International Strategies to Combat Money Laundering

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Introduction

Good morning. I would like first to thank the International Centre for Criminal Law Reform & Justice Policy, the China University of Political Science & Law, and the National Prosecutors College, Peoples Republic of China, for inviting me to participate in this conference. I am pleased that the conference organizers have thought to include a segment on money laundering, which -- as other speakers have already acknowledged -- I also believe must be included in any comprehensive discussion about preventing and controlling financial fraud.

As the financial systems of the world grow increasingly interconnected, international cooperation has been, and must continue to be, fundamental in curtailing the growing influence on national economies of drug trafficking, financial fraud, other serious transnational organized crime, and the laundering of proceeds of such crimes. Of course, to be fully successful, the international response to the problem of money laundering depends upon political support from the governments of the world. But I would like to emphasize today that much of the most important international work is being conducted by specialists and experts, who are not pursuing a foreign policy agenda per se. These experts, from various financial and regulatory, law enforcement and judicial fields, act together internationally. But they do so in their own national interests, for the purpose of ensuring the integrity of their own financial services providers and enforcing national law, as they increasingly understand that direct cooperation is essential if governments are to have a chance of success in pursuing criminals and their ill gotten gains from one jurisdiction to another.

This trend, dubbed "transgovernmentalism" by Harvard professor Anne-Marie Slaughter1 can be seen not only in the international fight against money laundering, but in other international judicial, regulatory and law enforcement fields, as well. To quote Ms. Slaughter: "Transnational regulation produces rules concerning issues that each nation already regulates within its borders: crime, securities fraud, money laundering, [environmental] pollution, tax evasion. The advances in technology and transportation that have fueled globalization have made it more difficult to enforce national law. Regulators benefit from coordinating their enforcement efforts with those of their foreign counterparts and from ensuring that other nations adopt similar approaches."2

What is money laundering?

Money laundering is the movement of criminally-derived funds for the purpose of concealing the true source, ownership, or use of the funds. Laundering is a necessity for any profit-generating criminal activity. Without the ability to launder their illicit proceeds, criminals fail because money sustains them, motivates them, and gives them power. Narcotics traffickers, perpetrators of financial fraud, organized crime groups and others invest considerable effort into laundering their illicit proceeds, so that they can eventually live an expensive lifestyle. Weak financial regulatory systems, lax enforcement, and corruption are key factors that make certain jurisdictions particularly attractive for laundering illicit proceeds by international drug trafficking and other criminal organizations, by terrorist groups financing their activities, and even by pariah states undertaking financial transactions to evade international sanctions to acquire technologies and components for weapons of mass destruction.

Sources of illegal proceeds

Discounting tax evasion, drug trafficking is probably the single largest source of illegal proceeds. But experts agree that non-drug related crime is increasing significantly. Organized crime, arms smuggling, tax evasion, and fraud in its many varieties (e.g., trade fraud, bank and other financial fraud, medical, insurance, and other fraud) entail significant laundering of funds. It remains difficult to assess the scale of the money laundering problem, but there is general agreement that it amounts to hundreds of billions of dollars annually. Michel Camdessus, Managing Director of the International Monetary Fund, said in remarks to the Financial Action Task Force in February of this year that "two to five percent of global GDP would probably be a consensus range."

The three phases of money laundering

The complete laundering of funds is generally thought to involve three distinct phases, beginning with the placement of illicit proceeds -- usually currency -- into a financial institution ("placement"), continuing with the movement of funds from institution to institution to hide the source and ownership of the funds ("layering"), and concluding with the reinvestment of those funds in an ostensibly legitimate business ("integration").

While countermeasures to all three components of money laundering are important, laundered money is generally most vulnerable to detection at the placement stage. As a consequence, international regulatory and law enforcement efforts have concentrated especially on developing methods to make it difficult to place illicit funds without detection by developing measures such as mandatory record-keeping and even reporting of large or unusual currency transactions, "know your customer" and suspicious transaction reporting requirements, and cross-border monetary declaration requirements.

International standards to discourage layering have also begun to develop, through a focus on increased transparency in financial systems generally3 and through increased recognition of the need to eliminate techniques, such as the use of nominees and numbered accounts to disguise the actual ownership of assets. Likewise, there has been growing international recognition that bank secrecy rules must give way to permit law enforcement agencies to review financial records in cases where there is an active criminal investigation pertaining to the source of the funds.

Finally, integration of illicit proceeds can be fought through the strengthening of asset forfeiture laws, by which governments can seize the proceeds of criminal activity even when those proceeds have been reinvested in ostensibly legitimate enterprises. Many states are currently working to improve methods by which asset forfeiture regimes, and asset sharing among law enforcement agencies of different countries, to make it more difficult for criminals to protect their money from the law.

Why it is important to fight money laundering

Money laundering, like any crime, will always be with us; efforts to combat it must always realistically be geared toward containment, rather than elimination, of the problem. Given this fact, and the fierce, increasingly global competition in the financial services industry, some continue to question the value of anti-money laundering efforts. Money laundering controls are complex, costly and difficult to administer, and there are compelling economic and political reasons for governments to limit the extent to which they impose costly regulations on financial institutions or intrude into the financial affairs of persons and businesses. "'Withholding financial information from competitors, suppliers, creditors and customers, is a right that business people assume from the outset . . . , confidentiality and the judicious use of information is generally assumed in business as a critical component of rules of the game in market oriented economies'. At the same time, personal financial matters that rely on the maintenance of banking confidentiality are a key right of citizens in liberal democracies where bank data is protected by a wide range of laws, both civil and criminal." 4 Indeed, what is so bedeviling about the problem of money laundering is that, on their face, the transactions conducted by money launderers are identical to the transactions conducted every day by legitimate commercial actors. Money laundering is often distinguishable from legitimate business activity only by the context in which it takes place; but understanding the context of a particular financial transaction is not always a simple matter.

Nevertheless, the effort is extremely valuable, for two reasons. First, following the "money trail" can produce tremendous opportunities in terms of the identification and ability to attack the leaders of organized crime. By definition, serious organized crime is conducted in such a way as to distance the crime "bosses" from the "soldiers"; but the money always finds its way back to the bosses.

Perhaps more important, money laundering can constitute a serious national and international security threat as well. Money laundering provides the fuel for drug dealers, financial fraudsters, terrorists, illegal arms merchants, and other criminals to operate and expand their criminal enterprises. Unchecked, money laundering can erode the integrity of a nation's financial institutions. Due to the increasing integration of capital markets and the globalization of the financial services industry, money laundering can even affect interest and exchange rates.

Modern financial systems permit criminals instantly to transfer millions of dollars though personal computers and Internet connections. Money has been laundered through currency exchange houses, stock brokerage houses, casinos, automobile dealerships, travel agencies, insurance companies, and trading companies. The use of private banking facilities, offshore banking, wire systems, shell corporations, and trade financing all have the ability to mask illegal activities. The criminal's choice of money laundering vehicles is only limited by his or her creativity. Because money launderers are motivated primarily to avoid detection, and only secondarily to seek high rates of return on their "investment," criminally derived funds are likely to concentrate where controls are relatively weak. Given the scale of estimated criminal proceeds entering the world economy each year, then it is easy to see how organized financial crime can distort economies by reducing tax revenues, causing unfair competition with legitimate businesses, damaging financial systems, and disrupting economic development.

Because money laundering ultimately can threaten the safety and security of peoples, states and political institutions, the international community has no choice but to deal firmly and effectively -- and as much as possible, in a concerted, orchestrated manner -- with increasingly elusive, well financed, and technologically adept criminals who are determined to use every means available to subvert the financial systems that are the cornerstone of legitimate international commerce.

Countermeasures

The international effort to develop and implement effective anti-money laundering controls has been marked by the persistent, ever present need to balance, on the one hand, the interests of government in access to financial records and even affirmative disclosure of suspicious activity, against, on the other hand, the interests of financial institutions in being free from unduly burdensome regulation, along with the interests of their customers in maintaining an appropriate degree of financial privacy. The international community has been struggling toward the development of consensus on how to strike this balance.

Concerted international cooperation to combat money laundering began in the late 1980's. Today, a panoply of international organizations -- the United Nations Office for Drug Control and Crime Prevention (UNODCCP), the Financial Action Task Force (FATF), the Caribbean Financial Action Task Force (CFATF), the Organization of American States Inter-American Drug Control Commission (OAS-CICAD), the Inter-American Development Bank (IDB), the European Commission, the Council of Europe, the Asia Pacific Group on Money Laundering (APG), the Offshore Group of Banking Supervisors (OGBS), the Basle Committee on Banking Supervision, Interpol, the World Customs Organization (WCO), and the Egmont Group of Financial Intelligence Units -- are involved in various aspects of coordinating the development of anti-money laundering laws and regulations, negotiating bilateral and multilateral accords to cooperate and exchange information and evidence in support of money laundering and asset forfeiture investigations, assessing regional threats, advising on specific policy and administrative changes, and providing increasingly coordinated technical assistance and logistical support. Because anti-money laundering work is interdisciplinary, requires both political and bureaucratic discourse, involves both government and non-government actors, and must adapt to and reflect regional conditions, each of these organizations has an important role to play. The remainder of this paper briefly describes the main activities and accomplishments of these various multilateral efforts.

The United Nations Office for Drug Control and Crime Prevention (UNODCCP). In 1988, the United Nations became the first body to concretely address the global threat of money laundering, thus beginning in earnest the international fight against money laundering. The 1988 U.N. Convention on Illicit Drugs and Psychotropic Substances has served as the model drug law which imposes strict penalties for all narcotics-related offenses. A collateral to the logic of supply side narcotics control is the desire to use the money trail to catch offenders, confiscate their assets, and prevent and deter them from engaging in further criminal activity. Thus, the UN Convention obliges parties to penalize the offense of drug money laundering. Signed by more that 100 countries, it requires international criminal cooperation including extradition, asset forfeiture, mutual legal assistance, cooperation between law enforcement agencies, control of precursor and essential chemicals, and crop eradication. It also states that a requested country cannot refuse to render mutual legal assistance on the grounds of bank secrecy.

Although the UNODCCP's program activities over the years since the Convention have focused primarily on narcotics control and eradication, under the leadership of Pino Arlacchi, the UNODCCP in 1997 established the Global Programme Against Money-Laundering, a three-year research and technical assistance program to help coordinate international efforts. The implementation of the Global Programme is carried out in the spirit of cooperation with other international, regional and national organizations and institutions. (As evidenced by this symposium, it also is actively supported by affiliated organizations such as the International Centre for Criminal Law Reform & Criminal Justice Policy.) The main pillar of the programme is technical cooperation, encompassing activities of awareness-raising, institution building and training. A second, research and analysis pillar aims at offering States key information to better understand the phenomenon of money laundering and to enable the international community to elaborate more efficient countermeasure strategies.5 Finally, a recent commitment to support the establishment of financial intelligence and investigation services will contribute to raising the overall effectiveness of law enforcement measures.

In June 1998, as part of the special session of the UN General Assembly to commemorate the 10th anniversary of the 1988 Convention, the UN issued a political statement that recognized anew the importance of anti-money laundering controls and pointed specifically to the 40 Recommendations of the Financial Action Task Force as the most complete articulation of best practices in the anti-money laundering area. Also, the United Nations has recently begun deliberations toward a new, overarching convention to combat transnational organized crime. When completed, this convention is expected to contain an article providing for the criminalization of money laundering for all "serious crimes", and an article or a protocol addressing civil anti-money laundering controls.

The Financial Action Task Force (FATF). Whereas the UN Convention of 1988 represents the first significant international accord concerning money laundering, the Financial Action Task Force (FATF), since its creation in 1989, has lead the world in the development and implementation of anti-money laundering policies. The G-7 established FATF largely in response to the U.N. Convention, and specifically to articulate steps that governments and financial institutions need to take to combat money laundering effectively. The FATF currently consists of 26 jurisdictions and two international organizations. Its membership includes the major financial center countries of Europe, North America and Asia. 6

One of the guiding principles of the FATF is that money laundering is a complex economic crime that cannot be effectively controlled by conventional law enforcement methods alone. Accordingly, finance ministries, central banks, financial institutions, and financial regulators must work closely with law enforcement officials and prosecutors in combating money laundering. In 1990 the FATF issued its now well known 40 Recommendations; these Recommendations were revised and updated in 1996. The FATF recommendations are thought to constitute a systemic, "best practices" approach to a difficult problem; as such they call for a range of undertakings by various functions of government as well as financial service providers.

Although no single recommendation is thought to be less important than any other, a few core principles emerge from the whole. First, countries should criminalize money laundering, not just from drug offenses, but from all "serious crimes".7

Second, in order both to protect themselves from abuse and to allow law enforcement and regulatory authorities a window into the financial activity of suspected criminals, banks and other financial institutions should be required (1) to know and record the true identity of their customers, (2) to record the details of large currency transactions, (3) to report suspicious transactions, (4) to maintain, for an adequate time, records necessary to reconstruct significant transactions, and (5) to respond to information requests from appropriate government authorities. Perhaps the most important safeguard against money laundering is the integrity of a financial institution's management and their vigilant determination to prevent their institutions from being used by criminals. In order to ensure that financial institutions are able to take these recommended steps without fear of reprisal, however, the FATF further recommends that financial institutions be prohibited from notifying any person about whom a report is made, and that they be protected against liability arising out of their compliance with their reporting obligation.

Third, governments should establish systems for identifying, tracing, freezing, seizing and forfeiting assets. As a corollary to this principle, governments need to be in a position to cooperate effectively with their international partners to exchange evidence and share seized proceeds of crime.

Finally, as countries have increased regulations and diligence within financial institutions, criminals have learned to use other, less regulated industries to launder their money. Therefore, the FATF recommends that governments apply these countermeasures and diligence to non-financial sectors and businesses, as appropriate, and remain vigilant with respect to emerging threats. In this connection, the FATF and other international bodies are currently involved in significant policy discussions concerning the emergence of new payment technologies, the role of non-financial professionals -- such as lawyers and accountants -- in money laundering schemes and the use of alternative remittance systems or "underground" banking.8

What began in a political environment quickly became a non-political movement in the FATF. The FATF brings legal, financial and law enforcement experts into the policy-making process, and provides room in its agenda for a wide range of issues. Thus, for example, FATF's work includes an annual law enforcement typologies exercise, an ongoing dialogue with private sector representatives concerning such matters as feedback on suspicious activity reports, and an ad hoc committee (staffed largely by economists and statisticians) grappling with the problems associated with the ongoing effort to measure the magnitude of money laundering around the world.

The value of the expert level -- as opposed to political -- discussion, is particularly evident in the FATF's mutual evaluation process. This process involves regular peer review and discussion of FATF member countries' progress toward full implementation of the 40 Recommendations. Reviews entail responses to questionnaires, interviews with officials and financial services providers, written reports of findings, and discussion and critique of those reports in plenary meetings. The mutual evaluations proceed in a collegial manner, and allow specialists -- not politicians -- from the regulatory, legal, and judiciary fields to share their expertise and provide useful insights concerning their colleagues efforts to implement sound anti-money laundering policies. The mutual evaluation process has been key to the progress made by member states, and thus to the FATF's credibility as a body. The FATF mutual evaluation process has been or is being copied by other FATF-style regional bodies implementing or about to implement similar evaluation programs. The CFATF, for example, has a well-established mutual evaluation program of its own; the Council of Europe and the Offshore Group of Banking Supervisors have embarked upon similar programs. And the FATF process is looked upon as a model for other emerging international conventions, such as the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and within the OAS/CICAD discussion of anti-drugs cooperation.

All FATF members now have anti-money laundering legislation substantially in line with the FATF 40 Recommendations; the FATF membership's work is now concentrated on effective implementation of these laws and regulations, and carrying its message to countries and regions that have not yet fully joined the international effort. Last year, the FATF formally agreed to -- and received political support for -- expansion of its membership to a limited number of other strategically and economically important countries, in order both to recognize the anti-money laundering efforts made by these countries and expand the base of international cooperation in the fight against money laundering.

A related goal is to foster the development of FATF-style regional bodies -- either within already existing organizations or through the creation of new ones. The CFATF, the Council of Europe, the Asia Pacific Group on Money Laundering (APG) and the Organization of American States Drug Control Council (OAS-CICAD) have taken the FATF's lead, providing regional leadership and assisting member nations to implement sound anti-money laundering policies -- in each case, with an understanding of the need to take into account regional conditions and peculiarities.

European Commission / European Union . In June 1991 the Council of the European Commission (EC), and now the European Union (EU) adopted the "Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering." This directive emphasizes proper "know your customer" and record keeping requirements for financial institutions. The EC remains an active member of the FATF and is actively involved in supporting regional training and technical assistance efforts in the field, as well.

Council of Europe. The Council of Europe was founded in 1949 to foster greater cooperation and unity among the countries of Europe through their governments and parliaments. In November 1990 the Council adopted the "Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime" (known as the "Strasbourg Convention"), which outlines steps to be taken to combat money laundering.

More recently the Council of Europe established a Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures. The Select Committee:
elaborates appropriate questionnaires for self-and mutual evaluations;
evaluates, by means of self- and mutual evaluations questionnaires and periodic on-site visits -- based on the FATF model -- the performance of those member States of the Council of Europe which are not members of the FATF in complying with the relevant international anti-money laundering standards,
adopts reports on each evaluated country's money laundering situation, and where appropriate, makes recommendations with a view to improving the efficiency of their anti-money laundering measures and the furthering international co-operation;
submits an annual summary of its activities and recommendations to the European Committee and Crime Problems (CDPC).
The primarily Eastern European members of the Select Committee are faced with serious challenges -- corruption, capital flight, and organized crime -- as they make their transition from a Socialist to a market-based economy. Perhaps because these challenges are so serious -- but certainly, in any event, because of the dynamic leadership of several individuals involved -- the Select Committee is to be commended for making remarkably rapid progress in training a cadre of experts, conducting credible evaluations, and motivating its members to take critical action against money laundering.

The Caribbean Financial Action Task Force (CFATF). The CFATF is a regional anti-money laundering body affiliated with the FATF. Using the FATF 40 recommendations as its basic document, in June 1990 the group then endorsed 19 supplemental recommendations designed specifically for the Caribbean Region. The CFATF is engaged in a variety of activities, which include self-assessments and mutual evaluations of its membership to identify problems and secure progress in the fight against money laundering. The CFATF also coordinates technical and training assessments and assistance for its membership, and has completed two typologies exercises, to assess current trends in money laundering in the Caribbean and to develop effective countermeasures.

The CFATF will play a leading role in implementing the joint US-EU anti-money laundering training and technical assistance initiative for the Caribbean. This comprehensive program, covering financial, legal, law enforcement, and regulatory measures, is the culmination of a number of efforts to develop a regional training and technical assistance program by the US, EU, CFATF, and UNODCCP.

The Organization of American States (OAS). The OAS consists of 35 member states from North, Central and South America. Anti-money laundering efforts of OAS are centered in its Inter-American Drug Control Commission (CICAD—Comisión Interamericana para el Control del Abuso de Drogas). In 1992 the OAS issued Model Regulations with a recommendation that they be adopted by member governments consistent with the basic provisions of their respective legal systems. In recognition of the growing importance of money laundering issues and the need to develop a framework to assist member governments in implementing the provisions of the Buenos Aires communiqué, the OAS/CICAD reconvened the CICAD

Experts Group to Control Money Laundering in June 1996. Substantive discussion of regional money laundering issues now regularly occurs within this Experts Group under the OAS framework.

In Santiago in October 1997, the Experts Group made a number of significant recommendations, which were officially adopted by the OAS/CICAD in its November 1997 meeting in Lima, Peru. Among the recommendations of the Experts Group were:

* To amend, for the first time, the OAS Model Regulations on money laundering by adding language which encourages governments to establish Financial Intelligence Units (FIUs) in accordance with the Egmont Group definition.

* To formulate a comprehensive training and technical assistance plan to assist governments in their efforts to implement the provisions of the 1995 Buenos Aires Communiqué Plan of Action. This training plan will include provisions for training and technical assistance in the financial sector, for FIUs, and for law enforcement personnel, judges, magistrates and prosecutors.

The Experts Group agreed to conduct a yearly typologies exercise to determine the money laundering methods being utilized in the hemisphere by sharing experiences in dealing with this problem. Annual typologies reports will be produced. In addition, an initial analysis of member responses to the CICAD Self-Assessment Questionnaire (used to determine progress in implementing the Buenos Aires Communiqué Plan of Action) was produced and an English text will be widely circulated in the near future.

Summit of the Americas. In 1995, the Ministerial meeting of the Summit of the Americas produced the Buenos Aires Communiqué Plan of Action -- a statement of principles which encouraged all participating nations to comply with international money laundering practices. As a practical matter, implementation of the Communiqué is being carried out by the OAS/CICAD.

The Asia Pacific Group on Money Laundering (APG). In 1994, the FATF established an “Asia Secretariat" to work toward development of a regional anti-money laundering body in the Asia/Pacific region. The Asia Pacific Group on Money Laundering (APG) was formally established in February 1997 at the Fourth Asia/Pacific Money Laundering Symposium in Bangkok, Thailand. Initial membership of the group consists of representatives from Australia, Bangladesh, China, Japan, New Zealand, Philippines, Singapore, Sri Lanka, Thailand, the United States, and Vanuatu. This group is the newest “FATF-style” regional body, and a clear sign of recognition by governments in Asia and the Pacific that money laundering is a significant international and regional issue.

The APG plans to provide a focus for regional anti-money laundering efforts and will work in close cooperation with the FATF and other regional FATF-style bodies. The first goal of this group is to develop a statement of principles and measures for application within the region. The Bangkok meeting also resulted in a set of proposed recommendations and a consensus that money laundering is a serious threat that must be addressed globally. Participants recognized that money laundering undermines the integrity of the region's financial institutions and that anti-money laundering controls have a positive effect on economic growth by attracting legitimate investments and capital. There was agreement that bank secrecy laws should not interfere with the ability to ensure the integrity of financial institutions and that central banks and finance ministries play a very important role. It was also recognized that the offense of money laundering should cover all serious crimes.

Representatives of 25 jurisdictions and seven international organizations or bodies, comprising member jurisdictions and observers to the APG, attended the First Annual Meeting of the APG in Tokyo, Japan on 10 - 12 March 1998. The meeting was co-chaired by the Republic of the Philippines and Australia and hosted by Japan. Delegates at the meeting from the member jurisdictions and observers consisted of experts in legal, financial, regulatory and law enforcement matters. The meeting noted a recent assessment by the International Monetary Fund that it regards the adoption of anti-money laundering standards as "crucial to the smooth functioning of financial markets," as well as the timely and topical remarks of the Managing Director of the IMF in a recent address to the FATF, which recognized the importance of a global strategy for the good governance of financial markets.

The Tokyo meeting also noted that, because of the particular economic difficulties facing a number of jurisdictions in Asia, there is an even greater need for the introduction of sound and transparent financial and regulatory systems that can address money laundering issues. Noting the diversity of legal and economic systems within the region, the APG recognized that a measure of flexibility is required in the way each jurisdiction deals with the issue. Jurisdiction reports demonstrated that many of the jurisdictions at the meeting had made significant progress toward implementation of the internationally accepted anti-money laundering standards, but the APG will have to address certain regional factors, such as the cash-intensive nature of many Asian economies.

In this respect, the APG is presented with both a challenge and an opportunity -- i.e., to tailor the application of the FATF Recommendations (which were designed in the first instance to address the formal banking sector in the advanced, western economies), or perhaps even to devise new measures more appropriate to the circumstances that prevail in the region. In either case, because alternative financial markets are by no means limited to Asia, much of the rest of the world is hoping that the Asian governments can demonstrate creative leadership through the APG to implement effective measures in this area.

The Offshore Group of Banking Supervisors (OGBS). Another example of transgovernmental cooperation can be seen in the efforts to prevent abuse of the international and offshore banking sectors. For the last two decades, the growing use of competing offshore jurisdictions has provided criminals with even more places to hide their money from international authorities. Offshore jurisdictions charge only nominal fees for special incorporation of banks and other business ("international business corporations" or IBCs), and in return offer increased privacy and special protection from international scrutiny of records. Since information sharing is the key for international bodies to fight money laundering, this situation often provide havens for criminals to hide their dirty money. To counter this threat, many offshore jurisdictions have also joined the international fight against money laundering, as they also act to prevent their individual systems from abuse. The Offshore Group of Banking Supervisors (OGBS) has endorsed the Basle Committee on Banking Supervision's call for information sharing among offshore banking regulatory authorities for banking violations including money laundering.9 The OGBS has also agreed to embark upon a mutual evaluation process.10

INTERPOL. The so-called "FOPAC Group" of INTERPOL also plays an important international role in the fight against money laundering. The FOPAC Group focuses on the identification, tracing, seizure and forfeiture of assets derived from criminal activities. It also conducts awareness training and money laundering threat assessments throughout Europe. The FOPAC Group was involved in drafting the Council of Europe Convention, and it has been instrumental in developing model legislation designed to make it easier to obtain this sort of evidence that is needed in criminal investigations and proceedings aimed at confiscation of the proceeds of crime. This model legislation has been distributed to member states so that any government interested can adapt and adopt it. In pursuit of the aims of this program, a Financial Assets Encyclopedia has also been prepared and distributed to member states, to show the current state of legislation and law enforcement in different countries.

World Customs Organization (WCO). Another regular participant in the international anti-money laundering movement is the World Customs Organization (WCO). Because customs officials must be involved in effective international anti-money laundering efforts, the willingness of the WCO to participate in the work of the various international fora, and to provide expert training and technical assistance for its membership, has contributed significantly to the international effort.

Development of Financial Intelligence Units (FIUs) -- the Egmont Group. An important recent development in the international approach to combating money laundering is the creation of Financial Intelligence Units (FIUs) around the world. An FIU is a centralized unit for financial intelligence, formed by a nation to protect its financial services sector, to detect criminal abuse of its financial system, and to ensure adherence to its laws against financial crime and money laundering. An FIU, quite simply, is a central office that receives disclosures of financial information, analyzes or processes them in some way and then provides them to appropriate government authorities in support of a national anti-money laundering effort. Some FIUs may also investigate and prosecute money laundering cases; some are actively involved in the development of their governments' anti-money laundering policies and the administration of their anti-money laundering regulatory controls. FIUs typically have independent and unique relationships with banks, central banks, and law

enforcement. These relationships allow FIUs to foster the partnerships that are essential to combating money laundering and financial crime.

The creation of FIUs has been shaped by two major influences: law enforcement and detection:

* Law Enforcement: Most countries have implemented anti-money laundering measures alongside already existing law enforcement systems. Certain countries, due to their size and perhaps the inherent difficulty in investigating money laundering, decided to provide a clearinghouse for financial information. Agencies created under this impetus were designed, first and foremost, to support the efforts of multiple law enforcement or judicial authorities with concurrent or sometimes competing jurisdictional authority to investigate money laundering.

* Detection: Through the FATF 40 Recommendations and regional organizations initiatives, such as the European Union, the Council of Europe, CFATF, and OAS/CICAD, the concept of suspicious transaction disclosures has become a standard part of money laundering detection efforts. In creating transaction disclosure systems, some countries have seen the logic in centralizing this effort in a single office for receiving, assessing and processing these reports. FIUs established in this way often play the role of a "buffer" between the private financial sector and law enforcement and judicial/prosecutorial authorities. This has, in some cases, fostered a greater amount of trust in the anti-money laundering system, with the FIU serving as the honest broker between the private and government sectors.

Despite the fact that several FIUs were created throughout the world in the early 1990s, their creation was at first seen as individualized phenomena related to the specific needs of the jurisdictions establishing them. Since 1995, a number of FIUs have begun working together in an informal organization known as the Egmont Group (named for the location of the first meeting at the Egmont-Arenberg Palace in Brussels). And the numbers have grown dramatically. In 1995, 14 units met in Brussels; three years later, 38 FIUs were recognized in Buenos Aires.

As with other anti-money laundering organizations, the Egmont Group is not a political body, but rather practical, and focuses on expert to expert exchanges of information. The goal of the Group is to provide a forum for FIUs to find ways of improving support to their respective national anti-money laundering programs. This support includes expanding and systematizing the exchange of financial intelligence information, improving expertise and capabilities of personnel employed by such organizations, and fostering better communication among FIUs through application of technology. Within the Egmont Group, working groups are focused on four major areas: legal matters, technology, training, and outreach.

One of the most noteworthy, practical accomplishments of the Egmont Group has been the development of a secure Internet web site or "virtual private network." This web site permits Egmont FIUs to access information on other FIUs (missions, organizations, and capabilities), money laundering trends, financial analysis tools, and technological developments. It also permits the participating FIUs to communicate by means of a secure electronic mail system. Since the web site is not accessible to the public, FIUs may share certain types of sensitive information in this protected environment, a capability that is not available anywhere else for FIUs. The "Egmont Secure Web" became operational in February 1997. Nineteen units are currently on-line, and more connections will be made as FIUs acquire appropriate software and computer configurations.

In 1996, the Egmont Group defined an FIU as: "a central, national agency responsible for receiving (and, as permitted, requesting), analyzing, and disseminating to the competent authorities, disclosures of financial information: (i) concerning suspected proceeds of crime, or (ii) required by national legislation or regulation, in order to counter money laundering." Since its adoption, the definition appears to have become a standard against which newly forming units are being measured.

At the June 1998 meeting of the Egmont Group in Buenos Aires, Argentina, the group welcomed 10 new members as fitting the Egmont definition, bringing the total to 38. Many more FIUs are in planning and development stages around the world. These new “financial intelligence units” will help increase the scope and global nature of the fight against money laundering.

Conclusions

The global nature of the money laundering problem is clear. The world's financial markets are becoming increasingly intertwined, and free trade agreements and customs unions are increasing the movement of goods and people while blurring traditional borders. These new global systems, fueled by technology, also allow criminals and their money to move easily from one jurisdiction to another, as they seek less regulated areas of the world to hide.

The international community is responding: transgovernmental groups -- made up of financial, regulatory and judiciary specialists -- are working in a variety of ways to share information and expertise to fight money laundering and other crimes. And although they act internationally, they do so in their own national interest -- to improve enforcement of domestic laws and regulations, and to protect their financial systems from criminal abuse. Led by the United Nations and the FATF, regional bodies such as the APG, the CFATF, and the Council of Europe are have created mechanisms to ensure compliance with accepted anti-money laundering practices. The Egmont Group continues to increase its membership, providing a network of units specializing in fighting money laundering, through information sharing, technology, and training.

Still, the crime of money laundering, and the fight against it, are both relatively recent phenomena, and much work remains to be done. Many nations and several entire regions of the world (e.g., the Middle East and Africa) have yet to join the anti-money laundering effort in earnest. Many countries which have enacted laws and regulations have taken no significant enforcement action. And formidable challenges are posed by bank secrecy havens, alternative remittance systems, the development of new payment technologies, and the continuing evolution of the financial services industry. But because finance is global, no part of the world can ignore the threat posed by money laundering. Rather, all nations must join the international community, working together to insure the stability and integrity of our financial systems, our economies, our governments.

Notes

1 “The Real New World Order,” Foreign Affairs, Vol. 76, No. 5, Sept./ Oct. 1997, pp. 183-197.

2 Ibid., p. 192.

3 In this connection, efforts by the World Bank, Transparency International, and others to combat public corruption, as well as recent calls by the International Monetary Fund and others to increase the transparency of financial markets, are closely related to, and mutually reinforcing of, anti-money laundering measures.

4 Financial Havens, Banking Secrecy and Money Laundering, Preliminary Report by the United Nations Office for Drug Control and Crime Prevention (Global Programme Against Money Laundering), Vienna, May 29 May, 1998, p. 39, quoting Ingo, Walter, Secret Money (Lexington Mass.: D.C. Heath, 1985), p. 2.

5 In the spring of 1998, the Global Programme published the comprehensive report on financial havens, banking secrecy, and money laundering cited in note 3, supra.

6 FATF member jurisdictions include Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong (China), Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States. The Gulf Cooperation Council and the European Commission are also members.

7 The recommendations are deliberately silent on the definition of “serious crimes”, since there is no clear international consensus on exactly what this should mean, and there is a long-standing international debate about whether it should include tax evasion.

8 Another provision in the FATF Recommendations that is widely discussed, although not perhaps a “core” recommendation, calls for governments to consider requiring reports or records of cross-border currency movements. Several FATF members have implemented such requirements with some success, but because of the close relationship between reporting requirements and formal currency controls, they remain controversial generally within the FATF.

9 See Basle Committee on Banking Supervision, Minimum Standards for the Supervision of International Banking Groups and their Cross-Border Establishments.

10 Other multilateral bodies, including the FATF and the APG, are actively pursuing improvements in cooperation from offshore jurisdictions. The FATF, in response to a call from the G-7 finance ministers at the Birmingham Summit, recently created an ad hoc group on non-cooperating jurisdictions and territories, whose work will include a consideration of practices by offshore jurisdiction. Similarly, the APG typologies exercise, scheduled for Wellington, New Zealand, will focus on law enforcement concerns about abuses of offshore jurisdictions by money launderers.