	18 (17)	5 (6)	3 (3)
39	19 (19)	-- (--)	7 (7)
40	23 (23)	2 (2)	1 (1)

Note

The figures in parenthesis indicate the number of members in the category in the 1996-1997 FATF-VIII survey.

FATF-IX SELF-ASSESSMENT SURVEY

**COMPLIANCE WITH THE FORTY RECOMMENDATIONS
ON FINANCIAL ISSUES**

Recommendation		Members in Compliance	Members in Partial Compliance	Other
8 [n/a for 12 members]		12 (9)	2 (2)	-- (4)
9 [n/a for 4 members]		21 (18)	-- (1)	1 (3)
10	Banks	24 (24)	2 (2)	-- (--)
	NBFIs	20 (21)	6 (5)	-- (--)
11	Banks	23 (23)	1 (1)	2 (2)
	NBFI	22 (22)	1 (1)	3 (3)
12	Banks	26 (26)	-- (--)	-- (--)
	NBFIs	23 (23)	3 (3)	-- (--)
13		25 (15)	-- (11)	1 (--)
14	Banks	26 (26)	-- (--)	-- (--)
	NBFIs	18 (22)	5 (1)	3 (3)
15	Banks	25 (24)	-- (--)	1 (2)
	NBFIs	24 (23)	-- (--)	2 (3)
16	Banks	26 (26)	-- (--)	-- (--)
	NBFIs	26 (25)	-- (1)	-- (--)
17	Banks	25 (25)	1 (1)	-- (--)
	NBFIs	25 (24)	1 (--)	-- (2)
18	Banks	25 (25)	-- (--)	1 (1)
	NBFIs	24 (24)	-- (--)	2 (2)
19	Banks	23 (26)	3 (--)	-- (--)
	NBFIs	17 (19)	8 (5)	1 (2)
20	Banks [n/a - 2]	24 (18)	-- (6)	-- (--)
	NBFIs [n/a - 1]	21 (12)	3 (10)	1 (--)
21	Banks	22 (23)	3 (3)	1 (--)
	NBFIs	19 (19)	4 (6)	3 (1)
22		25 (22)	--	1 (4)
23		20 (17)	-- (2)	6 (7)

Recommendation		Members in Compliance	Members in Partial Compliance	Other
24		23 (22)	3 (4)	-- (--)
25		26 (19)	-- (6)	-- (--)
26	Banks	26 (26)	-- (--)	-- (--)
	NBFIs	25 (25)	1 (--)	-- (1)
27		11 (11)	-- (--)	15 (15)
28	Banks	24 (24)	-- (--)	2 (2)
	NBFIs	19 (14)	1 (6)	6 (6)
29	Banks	25 (26)	-- (--)	1 (--)
	NBFIs	19 (18)	6 (7)	1 (1)
30		12 (10)	7 (8)	7 (8)
32		20 (19)	5 (5)	1 (2)

Note

The figures in parenthesis indicate the number of members in the category in the 1996-1997 FATF-VIII survey.

NBFIs: Non-bank financial institutions.

ANNEX E

PROVIDING FEEDBACK TO REPORTING FINANCIAL INSTITUTIONS AND OTHER PERSONS

BEST PRACTICE GUIDELINES

I. INTRODUCTION

The importance of providing appropriate and timely feedback to financial and other institutions which report suspicious transactions has been stressed by industry representatives and recognised by the financial intelligence units (FIU) which receive such reports. Indeed, such information is valuable not just to those institutions, but also to their associations, to law enforcement and financial regulators and to other government bodies. However, the provision of general and specific feedback has both practical and legal implications which need to be taken into account.

2. It is recognised that ongoing law enforcement investigations should not be put at risk by disclosing inappropriate feedback information. Another important consideration is that some countries have strict secrecy laws which prevent their financial intelligence unit from disclosing any significant amount of feedback, or that more general privacy laws limit the feedback which can be given. However, those agencies which receive suspicious transaction reports should endeavour to design feedback mechanisms and procedures which are appropriate to their laws and administrative systems, which take into account such practical and legal limitations, and yet seek to provide an appropriate level of feedback. The limitations should not be used as an excuse to avoid providing feedback, though they may provide good reasons for using these guidelines in a flexible way so as to provide adequate levels of feedback for reporting institutions.

3. Based on the types and methods of feedback currently provided in a range of FATF member countries, this set of best practice guidelines will consider why providing feedback is necessary and important. The guidelines illustrate what is best practice in providing general feedback on money laundering and the results of suspicious transaction reports by setting out the different types of feedback and other information which could be provided and the methods for providing such feedback. The guidelines also address the issue of specific or case by case feedback and the conflicting considerations which affect the level of specific feedback which is provided in each country. The suggestions contained herein are not mandatory requirements, but are meant to provide assistance and guidance to financial intelligence units, law enforcement and other government bodies which are involved in the receipt, analysis and investigation of suspicious transaction reports, and in the provision of feedback on those reports.

II. WHY IS FEEDBACK ON SUSPICIOUS TRANSACTION REPORTS NEEDED

4. The reporting of suspicious transactions¹⁵ by banks, non-bank financial institutions, and in some countries, other entities or persons, is now regarded as an essential element of the anti-money laundering program for every country. Recommendation 15 of the FATF forty Recommendations states :

“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. “

5. Almost all FATF members have now implemented a mandatory system of reporting suspicious transactions, though the precise extent and form of the obligation varies from country to country. The requirement under Recommendation 15 is also supplemented by several other recommendations such as financial institutions and their staff should receive protection from criminal or civil liability for reports made in good faith (Recommendation 16), customers must not be tipped off about reports (Recommendation 17), and financial institutions should comply with instructions from the competent authorities in relation to reports (Recommendation 18).

6. It is recognised that measures to counter money laundering will be more effective if government ministries and agencies work in partnership with the financial sector. In relation to the reporting of suspicious transactions an important element of this partnership approach is the need to provide feedback to institutions or persons which report suspicious transactions. Financial regulators will also benefit from receiving certain feedback. There are compelling reasons why feedback should be provided :

- it enables reporting institutions to better educate their staff as to the transactions which are suspicious and which should be reported. This leads staff to make higher quality reports which are more likely to correctly identify transactions connected with criminal activity;
- it provides compliance officers of reporting institutions with important information and results, allowing them to better perform that part of their function which requires them to filter out reports made by staff which are not truly suspicious. The correct identification of transactions connected with money laundering or other types of crime allows a more efficient use of the resources of both the financial intelligence unit and the reporting institution;
- it also allows the institution to take appropriate action, e.g. to close the customer's account if he is convicted of an offence, or to clear his name if an investigation shows that there is nothing suspicious;

¹⁵ In some jurisdictions the obligation is to report unusual transactions, and these guidelines should be read so as to include unusual transactions within any references to suspicious transactions, where appropriate.

- it can lead to improved reporting and investigative procedures, and is often of benefit to the supervisory authorities which regulate the reporting institutions; and
- feedback is one of the ways in which government and law enforcement can contribute to the partnership with the financial sector, and it provides information which demonstrates to the financial sector that the resources and effort committed by them to reporting suspicious transactions are worthwhile, and results are obtained.

7. In many countries the obligation to report suspicious transactions only applies to financial institutions. Moreover, the experience in FATF members in which an obligation to report also applies to non-financial businesses or to all persons is that the vast majority of suspicious transactions reports are made by financial institutions, and in particular by banks. In recent years though, money laundering trends suggest that money launderers have moved away from strongly regulated institutions with higher levels of internal controls such as banks, towards less strongly regulated sectors such as the non-bank financial institution sector and non-financial businesses. In order to promote increased awareness and co-operation in these latter sectors, FIUs need to analyse trends and provide feedback on current trends and techniques to such institutions and businesses if a comprehensive anti-money laundering strategy is to be put in place. The empirical evidence suggests that where there is increased feedback to, and co-operation with, these other sectors, this leads to significantly increased numbers of suspicious transaction reports.

III. GENERAL FEEDBACK

(i) Types of feedback

8. Several forms of general feedback are currently provided, at both national and international levels. The type of feedback and the way in which it is provided in each country may vary because of such matters as obligations of secrecy or the number of reports being received by the FIU, but the following types of feedback are used in several countries :

- (a) statistics on the number of disclosures, with appropriate breakdowns, and on the results of the disclosures;
- (b) information on current techniques, methods and trends (sometimes called “typologies”); and
- (c) sanitised examples of actual money laundering cases.

9. The underlying information on which general feedback can be based is either statistics relating to the number of suspicious transaction reports and the results achieved from those reports, or cases or investigations involving money laundering (whether or not the defendant is prosecuted for a money laundering offence or for the predicate offences). As these cases or investigations could result from a suspicious transaction report or from other sources of information, it is important that those agencies which provide feedback ensure that all relevant examples are included in the feedback they provide. It is also important that all relevant authorities, together with the reporting institutions, agree on

the contents and form of sanitised cases, so as to prevent any subsequent difficulties to any institution or agency. It would also be beneficial if certain types of feedback, such as sanitised cases, are widely distributed, so that the benefits of this feedback are not restricted to the reporting institutions in that particular country.

(a) Statistics

What types of statistics should be made available?

10. Statistical information could be broken into at least two categories : (a) that which relates to the reports received and the breakdowns that can be made of this information, and (b) that which relates to reports which lead to or assist in investigations, prosecutions or confiscation action. Examples of the types of statistics which could be retained are :

- Category (a) - detailed information on matters such as the number of suspicious transaction reports, the number of reports by sector or institution, the monetary value of such reports and files, and the geographic areas from which cases have been referred. Information could also be retained to give a breakdown of the types of institutions which reported and the types of transactions involved in the transactions reported.
- Category (b) - information on the investigation case files opened, the number of cases closed, and cases referred to the prosecution authorities. Breakdowns could also be given of the year in which the report was made, the types of crimes involved and the amount of money, as well as the nationality of the parties involved and which of the three stages of a money laundering operation (placement, layering or integration) the case related to. Where appropriate, statistics could also be kept on the reports which have a direct and positive intelligence value, and an indication given of the value of those reports. This is because reports which do not lead directly to a money laundering prosecution can still provide valuable information which may lead to prosecutions or confiscation proceedings at a later date (see paragraph 18).

11. A cross referencing of the different breakdowns of category (a) information with the types of results achieved under category (b) should enable FIUs and reporting institutions to identify those areas where reporting institutions are successfully identifying money laundering and other criminal activity. It would also identify, for example, those areas where institutions are not reporting or are reporting suspicions which lead to below average results. As such it would be a valuable tool for all concerned. However, as with any statistics, care needs to be taken in their interpretation, and in the weight that is accorded to each statistic. In order to extract the desired statistics efficiently it is of course necessary that the suspicious transaction report form, whether it is sent on paper or on-line, is designed to allow the appropriate breakdowns to be made. Given the difficulties that many countries have in gathering and analysing statistics, it is essential that the amount of human resources required for this task are minimised, and that maximum use is made of technology, even if this initially requires capital expenditure or other resource inputs.

How often should statistics be published?

12. Statistics are the most commonly provided form of feedback, and are usually included in annual reports or regular newsletters, such as those published by FIUs. Having regard to the resource implications of collecting and providing statistics, and to the other types of feedback available, the publication of an annual set of comprehensive statistics should provide adequate feedback in most countries.

13. **It is recommended that :**

- **statistics are kept on the suspicious transaction reports received and on the results obtained from those reports, and that appropriate breakdowns are made of the available information;**
- **the statistics on the reports received are cross referenced with the results so as to identify areas where money laundering and other criminal activity is being successfully detected;**
- **technological resources are used to their maximum potential; and**
- **comprehensive statistics are published at least once a year.**

(b) Current techniques, methods and trends

14. The description of current money laundering techniques and methods will be largely based on the cases transmitted to the prosecution authorities, and the division of such cases into the three stages of money laundering can make it easier to differentiate between the different techniques used, though it must of course be recognised that it is often difficult to categorically state that a transaction falls into one stage or another. If new methods or techniques are identified these should be described and identified, and reporting institutions advised of such methods as well as current money laundering trends. Information on current trends will be derived from prosecutions, investigations or the statistics referred to above, and could usefully be linked with those statistics. An accurate description of current trends will allow financial institutions to focus on areas of current risk and also future potential risk.

15. In addition to any reports that are prepared by national FIUs, there are a number of international organisations or groups which also prepare a report of trends and techniques, or hold an exercise to review such trends. The FATF holds an annual typologies exercise where law enforcement and regulatory experts from FATF members, as well as delegates from relevant observer organisations review and discuss current trends and future threats in relation to money laundering. A public report is then published which reviews the conclusions of the experts and the trends and techniques in FATF members and other countries, as well as considering a special topic in more detail. This report is available from the FATF or at the FATF Website (<http://www.oecd.org/fatf/>). In addition, Interpol publishes regular bulletins which contain sanitised case examples.

16. Other international groups such as the Asia/Pacific Group on Money Laundering, the Caribbean Financial Action Task Force (CFATF), and the Organisation of American States/Inter-American Drug Abuse Control Commission (OAS/CICAD) are holding or will also hold typologies exercises which could provide further information on the trends and techniques that are being used to launder money in the regions concerned. International trends could usefully be extracted and included in feedback supplied by

national FIUs where they are particularly relevant, but in relation to more general information, reporting institutions should simply be made aware of how they can access such reports if they wish to. This will help to avoid information overload.

17. It is recommended that :

- **new money laundering methods or techniques, as well as trends in existing techniques are described and identified, and that financial and other institutions are advised of these trends and techniques;**
- **feedback on trends and techniques published by international bodies be extracted and included in feedback supplied by national FIUs only if it is particularly relevant, but that reporting institutions are made aware of how to access such reports.**

(c) Sanitised cases

18. This type of feedback is sometimes regarded by financial sector representatives as even more valuable than information on trends. Sanitised cases¹⁶ are very helpful to compliance officers and front line staff, since they provide detailed examples of actual money laundering and the results of such cases, thus increasing the awareness of front line staff. Two examples of methods used to distribute this type of feedback are a quarterly newsletter and a database of sanitised cases. Both methods provide a set of sanitised cases which summarise the facts of the case, the inquiries made, and a brief summary of the results. A short section drawing out the lessons to be learnt from the case is also provided in the database. The length of the description of each case could vary from a paragraph outlining the case through to a longer and more detailed summary.

19. Care and consideration needs to be taken in choosing appropriate cases and in their sanitisation, in order to avoid any legal ramifications. In the countries which use such feedback, the examples used are generally cases which have been completed, either because the criminal proceedings are concluded or because the report was not found to be justified. Inclusion of cases where the report was unfounded can be just as helpful as those where the subject of the report was convicted of money laundering.

20. It is recommended that sanitised cases be published or made available to reporting institutions, and that each sanitised case could include :

- **a description of the facts;**
- **a brief summary of the result of the case;**
- **where appropriate, a description of the inquiries made by the FIU; and**
- **a description of the lessons to be learnt from the reporting and investigative procedures that were adopted in the case. Such lessons can be helpful not only to financial institutions and their staff, but also to law enforcement investigators.**

(ii) Other information which could be provided

21. In addition to general feedback of the types referred to above, there are other types of information which can be distributed to financial and other institutions using the same methods. Often this information is provided in guidance notes or annual reports, but it provides essential background information for the staff of reporting institutions, and also keeps them up to date on current issues. Examples of such other information include :

- **an explanation of why money laundering takes place, a description of the money laundering process and the three stages of money laundering, including practical examples;**
- **an explanation of the legal obligation to report, to whom it applies and the sanctions (if any) for failing to report;**

¹⁶ Sanitised cases are cases which have had all specific identifying features removed.

- **the procedures and processes by which reports are made, analysed, and investigated, and by which feedback is provided.** This allows FIUs to provide information on matters such as the length of time it can take for a criminal proceeding to be finalised or to explain that even though not every report results in a prosecution for money laundering, the report could be used as evidence or intelligence which contributes to a prosecution for a criminal offence, or provides other valuable intelligence information;
- **a summary of any legislative changes** that may have been recently made in relation to the reporting regime or money laundering offences;
- **a description of current and/or future challenges for the FIU.**

(iii) Feedback Methods

22. **Written Feedback** - As noted above, two of the most popular methods of providing general feedback are through annual reports and regular newsletters or circulars. As noted above, annual reports could usefully contain sets of statistics and a description of money laundering trends. A short (for example, four page) newsletter or circular which is published on a regular basis two or four times a year provides continuity of contact with reporting institutions. It could contain sanitised cases, legislative updates or information on current issues or money laundering methods.

23. **Meetings** - There are a range of other ways in which feedback is provided to the bodies or persons who report. Most FIU provide such feedback through face to face meetings with financial institutions, either for a specific institution and its staff, or for a broader range of institutions. Seminars, conferences and workshops are commonly used to provide training for financial institutions and their staff, and this provides a forum in which feedback is provided as part of the training and education process. Several countries have also established working or liaison groups combining the FIU which receives the reports and representatives of the financial sector. These groups can also include the financial regulator or representatives of law enforcement agencies, and provide a regular channel of communication through which feedback and other topics such as reporting procedures, can be discussed. Finally, staff of FIUs could use meetings with individual compliance officers as an opportunity to provide general feedback.

24. **Video** - many countries and financial institutions or their associations have published an educational video as part of their overall anti-money laundering training and education process. Such a method of communication provides an opportunity for direct feedback to front line staff and could include material on sanitised cases, money laundering methods and other information.

25. **Electronic information systems** - obtaining information from Websites, other electronic databases or through electronic message systems has the advantage of speed, increased efficiency, reduced operating costs and better accessibility to relevant information. While the need for appropriate confidentiality and security must be maintained, consideration should be given to providing increasing feedback through a password protected or secure Website or database, or by electronic mail.

26. When deciding on the methods of general feedback that are to be used, each country will have to take into account the views of the reporting institutions as to degree to which reporting of suspicious or unusual transactions should be made public knowledge. For example, in some countries, the banks have no objection to sanitised cases becoming public information, in part because of the objective and transparent nature of the reporting system. However, in other countries, financial institutions would like to receive this type of feedback, but do not want it made available to the public as a whole. Such differing views mean that slightly different approaches may need to be taken in each country.

IV. SPECIFIC OR CASE BY CASE FEEDBACK

27. Reporting institutions and their associations welcome prompt and timely information on the results of reports of suspicious transactions, not only so they can improve the processes of their member institutions for identifying suspicious transactions, but also so they can take appropriate action in relation to the customer. There is concern that by keeping a customer's account open after a suspicious transaction report has been made the institution may be increasing its vulnerability with respect to monies owed to them by the customer. However specific feedback is much more difficult to provide than general feedback, for both legal and practical reasons.

28. One of the primary concerns is that ongoing law enforcement investigations should not be put at risk by providing specific feedback information to the reporting institution at a stage prior to the conclusion of the case. Another practical concern is the question of the resource implications and the best and most efficient method for providing such feedback, which will often depend on the amount of reports received by the FIU. Legal issues in some countries relate to strict secrecy laws which prevent the FIU from disclosing specific feedback, or concern general privacy laws which limit the feedback which can be provided. Finally, financial institutions are also concerned about the degree to which such feedback becomes public knowledge, and the need to ensure the safety of their staff and protect them from being called as witnesses who have to give evidence in court concerning the disclosure. This was dealt with in one country by a specific legislative amendment which prohibits suspicious transaction reports being put in evidence or even referred to in court.

29. Given these limitations and concerns, current feedback information provided by receiving agencies to reporting institutions on specific cases is more limited than general feedback. The only information which appears to be provided in most countries is an acknowledgement of receipt of the suspicious transaction report. In some countries this is provided through an automatic, computer generated response, which would be the most efficient method of responding. The other form of specific feedback which is relied on in many countries is informal feedback through unofficial contacts. Often this is based on the police officer or prosecutor who is investigating the case following up the initial report, and serving the reporting institution with a search warrant, or some other form of compulsory court order requiring further information to be produced. Although this gives the institution some further feedback information, it will only be interim information not showing the result of the case, and the institution is left uncertain as to when it will receive this information.

30. Depending on the degree to which the practical and legal considerations referred to in paragraph 28 apply in each country, other types of specific feedback are provided - this includes regular advice on cases that are closed, information on whether a case has been passed on for investigation and the name of the investigating police officer or district, and advice on the result of a case when it is concluded. In most countries, feedback is not normally provided during the pendency of any investigation involving the report.

31. Having regard to current practice and the concerns identified above, and taking into account the requirements imposed by any national secrecy or privacy legislation, and subject to other limitations such as risk to the investigation and resource implications, it is recommended that whenever possible, the following specific feedback is provided (and that time limits could also be determined by appropriate authorities so that it is assured that the feedback is timely), namely that :

- a) receipt of the report should be acknowledged by the FIU;**
- b) if the report will be subject to a fuller investigation, the institution could be advised of the agency that will investigate the report, if the agency does not believe this would adversely affect the investigation; and**
- c) if a case is closed or completed, whether because of a concluded prosecution, because the report was found to relate to a legitimate transaction or for other reasons, then the institution should receive information on that decision or result;**

V. CONCLUSION

32. In relation to both specific and general feedback, it is necessary that an efficient system exists for determining whether the report led or contributed to a positive result, whether by way of prosecution or confiscation, or through its intelligence value. Whatever the administrative structure of the government agencies involved in collecting intelligence or investigating and prosecuting criminality it is essential that whichever agency is responsible for providing feedback receives the information and results upon which that feedback is based. If the FIU which receives the report is the body responsible, this will usually require the investigating officers or the prosecutor to provide the FIU with feedback on the results in a timely and efficient way. One method of efficiently achieving this could be through the use of a standard reporting form, combined with a set distribution list. Failure to provide such information will make the feedback received by reporting institutions far less accurate or valuable.

33. It is clear that there is considerable diversity in the volume, types and methods of general and specific feedback currently being provided. The types and methods of feedback are undoubtedly improving, and many countries are working closely with their financial sectors to try to increase the amount of feedback and reduce any limitations, but it is clear that the provision of feedback is still at an early stage of development in most

countries. Further co-operative exchange of information and ideas is thus necessary for the partnership between FIUs, law enforcement and the financial sector to work more effectively, and for countries to provide not only an increased level of feedback, but also where feasible, greater uniformity.

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