FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING

ANNUAL REPORT 1993-1994

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SUMMARY

1. The fifth round of the Financial Action Task Force (FATF), which was chaired by the United Kingdom, focused on three priorities:

(i) monitoring the implementation of the forty Recommendations of 1990 by its members;

(ii) monitoring developments in money laundering methods and examining appropriate refinements to counter-measures; and

(iii) carrying out an active external relations programme to promote the widest possible international action against money laundering.

2. In addition, a major task conducted in 1993-1994 by the FATF was the review of its future mission and programme. It was decided that the FATF should be maintained for a further five years. While the laundering of drug money will remain a principal focus for the FATF, its work will continue to cover money laundering of the proceeds of serious crimes and/or offences which generate significant funds. Over the next five years the Task Force will concentrate on three main areas: further monitoring of members' progress in countering money laundering; the review of money laundering techniques and counter-measures; and external relations, in order to promote world-wide action against money laundering.

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. The 1993-1994 self-assessment exercise showed that members had continued to make significant progress in implementing the legal and financial Recommendations. In particular, almost all members have now enacted laws to make drug money laundering a criminal offence. In parallel, all member governments permit their banks to report suspicious transactions to the competent authorities and, in nineteen member jurisdictions, the banks are required to do so.

4. The mutual evaluation procedure, which provides a highly detailed examination of anti-money laundering measures, has again proved to be a particularly effective monitoring mechanism. The mutual evaluation examinations continued to be carried out at a rapid pace and twenty one FATF members have now been evaluated. Summaries of the nine evaluations conducted during FATF-V (the Kingdom of the Netherlands, Germany, Norway, Japan, Greece, Spain, Finland, Hong Kong and Ireland) are contained in Part II of the report. The remaining evaluations will take place in FATF-VI.

5. The collection and sharing of information on the latest developments and trends in money laundering methods confirmed the tendencies observed in previous exercises. While FATF members have introduced preventive measures covering the banking sector, money launderers have been increasingly using more diverse routes, both in terms of geographical areas targeted and techniques used.

6. With regard to the development of counter measures, no new Recommendations were adopted during FATF-V. However, two Interpretative Notes were agreed: one on the identification of customers

who are legal entities and the other on measures to counter money laundering through financial activities carried out by non-financial businesses or professions. The Task Force also continued its work on several initiatives launched in earlier rounds: preventive measures by non-bank financial institutions, especially bureaux de change; countering the use of non financial businesses generally for money laundering; identification requirements in cases where there is no face-to-face contact between an institution and its customer; and maintaining an audit trail for funds transfers on electronic payment and message systems. On the latter issue, the FATF reviewed the implementation by its members of the SWIFT broadcast of 30 July 1992, and it also pursued positive contacts with SWIFT, the leading international funds transfer message system.

7. With regard to the external relations domain, the Task Force maintained its efforts to encourage non-member countries to take effective measures against money laundering. In addition, the FATF undertook a major review of its external relations work and a strategy was drawn up for its contacts with non-member jurisdictions in the forthcoming years.

8. External actions undertaken in 1993-1994 have also involved contacts with countries from every continent, with particular emphasis on the Caribbean area, Central and Eastern Europe, and Asia. As in 1992-1993, the FATF carried out several anti-money laundering seminars and missions in non-member jurisdictions. Two major seminars were held during FATF-V: in Riyadh (October 1993) and Moscow (November 1993). FATF representatives also took part in high-level missions to Israel, the People's Republic of China, Malaysia, Thailand and Taiwan.

9. In carrying out its external relations programme, the FATF has continued to work in close co-operation with other international bodies involved in combating money laundering, such as the United Nations International Drug Control Programme, the Council of Europe, the Commonwealth Secretariat, the Customs Co-operation Council and Interpol.

10. At its 7-8 June meeting, the OECD Council at Ministerial Level endorsed the decision of the FATF to extend its work for a further five years, emphasising the importance of continued world-wide action against money laundering. During the 1994-1995 round, FATF-VI will be chaired by the Kingdom of the Netherlands.

INTRODUCTION

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

12. In August 1993, the United Kingdom succeeded Australia as the Presidency of the Task Force for its fifth round of work. Five series of meetings were held in 1993-1994, four at the OECD headquarters in Paris and one in London. The delegations attending the Task Force are drawn from a wide range of disciplines, including experts from finance, justice and external affairs ministries, financial regulatory authorities and law enforcement agencies. The FATF co-operates closely with international organisations concerned with combating money laundering and representatives from the United Nations International Drug Control Programme, the World Bank, the Council of Europe, the Commonwealth Secretariat, the Customs Co-operation Council, Interpol and the Offshore Group of Banking Supervisors attended various meetings during the year.

13. In addition to its plenary sessions, the FATF has continued to operate through three Working Groups, dealing respectively with legal issues (Working Group I, Chairman: Italy); financial matters (Working Group II, Chairman: France); and external relations (Working Group III, Chairman: USA). As in previous rounds, Working Groups I and II met jointly on several occasions to discuss the draft mutual evaluation reports on FATF members and various policy issues.

14. A major element of the work of the Task Force during 1993-1994 was the review of the future mission and programme of the FATF. Part I of the report sets out the conclusions of this review, which have been endorsed by all FATF member governments. Parts II, III and IV of the report outline the progress made by FATF over the past year in its continuing work in the following three areas:

(i) evaluation of the progress of its members in implementing the forty Recommendations;

(ii) monitoring developments in money laundering trends and techniques and considering necessary refinements to counter-measures; and

(iii) undertaking an external relations programme to promote the widest possible international action against money laundering.

I. THE FUTURE ROLE OF THE FINANCIAL ACTION TASK FORCE

15. When the decision was taken in 1991 that the FATF should continue its work for a further five years as an independent ad hoc group, it was agreed that there should be a mid-point review of its progress and the continuing need, mission and work programme of the group. This review took place during the 1993-94 round.

Progress Achieved

16. The FATF now encompasses 24 members of the OECD together with Hong Kong, Singapore and representatives of the European Commission and the Gulf Co-operation Council. FATF members have made good progress in introducing measures to counter money laundering and, by the end of 1994, every member will have undergone an evaluation of the steps they have taken. The FATF is also conducting an ambitious programme of missions and seminars in significant non-member financial centre countries to promote awareness of the money laundering problem and to encourage them to take action. This has already started to produce positive results, most notably through the formation of a Financial Action Task Force for Caribbean states and territories. However, FATF members have unanimously agreed that the work of the Task Force is far from completed. It has therefore been decided that the FATF should be maintained for a further five years, i.e. until 1998-99.

Future Mission and Work Programme

17. As regards the scope of its work, while the laundering of drugs money will remain a principal focus for the FATF, its work will continue to cover money laundering of the proceeds of serious crime and/or offences which generate significant funds. However, as in the past, the FATF will not deal with tax issues. It was agreed that over the next five years the FATF should continue to concentrate on three main tasks it has been pursuing since 1991:

(i) monitoring of members' progress in applying measures to counter

(ii) review of money laundering techniques and counter-measures and their implications for the forty Recommendations;

(iii) promoting the adoption and implementation of the FATF Recommendations by non-member countries.

In keeping with the FATF's function as a task force, this work should be directed through annual mandates towards clear goals in each area.

(i) Monitoring of Members' Implementation of Anti-Money Laundering Measures

18. The monitoring process has shown that members have made good progress in implementing the Recommendations. However, in many cases it was too soon to assess how effectively the measures are working in practice. For each FATF member, four years after its first mutual evaluation, there should be a second round of evaluation concentrating on the effectiveness of the measures adopted. The goal would be to complete a second round of evaluations by the end of 1998. During 1995, when no mutual evaluations would be conducted, there would be an analysis and discussion of various thematic aspects of the measures taken in different members to implement the Recommendations.

19. The annual self-assessment exercise, whereby members report on their state of application of the Recommendations, will be continued. However, given that most members have implemented the

Recommendations, or are coming towards the end of this process, the self-assessment will be conducted on a simplified basis.

(ii) Reviewing Money Laundering Developments and Counter-Measures

20. Money laundering is a dynamic activity. There is a constant need to keep trends and techniques under review so that any essential refinements can be made to the counter-measures. The forty Recommendations have demonstrated their continued utility and no major changes are planned. However, a stocktaking exercise will be conducted in 1995, taking in account experience gained over the last four years, including the Interpretative Notes which have been developed. In subsequent rounds, the Recommendations would continue to be monitored but only altered in exceptional circumstances.

(iii) External relations work

21. It has been recognised from the inception of the FATF that taking action in Member jurisdictions without corresponding measures elsewhere would simply move money laundering to new paths. Working with other international and regional organisations concerned with combating money laundering, the FATF has therefore been active in its efforts to encourage the widest possible global mobilisation in this area. However, as more and more countries open up their economies and develop their financial systems they will become increasingly attractive to money launderers. Hence there is a need for the FATF to step up its programme of contacts with non-member countries. The goal it has set itself is to persuade all countries with significant financial centres to endorse and implement the FATF Recommendations. Other governments should be persuaded to commit themselves to take action to prevent the abuse of their countries by money launderers.

22. The FATF has agreed a strategy for its contacts with third countries, with East Asia, Eastern Europe and the Caribbean as the first priorities. This strategy calls for close co-operation with organisations such as the United Nations International Drug Control Programme and INTERPOL. The FATF's prime role will be obtaining a political commitment to action and monitoring progress towards implementation.

Membership of the FATF

23. There was agreement that a significant increase in the size of the FATF would prejudice its flexibility and efficiency. Hence it was decided that there should be no more than a very limited expansion. However, the FATF will be examining further the possibility of setting up additional regional Task Forces on the lines of the Caribbean FATF.

Institutional Arrangements

24. The FATF intends to continue to function as a free-standing ad hoc group, reporting to Finance Ministers or other competent Ministers and authorities of its member governments. It will also continue to send its reports to the OECD Ministerial Meeting and the G7 Summit.

25. The FATF has hitherto operated through three working groups as well as plenary meetings. However, it was considered that following the completion of their current work programmes, the committee structure should be discontinued and the functions of the plenary strengthened. From FATF-VI the plenary will therefore play a greater role in FATF meetings, overseeing the external relations programme and discussing and deciding on any further policy Recommendations and Interpretative Notes. It will also discuss the second round of mutual evaluation reports. However, ad hoc groups might be created to carry out specific tasks in line with specific terms of reference approved by the plenary.

26. The Presidency of the FATF will continue to rotate annually. A small permanent secretariat will be maintained at the OECD.

II. MONITORING THE PROGRESS OF FATF MEMBERS IN IMPLEMENTING THE FORTY RECOMMENDATIONS

27. The Task Force monitors the performance of its members using the two methods agreed in 1991: an annual self-assessment exercise; and the more detailed mutual evaluation process under which each member jurisdiction is examined once over the period 1991-1994.

(i) Self Assessment

28. FATF members completed two questionnaires relating respectively to the legal and financial Recommendations. Some minor modifications were made to the questionnaires used in the previous round. The changes were mostly designed to elicit more precise information from those members who had not yet implemented particular Recommendations on when they expected action to be taken in these areas.

29. The FATF Secretariat produced compilations of the responses to show the state of implementation of Recommendations across the membership and a comparison with the results of last year's exercise. These were discussed in the legal and financial Working Groups.

(ii) State of Implementation

(a) Legal Issues

30. The FATF membership has continued to make significant progress over the past year in implementing the legal Recommendations. In particular, nearly all member jurisdictions have now enacted laws to make drug money laundering a criminal offence. Two out of the three remaining members who have yet to take action expect to pass the necessary legislation within the next 12 months. There has also been an increase in the number of members who have made the laundering of proceeds of crimes, other than drug trafficking, an offence. Sixteen members have already done so and a further five expect to be in this position by the end of 1994.

31. Good progress has also been achieved on making the requisite changes to financial institution secrecy laws, and on putting in place the necessary legal framework for mutual assistance in criminal matters, including assistance concerning the freezing, seizure and confiscation of assets. In addition, more members have ratified the Council of Europe Convention on Money Laundering (which came into force on 1 September 1993) and there should be a substantial increase in the numbers doing so over the next twelve months.

32. Among the generality of the membership, the areas where there has been least progress in taking action are those where there are constitutional or other fundamental difficulties over implementing a particular measure. These areas mostly concern Recommendations which, for these reasons, have a discretionary rather than a mandatory character. Examples include the issues of introducing corporate criminal liability for money laundering offences and arrangements for sharing of confiscated assets between jurisdictions. However, another area where progress has been slow has been the ratification and implementation of the Vienna Convention as required by FATF Recommendation 1. Only just over half the membership are now in compliance with this Recommendation, although another five partially

comply and a further four members expect to have ratified and implemented the Convention within the next twelve months. Certain FATF members are also finding it difficult to make much progress in implementing significant numbers of the legal Recommendations.

(b) Financial Issues

33. The 1993-1994 self-assessment exercise showed that although the financial Recommendations were not fully applied by all members, major overall progress had been made. As noted last year, the requirement for several European FATF members to comply with the provisions of the EC Money Laundering Directive played a significant role in the progress observed. However, it is regrettable that none of the financial Recommendations has, to date, been applied by all FATF members. Considerable differences still persist in the state of implementation of the various Recommendations between the banking sector and non-bank financial institutions (NBFIs).

34. The vast majority of members comply fully with customer identification requirements, although there are still some notable exceptions for Recommendation 13, especially among NBFIs. A special matter of concern lies in the fact that the banks of two members are still allowed to keep anonymous accounts. All members but one are in full or partial compliance with record-keeping rules.

35. Significant progress had been made with the implementation of Recommendations on the increased diligence of financial institutions, while a large majority of FATF governments requires banks, and to a lesser extent non-bank financial institutions, to pay special attention to complex, unusually large transactions. A significant minority of members has not yet undertaken any action to put their non-bank financial institutions in compliance with the above-mentioned requirement. All member governments permit their banks to report their suspicions if they suspect that funds stem from a criminal activity. Moreover, in nineteen member jurisdictions, the reporting of suspicious transactions is mandatory. For two thirds of FATF members, most of the non-bank financial institutions are obliged to report their suspicions to the competent authorities. Banks, in a large majority of members, are required to pay special attention to business relations and transactions with persons from countries with insufficient anti-money laundering measures.

36. While all but four members require banks to develop specific programmes against money laundering, this requirement is better implemented for the insurance and securities industries than in other categories of non-bank financial institutions. In general, the supervisory authorities ensure that adequate programmes are set up. Only a few members have designated competent authorities to deal with the implementation of the Recommendations to other professions dealing with cash. Although Guidelines have already been established by two thirds of the member governments to assist their banks in detecting suspicious transactions, few members have done so for non-bank financial institutions as well. Finally, the vast majority of members have taken measures to guard banks, insurance companies and investment businesses against control, or acquisition by criminals.

(iii) Mutual Evaluations

37. The FATF is now nearing the end of the first round of mutual evaluations of its member jurisdictions. A further nine mutual evaluations were carried out in FATF-V: the Kingdom of the Netherlands, Germany, Norway, Japan, Greece, Spain, Finland, Hong Kong and Ireland. In addition, evaluations were also begun of New Zealand, Portugal and Iceland but the reports on these countries will fall for discussion in FATF-VI. Examination visits to the remaining two FATF members to be evaluated - Singapore and Turkey - will take place in the second half of 1994.

38. Given that many FATF members evaluated during this round had only just established their anti-money laundering framework or were in the process of doing so, it was not possible to reach

definitive conclusions on the effectiveness of the measures in combating money laundering. Nevertheless, the evaluations were of great value in checking that members had properly implemented the Recommendations and providing a detailed scrutiny of the legal measures and enforcement and regulatory systems being put in place.

39. Summaries of the nine mutual evaluation reports completed during FATF-V are as follows.

Germany

40. As with other European countries, the Federal Republic of Germany is a major drug-consuming country and it also serves as a transit country for the flow of drugs from Asia and Central and South America. Although there are no statistical data on the amount of money laundering taking place in Germany, there is no doubt that the importance of the German banking system, the economic stability and the role of the Deutschmark in international financial transactions attract money launderers. In addition, organised crime in Germany has become an established factor and is spreading further. The activities of organised crime are not limited to drug trafficking but also extend to serious crimes.

41. The Federal Republic of Germany has just finalised the process of setting up new laws and systems to combat money laundering. On the legal side, the German strategy is based on the criminalisation of laundering the proceeds of all criminal offences carrying a minimum fine of one year's imprisonment, as well as drug-related offences and offences committed through organised crime. These provisions are completed with forfeiture and confiscation legislation contained in Section 261 of the Penal Code which entered into force on 22 September 1992.

42. On the financial side, the recent Money Laundering Act (GwG), which entered into force on 29 November 1993, provides the prerequisites for combating money laundering activities effectively in a repressive as well as preventive manner. The GwG contains three types of measures: identification requirements, the obligation for banks and other financial institutions as well as casinos to report suspicious transactions to the prosecuting authorities, and preventive measures to protect financial institutions and other businesses from money laundering. Most of the obligations which the GwG prescribes for banks also apply to non-bank financial institutions and to many non-financial institutions such as businessmen, property administrators and gambling casinos. In parallel to this new legislation, the financial supervisory bodies and the private sector have taken steps to implement the Money Laundering Act. It is worthwhile to note that the German banking community has carried out remarkable training programmes and initiated growing awareness in their staff. With the experience thus gained in the recent legislation, the German authorities may plan other concrete measures for the future.

43. As the authority responsible for receiving suspicious transactions reports is determined by each Land, concerns have been expressed on the fact that the efficiency of the German system could be strongly affected by the lack of a central point for the reporting mechanism. Furthermore, the dispersal of the reporting procedure throughout the German jurisdiction could undermine endeavours to favour a common policy in the organisation of law enforcement systems.

44. The overall impression of the evaluation of Germany is that the objectives defined in the FATF principles are being seriously and correctly pursued. Once all the new regulations have been enforced, Germany will be equipped with a comprehensive and strong anti-money laundering framework. There is no doubt that the strict regulations contained in the GwG will constitute an excellent basis for combating money laundering in the whole financial sector.
However, any evaluation of the efficiency of the legislation in place must be considered as tentative, given that the enactment of the GwG is so recent.

The Kingdom of the Netherlands

45. The evaluation covered not only the Netherlands itself, but also the the Netherlands Antilles and Aruba. The various parts of the Kingdom are at different stages in their formulation and implementation of anti-money laundering measures and hence were considered separately.

(a) The Netherlands

46. The Netherlands is significant as a drug-producing and drug-consuming country as well as being an important transit point for drugs trafficking. Large quantities of synthetic drugs, amphetamines, ecstasy and cannabis are produced partly for home consumption and partly for export. The Netherlands is a significant staging point for the distribution of heroin from South East and South West Asia to other parts of Europe and also for the re-export of hashish and marijuana. The annual turnover of the illegal drugs trade is estimated at some 3 - 4 billion guilders (US$ 1½-2 billion), the majority of which will be available for laundering. One recent estimate is that in total some 10 billion guilders (US$5½ billion) of proceeds of crimes are generated annually in the Netherlands.

47, The Netherlands is coming towards the end of putting in place new laws and systems to combat money laundering. The strategy is based on the criminalisation of money laundering of the proceeds of all predicate offences; tough and flexible confiscation laws; a requirement for financial institutions to report all unusual transactions (as defined in published indicative criteria) to a new Disclosures Office, separate from the police; and the institution of anti-money laundering systems of control (customer identification, staff training, etc.) in financial institutions. Both the 1988 Vienna and the 1990 Council of Europe Conventions have now been ratified. The authorities are willing to address particular areas of concern in the Netherlands, even when this goes beyond the requirements of the FATF Recommendations. An example is the decision to introduce a registration and monitoring system for bureaux de change.

48. The new anti-money laundering system has only just been put into effect and so firm conclusions cannot be drawn on how it will work in practice. However, the Netherlands complies with all the applicable FATF Recommendations. In particular, it benefits from having an excellent corpus of laws in this field, ranging from the basic money laundering offence, through asset confiscation and international co-operation, to the obligations of financial institutions. The last category of laws have the further strength that they can be modified in important respects as required without the need for fresh primary legislation.

49. The law enforcement system is also very well designed. Its streamlined nature and the recognition of the importance of a multi-disciplinary approach in investigating and prosecuting money laundering has great potential to maximise effective enforcement action. But, as the Netherlands authorities recognise, in operating the system, it will be important to ensure that it is adequately resourced. A weaker area is the system for supervising compliance of financial institutions. There appears to be some uncertainty about the precise roles of the agencies involved, which could have an adverse impact on the effectiveness of the supervisory effort. It is important that the Nederlandsche Bank plays a role commensurate with its status as the most important financial regulator.

50. The overall conclusion is that the Netherlands has drawn up and is implementing a well-designed, legally comprehensive system which should provide a very effective response to the challenge posed by money laundering.

(b) Netherlands Antilles and Aruba

51. The Netherlands Antilles and Aruba are separate jurisdictions. However, the situation in each is broadly similar. Both are of little importance as drug producers but they are significant transit points for cocaine trafficking from Colombia to the US and Europe. There is at present insufficient information to make an assessment of the money laundering situation. The two jurisdictions have begun the process of implementing measures to combat money laundering broadly based on those being brought into effect in the Netherlands. Both already have laws criminalising money laundering and legislation is now being drawn up regarding customer identification and mandatory reporting of unusual transactions, as well as implementation of the provisions of the Vienna Convention. It is intended that the legislation on identification and unusual transactions should cover all credit and financial institutions and also casinos and trust companies.

52. There are therefore encouraging signs of progress but both jurisdictions are still at too early a stage in the preparation of their new anti-money laundering framework for firm conclusions to be drawn. A further evaluation, involving on-site examinations, will therefore take place in early 1995 when it is hoped that all the new laws will have been enacted and the new systems implemented.

Norway

53. Both drug consumption and drug trafficking in Norway can be considered as serious problems, although perhaps not as serious as in certain other European countries. While not a drug producing country, Norway might be regarded as a transit country for cocaine. Another feature of the drug situation lies in the high street prices which make Norway one of the most profitable drug markets in Europe and therefore may generate illicit proceeds for local money laundering. Even if Norway cannot be deemed to be a major money laundering centre, it is most probable that the banks have been used to launder money. However, there is little indication of the type of laundering operations that might be carried out in Norwegian banks. Under these circumstances, the Government of Norway has become aware of the necessity of setting up a control system against money laundering.

54. As far as the Penal law is concerned, Norway has developed a high level of legal protection against money laundering. Section 317 of the Penal Code, by which money laundering has become a criminal offence, provides a sufficiently broad definition of money laundering activities. It covers all predicate offences and penalises intentional as well as negligent acts. In addition, the penalties contained in this section are severe. Also, the provisions regarding seizure and confiscation present no specific problems.

55. The basic provisions of Section 2-17 of the Financial Services Act, which came into force on 1 January 1994, especially the obligation to report suspicious transactions to the National Authority for Investigation and Prosecution of Economic and Environmental Crime (ØKOKRIM) as well as the far-reaching powers of that unit, provide for a coherent framework. It should be noted that the legislation on customer identification, record-keeping and the notification of suspicious transactions, including the possibility for ØKOKRIM to order the financial institution to stop a transaction, is largely based on the FATF Recommendations. The requirements of the new law are further specified in a regulation which came into force on 15 February 1994.

56. The supervision of the whole financial sector by the Banking, Insurance and Securities Commission (BISC) and the considerable attention they have given to the fight against money laundering must be underlined as very positive aspects of the Norwegian system. Even before Section 2-17 of the Financial Services Act entered into force, the BISC has started to draw the attention of the Boards of the supervised institutions to the issue of money laundering. This active approach includes the obligation to check compliance with anti-money laundering measures in the routine audits of financial institutions.

57. Given that the anti-money laundering legislation regarding the financial system is very recent, the evaluation of Norway must be considered tentative. An area of weakness is the definition of predicate offences, the proceeds of which can be deemed by financial institutions to constitute a money laundering situation. The current content of the new Section 2-17 of the Financial Services Act will probably prove too narrow for the smooth functioning of the reporting and investigation system.

58. The overall impression conveyed by the mutual evaluation of Norway is that there is still room for improvement, even if the efforts made in the context of money laundering should be considered in proportion to the size and characteristics of the country. Norway is on the right path towards developing an effective system to counter money laundering.

Japan

59. Japan is not a drug producing nor an important drug transit country. However, drug abuse is a growing problem, albeit not as widespread as in other major industrialised economies. Drug trafficking is controlled by organised crime groups who also engage in other forms of illegal activity. It is impossible to estimate how much money laundering takes place in Japan. So far there has only been one prosecution for money laundering and not many reports of suspicious transactions. But it is possible that the Japanese financial system is abused for laundering purposes and the use of financial institutions to transmit money by traffickers has been observed.

60. Japan's New Special Anti-Drug Law, which entered into force in July 1992, made drug money laundering a criminal offence and introduced a mandatory confiscation regime for drug proceeds and instrumentalities. There are currently no plans to criminalise the laundering of the proceeds of non-drug crimes. In the financial sector, requirements have been placed on institutions to identify their customers and to report to the regulatory authorities any transactions where there are suspicions that the funds may be drug-related. Japan has ratified the Vienna Convention and under its domestic law can offer mutual legal assistance, subject to reciprocity and dual criminality, in money laundering investigations. Assistance in confiscation action can be provided in drug money laundering cases if there is a mutual legal assistance treaty or the state is a party to the Vienna Convention.

61. Japan is to be commended for the speed with which it implemented anti-money laundering measures following the adoption of the forty FATF Recommendations and its laws and regulations comply with most of the Recommendations. Financial institutions also seem to be well aware of the money laundering problem and, in particular, have made laudable efforts to explain to their customers the need for the new identification requirements. Japan takes a positive attitude to the further enhancement of its system and some refinements could profitably be considered, mainly in the implementation of the measures.

62. As regards the money laundering law itself, the examiners considered that the offence should cover all cases where a trafficker makes deposits of drug funds to or transfers money from a financial institution in their own true name, although the Japanese authorities consider that their current system is adequate in this respect. It was also suggested that there would be benefits in criminalising the laundering of the proceeds of other serious crimes rather than just drugs. However, given the absence of evidence of non-drug laundering and the existence of other laws in this area, the Japanese authorities now think it best to concentrate on drug laundering.

63. A reason for the lower than expected number of suspicious transaction reports so far made may be uncertainty among financial institutions on what type of transactions should be reported. The authorities will therefore provide guidance on this point. This is welcome. Another positive step is the establishment of a working group to draw up guidelines for financial institutions on what might constitute a suspicious transaction. Application of identification requirements are also being tightened,

although a lower threshold in the case of large cash transactions could be considered. More generally, closer co-operation between the financial sector and the police would also improve the fight against money laundering.

Greece

64. Greece is probably more notable as a transit country for drugs than a drug consuming country. Greece is part of the "Balkan route" via which drugs from south west Asia and the Middle East are directed to the consuming countries of northern and western Europe. As in many other countries, Greece is an attractive potential money laundering target because of the current opening of its economy and financial system, and its proximity to regular drug trafficking corridors.

65. Greece is a party to all relevant international multilateral agreements (the United Nations and Council of Europe Conventions) and is subject to the European Communities Council Directive 91/308 as well as the FATF Recommendations. However, it has not yet enacted all the legislation necessary to implement fully the provisions contained in these international arrangements and Conventions. While Greece has already passed legislation which makes money laundering a criminal offence, there are no laws to implement specific measures for the financial sector.

66. Before the Act 2145 was adopted by the Greek Parliament on 28 May 1993, money laundering was absolutely unknown as a crime. Article 5 of this Act has introduced a new Article 394A in the Greek Penal Code, making it a criminal offence to launder money which derives not only from drugs but also from a variety of other serious offences. This Act 2145 provides a sound legal basis for building a system to counter the laundering of funds. The specific crimes identified beyond narcotics trafficking make the definition of money laundering under Greek law broader than the definition in many other countries and exceeds the minimum definition suggested by the FATF.

67. The major problems encountered in Greek law with respect to the implementation of the Strasbourg and Vienna Conventions, as well as the FATF recommendations, are caused by strong taxation laws and banking secrecy. From an investigative point of view, these certainly cause major difficulties when money laundering criminal investigations are being conducted.

68. The most important initiatives concerning anti-money laundering measures in the financial sector have, so far, been taken by non governmental authorities such as the Bank of Greece and the Hellenic Banking Association. Therefore, specific measures on money laundering are only directed at banks and not at non-bank financial institutions which are not covered by these provisions. The regulations of the Bank of Greece are not sufficient enough to cover the whole area of money laundering. The obligation to report or identify the customer only applies to transactions in foreign currency. While banks are required to record the correct information or notify the proper authorities, there is no central repository authority for the records and the information required to be kept by the Governor's Decisions. Without a central body to review these records, the effectiveness of the record-keeping as a deterrent or as an investigative tool to identify money laundering patterns would be limited to detection and use in individual cases.

69. Greece has not yet set up a complete anti-money laundering programme. Despite positive signs and a good beginning, as shown by the introduction of Article 394 A in the Penal Code and other initiatives from the banking sector, further action needs to be taken. This issue should be dealt with by law as soon as possible and not by a decision of the Bank of Greece's Governor which is only in a position to control part of the financial sector which needs to be covered.

Spain

70. Although Spain is not a drug producing country, its geographical proximity as well as its linguistic, cultural and social links to notable drug production areas make it a sensitive location for the international trafficking of narcotics. In particular, Spain is used as a transit country for cocaine and hashish to the rest of Europe. Given these aforementioned circumstances, it is obvious that Spain is confronted with attempts at money laundering.

71. In order to implement the forty FATF Recommendations, Spain has created a policy group at governmental level which is co-ordinated by the National Plan on Drugs. Spain has deployed progressive efforts for several years to equip itself with an efficient means for action, particularly legislative action, in the framework of the fight against money laundering. Pending the appropriate legislation, the Central Bank and the banking associations adopted transitional measures. The first objective of the anti-money laundering policy was to define money laundering as a crime, so as to adapt domestic legislation to the provisions of the Vienna Convention. This goal was recently reached through Organic Law 8/1992 of 23 December 1992 which includes in the Penal Code the crime of money laundering derived from drug trafficking. A further objective yet to be achieved is to define generic money laundering as a crime.

72. The Act 19/1993 of 28 December 1993 introduced specific measures to prevent the laundering of funds. The system of prevention of money laundering contained in this Act affects all categories of financial bodies, including bureaux de change, but it also applies to casinos and real estate companies. The basic provisions of this Act provide for a coherent and comprehensive anti-money laundering framework.

73. Thanks to the Acts of 23 December 1992 and 28 December 1993, Spain has recently acquired a basic anti-money laundering legislation which needs to be further refined in two main areas. First, penal law should be adapted so as to coincide with the scope of money laundering activities as defined in Act 19/1993. Second, significant regulatory measures to implement the Act of 28 December must still be enacted by the authorities. Otherwise, the system for preventing money laundering cannot be considered as wholly operational especially the system for reporting suspicious transactions. While good practical results have already been achieved by the banking sector, non-bank financial institutions lack implementing rules even though they are broadly covered by the legislation. Finally, as numerous authorities are involved in the anti-money laundering programme, the necessity for co-ordination is crucial. In this respect, the role of the Commission for the Prevention of the Laundering of Funds and Monetary Offences, as far as preventive measures are concerned, and the role of the Government's Delegation for the National Plan on Drugs, as co-ordinating body, will be essential.

74. Given that the legislation is so recent and that the implementing regulations have not, to date, been promulgated, the evaluation of Spain must be considered as tentative. However, both the authorities and the banking sector are willing to comply with international requirements on money laundering, particularly the FATF Recommendations. With Act 19/1993 on specific measures to prevent the laundering of funds, Spain has chosen a broad approach to the fight against money laundering. In some respects, the Spanish system goes beyond the mandatory recommendations. Spain is therefore on the right path towards developing an effective anti-money laundering programme.

Finland

75. Finland is not a drug producing country but is increasingly becoming a transit country. Drug consumption is low but there has been a considerable increase in the number of drug related offences and drug trafficking is becoming more professional and organised. In addition to drug proceeds, it is believed that traditional crime such as bankruptcy offences, frauds and embezzlements also account for a substantial element of money laundering. However, the biggest potential problem is the flow of funds from the former

Soviet Union for deposit in Finnish financial institutions or for the purchase of real estate or enterprises in Finland. It is suspected that these funds may include the illegal profits of the shadow economy being laundered and invested.

76. The Finnish authorities take money laundering very seriously. Finland has equipped itself with virtually a complete set of new laws and regulations concerning money laundering. These laws, which came into force at the start of 1994, are based on a very widely drawn money laundering offence covering all proceeds obtained by crime; confiscation of the proceeds and instrumentalities of money laundering; a very flexible new law concerning international co-operation; the mandatory reporting of suspicious transactions to the financial regulatory authorities by credit institutions and insurance companies; and the mandatory application by these entities of systems to help protect them against abuse by launderers, including customer identification and due diligence procedures.

77. Although the laws are new and untested, they look to provide a generally very good legal framework and in some respects - for example mutual legal assistance - are well in advance of general practice. Nearly all the FATF Recommendations have been implemented and legislation currently going through Parliament will add to the list by providing for corporate criminal liability for money laundering. The legal framework is reinforced by the positive attitude of the financial sector towards combating money laundering and the good co-operation between it, the financial regulators and the law enforcement authorities.

78. There are some areas where the anti-laundering system could be strengthened. In particular, all parts of the financial sector need to be brought within the anti-laundering framework as soon as possible - currently securities brokerage firms and bureaux de change are not covered. In addition, it would be desirable for the money laundering offence itself to be extended to cover attempted laundering. Operationally, experience in other FATF members suggests that the law enforcement authorities in Finland need to have legal authority to carry out a wider range of investigative techniques; and the formation of dedicated anti-laundering investigative units is certainly worthy of consideration.

79. However, the weaknesses of the Finnish system are minor in comparison to the progress that has already been made. Moreover, the Finnish authorities are very open to further refinements. The overall conclusion from the evaluation must therefore be that Finland has so far made a very good response to the money laundering challenge it is facing.

Hong Kong[1]

80. Due to its close proximity to drug source countries and the fact that it is a free port at the centre of the communication and transportation network in South East Asia, Hong Kong faces a significant drug trafficking problem. Drugs from the "Golden Triangle" are smuggled into Hong Kong both for local consumption and re-export to other countries. Therefore, Hong Kong has a significant money laundering problem. The majority of funds laundered in Hong Kong results from drug sales which took place outside of Hong Kong, the actual amount of which is almost impossible to ascertain. These high profits are at least at some stage placed, layered and integrated in Hong Kong.

[1] Under the Sino-British Joint Declaration signed on 19 December 1984, the Government of the People's Republic of China will resume sovereignty over HongKong with effect from 1 July 1997. Under the Joint Declaration, the monetary and financial systems previously practised in Hong Kong, including the systems of regulation and supervision of deposit-taking institutions and financial markets, as well as the laws previously in force, shall be maintained.

81. As one of the world's leading financial centres, Hong Kong presents several attractive factors to money launderers, such as a low tax system particularly for foreign source income, flexible corporate laws, sophisticated banking facilities and the absence of currency and exchange controls. Other favourable factors are an efficient communication system, the boom of real estate investments in South China and the fact that the Hong Kong dollar is a very desirable currency.

82. Determined to combat drug trafficking and the related money laundering, the Hong Kong Government has followed the approach and experience of the United Kingdom. Hong Kong enacted its first anti-drug related money laundering legislation in December 1989 (the Drug Trafficking (Recovery of Proceeds) Ordinance). This key legislative measure with respect to drug money laundering empowers the courts to freeze and confiscate the proceeds of drug trafficking, and includes, in Section 25, the offence of laundering the proceeds of drug trafficking.

83. With regard to measures applicable to the financial sector, the Hong Kong Monetary Authority issued in July 1993 a Guideline on Money Laundering which superseded the guidelines, issued in March 1989, on the prevention of the criminal use of the banking system for the purpose of money laundering. In parallel, Guidance Notes on Money Laundering were issued in December 1993 to all insurers authorised to carry on long term business in Hong Kong.

84. The Hong Kong government has shown a sincere commitment to address the problem of money laundering and is taking significant steps to comply with the FATF Recommendations. The legislative framework and the Guidelines on "Money Laundering" to the banking and insurance industries provide for a good basis for countering money laundering. However, further efforts should be made to cover not only investment businesses but also other non-bank financial institutions such as remittance houses and bureaux de change. On the legal side, the enactment of the Organised and Serious Crimes Bill, which provides for the creation of a money laundering offence relating to the proceeds of any crime, will improve significantly the anti-money laundering legislation. The ready availability of shell companies makes investigations extremely difficult. This fact, together with lawyer/attorney privileges, creates problems for law enforcement agencies in identifying beneficial owners.

Ireland

85. Ireland has experienced a marked increase in the availability and consumption of illicit drugs in recent years, with cannabis followed by Ecstasy and LSD as the most common drugs. No estimates are available for the proceeds of drug trafficking and, given the absence of big organised crime gangs and the fragmented nature of the drugs trade, money laundering is not believed to be a serious problem. However, terrorist organisations do generate substantial sums to finance their operations and need to conceal these funds.

86. Ireland is moving from a situation in which little action had been taken against money laundering to the adoption of a wide-ranging framework in this area. The new law currently going through Parliament will implement the FATF Recommendations and the provisions of the EC Money Laundering Directive and enable Ireland to ratify the 1988 Vienna and 1990 Council of Europe Conventions. Ireland's approach is based on the criminalisation of the laundering of the proceeds of all crimes, backed up by tough confiscation provisions and requirements on financial institutions to identify their customers and report any suspicious transactions to the law enforcement authorities. The legislation will be supplemented by the production of detailed guidance notes.

87. The new legislation provides a very good legal framework for combating money laundering. The money laundering offence itself meets all the FATF Recommendations and Ireland is to be commended for the comprehensive coverage of predicate offences. The new confiscation provisions are a further strong feature of the new law. In addition, the obligations to be placed on financial institutions

generally meet the FATF requirements. At present these obligations do not cover all relevant bodies - credit card issuers, unit trusts and investment intermediaries are the most notable exceptions. The legislation does enable the obligations to be extended to such entities by way of statutory regulations. Credit card issuers and unit trust managers will be covered by this means. However, failure to cover investment intermediaries could represent a weak point in the framework and it would be desirable for all financial institutions to be subject to the obligations as soon as possible.

88. The main financial sector trade associations have a positive and constructive attitude to the new legislation. The banks, building societies and also the life insurance sector were all well aware of the money laundering threat and ready to co-operate with the government on counter-measures.

89. Nevertheless, although a good start has been made, there is still much to be done in setting out the details of the necessary anti-laundering measures and how they should be implemented in practice. It is therefore important that the detailed guidance for financial institutions on matters such as training and handling of suspicious transactions, which is now being prepared, should be finalised as soon as possible. The guidelines need to cover all financial subsectors and should, as far as possible, lay down equivalent rules to avoid competitive distortions and ensure effective application of the measures.

90. Ireland has been relatively late among FATF members in putting an anti-money laundering framework in place. However, it is to be congratulated on the legislation it has drawn up and the very positive attitude of the main financial industry associations towards combating money laundering. If the implementation of the measures matches the standard of the primary legislation, Ireland should have a very effective anti-laundering system.

III. MONITORING DEVELOPMENTS ON MONEY LAUNDERING TECHNIQUES AND REFINEMENT OF THE FATF RECOMMENDATIONS

91. The FATF continues to collect and share information on the latest developments and trends in money laundering techniques. This exercise is useful not only for informing law enforcement agencies and others with operational responsibilities in FATF members but also for considering what further money laundering counter-measures might need to be adopted to take account of these developments. Money laundering is not simply a problem faced by the banking community and other mainstream financial institutions. As FATF members have introduced preventive measures covering the "regulated" financial sector, money launderers have been increasingly using more diverse routes, both in terms of the geographical areas targeted and methods used. During the 1993-1994 round, the FATF has therefore tended to focus increasingly on issues which were not given such close attention when the original forty Recommendations were drawn up in 1989-1990. However, in line with the decision taken in FATF-III, no new Recommendations will be considered until after all the mutual evaluation examinations have been completed.

1993-1994 Survey of Money Laundering Trends and Techniques

92. The annual review of developments in money laundering techniques drew on a large number of case histories submitted by FATF members, including some members who had not previously contributed to this exercise. These, and other cases, were discussed by an ad hoc expert group. As in previous exercises, the material was concerned with developments or trends in existing money laundering methods - e.g. use of shell companies, wire transfers, non-bank financial institutions (especially bureaux de change) and physical movement of currency - rather than indicating any significantly innovative techniques. Evidence was presented of an increasing amount of laundering of the proceeds of crime

unrelated to drugs trafficking, such as arms smuggling, prostitution, white collar crime and even the illegal trafficking of animal hormones, which in one FATF member was second only to drugs as a source of criminal proceeds for laundering.

93. There were further indications of the existence of joint ventures of drug traffickers and financial professionals, which resulted in increasingly sophisticated money laundering methods. This was reflected in the growing use of instruments such as gold or bonds; and the expansion of underground banking systems well beyond the geographical areas with which they are traditionally associated. There were also a significant number of examples of banks conniving in money laundering operations, with criminals being able to take control of banks and penetrate other financial institutions, especially in jurisdictions with weak supervisory systems.

94. Geographically, the world-wide nature of money laundering operations was again emphasised. Central and Eastern European countries are becoming increasingly used in money laundering schemes. In parallel, the use of alternative financial centres in Asian and South American countries is also developing.

Refinement of Counter Measures

(i) Shell Corporations and Other Legal Entities

95. Given the propensity for shell corporations to be used in money laundering operations, the FATF has been examining what steps might be taken to counter their attractions as laundering vehicles. FATF-V continued the work begun in 1992-1993 to try to ensure that the beneficial owners of such bodies were identified and that this information was available to law enforcement authorities conducting money laundering investigations. As the study of the issue continued, the importance of applying the principle of transparency of ownership to corporate bodies in general was emphasised since not only shell corporations but virtually any legal entity could be used in money laundering schemes.

96. A very important element in preventing the use of legal entities by natural persons as a means of operating de facto anonymous accounts is to ensure that financial institutions obtain information on owners and beneficiaries of their client legal entities. After considerable discussion, an Interpretative Note to Recommendations 12, 13 and 16 to 19 was adopted to clarify the measures to be taken by financial institutions regarding the identification of customers who are legal entities. The text of this note is set out in Annex 1.

97. There was also some discussion of other ways of improving transparency of ownership of corporate bodies and some possible additional measures were proposed for dealing with specific problems posed by shell corporations. However, no conclusions were reached on these issues during FATF-V.

Use of non-financial institutions for money laundering

98. The FATF also continued the work begun in the previous round on measures to combat the use of businesses outside the financial sector for money laundering. The subject was dealt with in two stages. The first focused on the counter-measures applicable to financial activities carried on by businesses other than financial institutions. In some FATF members only licensed financial institutions can provide financial services to the public. However, in other members at least certain financial activities can be conducted by any business in conjunction with its mainstream operations. An example is the provision of bureaux de change facilities by travel agents. If no measures were taken in this area, there would be a potential loophole in the anti-money laundering framework which could be exploited by criminals. An Interpretative Note was therefore proposed to Recommendations 10 and 11 regarding

the application of appropriate anti-money laundering measures to the conduct of financial activities by non-financial businesses or professions. The text of the draft Interpretative Note is to be found in Annex 2.

99. The second stage was an examination of the ways in which non-financial businesses could be exploited by money launderers, whether willingly or without their knowledge and consent. It was agreed that there was no one set of measures which would be applicable to the whole of the non-financial sector, which covers a vast range of businesses. Instead the FATF is studying a mixture of measures. Some would be of general application. These include consideration of means to improve the transparency of ownership of legal entities; examining to what extent external auditors and public authorities should be enabled to pass on to law enforcement authorities any reasonable suspicions of money laundering activities they develop in carrying out their work with businesses; and the further scope for reducing and/or monitoring the use of cash as a payment mechanism for large value transactions.

100. There was also general agreement that certain business sectors - for example, the gaming industry and vendors of high value items (art/antique dealers, real estate dealers, sellers of cars, boats and other luxury goods) - were particularly vulnerable to abuse by money launderers. The application of more specific anti-money laundering measures to these sectors is therefore being studied.

101. The FATF has not reached definitive conclusions on what actions - general or specific - might need to be taken concerning non-financial businesses. It should be noted that a number of the measures under study would go beyond the existing forty FATF Recommendations. Further work on this subject will therefore need to be pursued in FATF-VI.

Identification Requirements

102. The FATF continued its work on the issue of identification requirements, particularly in cases where there is no face-to-face contact between the financial institution and its customers. Various options, which had been put forward by FATF members were discussed. It was recognised that there should be a satisfactory balance between flexibility in the method of identifying the customer and security. It was also pointed out that there should be no discrimination between categories of financial institutions. The advantages and disadvantages of the various methods of identification were reviewed. It was generally agreed that any identification method, when there is no face-to-face contact, should achieve the underlying objectives of Recommendations 12 and 13. However, this question will be reconsidered during FATF-VI.

Non-Bank Financial Institutions

103. During 1992-1993, FATF-IV had reviewed the tendency of money launderers to use the non-banking financial sector. Bureaux de change, intermediaries in investment businesses and insurance companies were identified as having been used, or as particularly vulnerable to being used, for money laundering. FATF-V considered further action on the implementation of the FATF Recommendations in various sectors of NBFIs. It was expected that the implementation of the Recommendations to the insurance and investment business industries would normally be achieved when anti-money laundering measures were being established.

104. However, a matter of general concern was the implementation of the FATF Recommendations on financial matters to bureaux de change since these institutions had been identified as being very vulnerable to money laundering schemes. In this regard, it was decided to deliberate on measures such as setting up registration or supervisory requirements or the application of other methods for the enforcement of anti-money laundering regulations by the bureaux de change.

105. Finally, it was also decided not to overlook entirely the other sectors of NBFIs, particularly intermediaries in investment businesses. The Task Force pursued contacts with the Working Party 4 of the International Organisation of Securities Commissions (IOSCO) so as to compare its work with that of the FATF on the implementation of Recommendations to the securities sector.

Electronic Funds Transfers

106. The FATF continued to work on this issue since there were indications that a number of money laundering cases had involved the use of electronic payment systems. It was decided to institute an exchange of information on how FATF members had implemented regulatory measures relating to electronic funds transfers. Several members presented their domestic measures on this matter: Government regulations, circulars from the Banking Commission or the Central Bank as well as instructions or directives from supervisory authorities. Following this review, it was agreed to continue to monitor implementation by FATF members of the SWIFT broadcast of 30 July 1992 -- in particular, the information loss which may occur when data enter internal payments systems. The review of the implementation of the SWIFT broadcast will continue during FATF-VI. However, the FATF was concerned about the possible shift of the problem to other wire transfer systems and therefore this question was studied more closely.

107. In parallel, the Task Force maintained its contact with SWIFT. A FATF delegation attended the annual conference of SWIFT users on 10 September 1993 in Geneva. The Chairman of Working Group II and several FATF experts also met with representatives of SWIFT in order to pursue the good co-operation already established in previous rounds. The SWIFT broadcast of 30 July 1992 was communicated to the Offshore Group of Banking Supervisors and to the Basle Committee.

IV. EXTERNAL RELATIONS

108. As in the previous round, the FATF carried out various anti-money laundering seminars and missions in non-member jurisdictions. The FATF mounted two major seminars during the round: in Riyadh in October 1993: and Moscow in November 1993. There has also been a smaller scale seminar in the Bahamas and high-level missions to Israel, the People's Republic of China, Malaysia, Thailand and Taiwan. Above all, a major review was undertaken of the FATF's external relations work and a strategy was drawn up for the FATF's contacts with third countries in forthcoming years. The FATF also conducted its annual survey of progress in implementing anti-money laundering measures in Dependent, Associated or Otherwise Connected Territories of FATF members.

The Gulf

109. The seminar in Riyadh held on 11-13 October 1993, was conducted in conjunction with the Gulf Co-operation Council and the Saudi Arabian Monetary Agency and had been attended by sizeable delegations (including representatives from the banking sector, regulatory agencies, finance and justice ministries) from all six GCC members (Saudi Arabia, Kuwait, Bahrain, Quatar, the UAE and Oman). The seminar covered all aspects of the money laundering issue and the audience had been well-informed and taken a positive attitude.

Central and Eastern Europe

110. The FATF seminar in Moscow, held on 2-4 November, followed contacts between the Chairman and the Central Bank of Russia. Prior to the seminar, the Chairman visited Moscow for meetings with Russian government agencies to assess the situation. Some hundred representatives of

various Russian agencies, including commercial banks, attended the seminar. Following a plenary session on the first day, separate workshops were held for financial and regulatory, legal and judicial, and law enforcement groups. The conclusions from these groups were presented at a final plenary session. The recommendations to the Russian government resulting from the seminar included the implementation of the FATF measures and ratification of the Vienna and Council of Europe Conventions, with particular emphasis on the importance of ensuring that financial institutions were not owned or controlled by criminals. In response, the FATF was invited to send a small team to Russia in 1994 to evaluate progress in taking action against money laundering.

111. Although the FATF conducted no other seminars in Central and Eastern Europe during the round, it continued to monitor developments in the application of money laundering counter-measures in Hungary and Poland, where seminars had taken place in early 1993. Representatives from the Hungarian National Bank and the National Bank of Poland attended meetings of Working Group III in November 1993 and April 1994, respectively. The Hungarian Parliament has now passed a law to make money laundering of the proceeds of drugs trafficking, terrorism and arms trafficking a criminal offence. Money laundering has not yet been made a criminal offence in Poland but the National Bank of Poland has taken a number of measures and it is hoped that anti-money laundering legislation will be introduced in the Polish Parliament in the near future.

112. Elsewhere in Eastern Europe, FATF members have participated in Council of Europe missions on money laundering to Lithuania, the Ukraine and Estonia. The FATF will also take part in a major conference on money laundering for European States, which the Council is organising in the second half of 1994. It should also be noted that the PHARE programme of the European Community, which covers money laundering, has been extended to include Albania, the three Baltic States (Estonia, Latvia and Lithuania) and Slovenia, in addition to the existing beneficiary countries. The programme will therefore assist the implementation of anti-laundering measures in eleven Central and Eastern European countries.

Caribbean

113. In the Caribbean, with the support of the FATF sponsoring countries (Canada, France, the Netherlands, the United Kingdom and the United States), a permanent secretariat for the Caribbean Financial Action Task Force (CFATF) has now been established. The secretariat is based in Trinidad, which currently holds the Presidency of the CFATF. During 1994, all CFATF members will take part in a self-assessment exercise to monitor their progress in implementing the forty FATF and nineteen CFATF Recommendations. A number mutual evaluations will also be carried out. A full meeting of the CFATF will take place towards the end of 1994.

114. The FATF carried out one event in the Caribbean in FATF-V. This was a seminar in Nassau on 21-22 October. The seminar was held primarily for banking regulators from the members of the CFATF Steering Group and produced a good number of recommendations for the work of the CFATF.

Missions

115. Three high-level missions were conducted during FATF-V. A mission visited Jerusalem and Tel-Aviv in December 1993 for discussions with Israeli government agencies. Israel is not considered to be a significant money laundering centre but has the potential to become a transit point for the flow of dirty money. Israel has yet to take action against money laundering but the subject is under active consideration.

116. A mission also took place to Beijing in December 1993 for meetings with the Ministry of Justice, the Narcotics Commission and other agencies. Again, so far there had only been limited action

against money laundering but it was planned to introduce legislation in 1994, which would bring China into conformity with the Vienna Convention.

117. Finally, the FATF has started preparations in conjunction with the Commonwealth Secretariat for a further Asian Money Laundering Symposium planned for late 1994 to follow up the event held in Singapore in April 1993. The FATF President visited Malaysia, Thailand and Taiwan in May 1994 for discussions with these governments in advance of the seminar. A small unit will be established in the near future to support the Asian initiatives of the FATF. This unit will be funded by advances from Australia's Confiscated Assets Trust Fund.

External Relations Strategy

118. The FATF has conducted an increasingly active external relations programme and this aspect of its work can be expected to grow in significance over the next few years. Hence it was decided that a plan was needed to guide its future activities in this area. During FATF-V, Working Group III drew up an external relations strategy based on papers prepared by the Chairman.

119. The agreed objective is to ensure the widest possible implementation of FATF policies to combat money laundering. The programme adopted, which determined the geographical and sectoral priorities and which will be regularly updated, is therefore focused on actions to persuade third countries to adopt and implement the FATF Recommendations as policy measures. But it also includes the monitoring and, where necessary, reinforcement of their progress in doing so. The strategy is based on maximum co-operation with other international and regional organisations interested in combating money laundering and builds on the good co-ordination which the FATF through Working Group III has already established.

120. Over the next twelve months the priority areas for the FATF and the proposed actions are as follows:

Asia: China, Taiwan, South Korea, India, Pakistan, Sri Lanka, Vietnam, Thailand and Malaysia. All these countries will be invited to attend the second Asian Money Laundering Symposium to be held in late 1994.

Europe: Russia, Poland, Hungary, Czech Republic. Contacts with these countries will be pursued bilaterally or at the Council of Europe Money Laundering Seminar to be held in the second half of 1994.

North America: Mexico

Caribbean Basin: Panama, Cayman Islands, Bahamas, and Venezuela. Contacts will be pursued through the CFATF.

South America:Colombia, Brazil, Argentina, Ecuador. Two seminars are planned for the second half of 1994 in conjun States.

Africa: Kenya, Central African Republic, Zimbabwe, South Africa, Morocco, Ivory Coast, Nigeria. It is planned to hold two small group conferences for the sub-Saharan countries in late 1994 or early 1995 and a high level visit to Morocco in 1994.

Middle East: Egypt. A high level visit could take place in conjunction with one of the African conferences.

Co-operation with Regional and International Organisations

121. Representatives from the Council of Europe, INTERPOL, the UNDCP, the Commonwealth Secretariat and the CCC have regularly attended meetings of Working Group III. During FATF-V, the FATF has also developed its contacts with the Offshore Group of Banking Supervisors. Wherever possible seminars and conferences are organised in conjunction with and involving the participation of relevant regional and international organisations. The FATF similarly welcomes the opportunity to take part in anti-money laundering events organised by other bodies. In addition to the Council of Europe Conference, FATF members will also be attending the Conference in Courmayeur in June organised jointly by the UN and the Italian Government. As a further measure to promote co-operation between international organisations on anti-laundering initiatives, the Chairman of Working Group III chairs an ad hoc co-ordination group of relevant bodies.

CONCLUSION

122. In 1993-1994, the member jurisdictions of the FATF achieved significant progress in the fight against money laundering. As the main money laundering policy maker, the FATF has once again proved that its flexible structure did not impede effective results. There has been substantial improvement in the implementation of the forty Recommendations by FATF member Governments. The review of money laundering techniques and counter-measures was again an essential and beneficial part of the work of the Task Force. The FATF continued to carry out a significant external relations action which has already resulted in positive steps being taken by non-member countries.

123. While considerable progress has already been made in combating money laundering, further action remains to be taken to achieve the FATF's programme. Efforts must still be made by FATF member governments to obtain a complete implementation of the forty Recommendations. The need for continuing action against money laundering is obvious. It is for this reason that it was decided that the FATF should continue its work for a further five years and that, while drug money laundering remained a principal focus, it should continue to cover money laundering of the proceeds of serious crimes and/or offences which generate significant funds. As money laundering is an evolutionary phenomenon, it is essential to keep abreast of trends and methods in this domain so as to facilitate the adoption of relevant counter-measures. In parallel, it is also essential to keep under constant review the existing counter-measures. As money laundering cannot be combated effectively if action is restricted to FATF members, it is of the utmost importance to encourage further the adoption of anti-money laundering measures in third countries. Indeed, the underlying objective of the FATF should be to ensure the implementation of effective programmes to combat money laundering in these countries.

124. As the world-wide mobilisation against money laundering is the ultimate goal of the FATF, its external relations work will be given a high priority in the forthcoming years. FATF-VI, under the presidency of the Kingdom of the Netherlands, will carry forward this task.

ANNEX 1

INTERPRETATIVE NOTE TO RECOMMENDATIONS 12, 13, 16 THROUGH 19 CONCERNINGTHE UTILISATION IN MONEY LAUNDERING SCHEMES OF ACCOUNTS IN THE NAMES OF USTOMERS WHO ARE NOT NATURAL PERSONS

1. There is increased concern with the misuse of many types of legal entities at every stage of the money laundering process. This concern extends beyond entities established solely for concealment purposes. It also encompasses the utilisation of entities with legitimate operating businesses for money laundering purposes. Thus the concern is not limited to any particular form of legal entity (such as, for example, shell corporations) since virtually any entity can be used in money laundering schemes.

2. Money laundering investigations should not be hindered or obstructed by the use of forms of legal entity which, in particular, conceal or obfuscate the true beneficial ownership of accounts. In many instances, such concealment is accomplished by placing financial institution accounts in the names of entities rather than natural persons with the expectation that an investigating agency will not be able to determine the identities of the true owners of the entities and thus of the accounts.

3. The identification by financial institutions of customers who are not natural persons raises specific problems related to the complexity of their activities and organisational structures. Financial institutions should pay special attention to this type of identification.

4. In order to fulfil identification requirements concerning legal entities, financial institutions should take measures as to:

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

(ii) verifying that any person purporting to act on behalf of the customer is so authorised and identifying that person, when necessary.

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

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

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

ANNEX 2

MEASURES TO COUNTER MONEY LAUNDERING THROUGH FINANCIAL ACTIVITIES CARRIED ON BY NON-FINANCIAL INSTITUTIONS

Interpretative Note to FATF Recommendations 10 and 11

1. From the outset of the work of the FATF it has been recognised that not only financial institutions but also other types of businesses are vulnerable to exploitation by money launderers. This is reflected in FATF Recommendations 10 and 11 which note that measures to help protect financial institutions against money laundering need to be applied on as broad a front as practically possible, including to professions outside the financial sector.

2. Measures to counter the use of non-financial businesses for money laundering are the subject of a separate note. However, there is also a need for counter-measures covering the conduct of financial activities by businesses which are not financial institutions as such. (The Annex to this Note sets out the list of activities which are considered to be financial activities.) Although in some FATF members these activities can only be carried out by a licensed financial institution, in others at least some of them may be conducted by any business as an ancillary activity to its main commercial operations. Examples of this include the provision of bureaux de change services by travel agents or the provision of electronic fund transfer services or sale of financial instruments such as money orders by retail shops. Money launderers may find it as attractive to use the financial services provided by such businesses as to obtain them from recognised financial institutions.

3. Hence it is important that appropriate anti-money laundering measures should be applied to any business conducting financial activities, even if it is not a financial institution as such. These measures would, of course, only be applicable to the financial activities carried out, not the generality of the business's operations, and need not be applied in de minimis cases. The appropriate measures are those such as customer identification, record-keeping, etc. set out in FATF Recommendations 12 to 22 and 24. However, Recommendations 26 to 29, which deal with the role of regulatory and other administrative authorities, may also be applicable in appropriate cases.

4. The FATF has therefore adopted the following Interpretative Note to Recommendations 10 and 11.

FATF members should consider applying Recommendations 12 to 22, 24 and 26 to 29 to the conduct of financial activities as a commercial undertaking by businesses or professions even where these businesses or professions are not financial institutions as such. Financial activities are to be understood as those listed in the attached annex. It is for each individual jurisdiction to decide whether special situations should be defined where the application of anti-money laundering measures should not be required, for example, when a financial activity is carried out on an occasional or very limited basis.

ANNEX TO THE INTERPRETATIVE NOTE TO RECOMMENDATIONS 10 AND 11

List of Financial Activities Carried Out by Non-Financial Institutions

1. Acceptance of deposits and other repayable funds from the public.

2. Lending.[2]

3. Financial leasing and hire purchase.

4. Money transmission services.

5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques and bankers' drafts...).

6. Financial guarantees and commitments.

7. Trading for own account or for account of customers (spot, forward, swaps, futures, options...) in:

   (a) money market instruments (cheques, bills, CDs, etc.);

   (b) foreign exchange[3];

   (c) exchange, interest rate and index instruments;

   (d) transferable securities;

   (e) precious metals.

8. Participation in securities issues and the provision of financial services related to such issues.

9. Money broking.

10. Individual and collective portfolio management.

11. Safekeeping and administration of securities.

12. Insurance operations, in particular life insurance and other investment products.

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[2] Including inter alia:

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

[3] Including, inter alia, manual money changing.