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**Economic and financial crimes: challenges to  
sustainable development**

## **Economic and financial crimes: challenges to sustainable development**

**Working paper prepared by the Secretariat**

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## I. Introduction

1. The potential damage wrought by economic and financial crime has become increasingly clear over the past decade with a series of high-profile cases in Europe and North America that have severely damaged the credibility of a number of companies and financial institutions, leading to bankruptcy, loss of jobs and serious damage to both institutional and individual investors. In the developed world, despite the seriousness of such cases, the impact can be contained, given both the size of the economies in which they have occurred, as well as the ability of the countries concerned to install appropriate regulatory mechanisms to prevent the occurrence of further incidents. In the developing world, however, because of the weakness of institutions in some countries, the long-term impact on and costs of economic and financial crime for sustainable development are considerably higher. Indeed, many developing countries are particularly vulnerable to economic and financial crimes, given a number of factors, including weak regulatory frameworks and limited government capacity.

2. The term “economic and financial crime” refers broadly to any non-violent crime that results in a financial loss, even though at times such losses may be hidden or not socially perceived as such. Such crimes thus include a broad range of illegal activities. Nevertheless, the category of “economic crime” escapes easy description and its exact conceptualization remains a challenge. In 1981, for example, the Committee of Ministers of the Council of Europe identified 16 offences as economic crimes (recommendation No. R (81) 12): cartel offences; fraudulent practices and abuse of the economic situation by multinational companies; fraudulent procurement or abuse of state or international organizations’ grants; computer crime; bogus firms; faking of company balance sheets and book-keeping offences; fraud concerning the economic situation and corporate capital of companies; violation by a company of standards of security and health concerning employees; fraud to the detriment of creditors; consumer fraud; unfair competition, including payment of bribes and misleading advertising; fiscal offences and evasion of social costs by enterprises; customs offences; offences concerning money and currency regulations; stock exchange and bank offences; and offences against the environment.

3. The list above highlights the large number of possible offences that could potentially be included in the category “economic and financial crime” and by implication underscores the importance of reaching conceptual clarity and agreement. The challenge of conceptualizing the extent of economic and financial crimes has been further complicated by rapid advances in technology that have provided new opportunities for such crimes. As will be discussed below, the available evidence suggests that technological change, most notably the growth of the Internet, has had a significant impact on overall levels of economic and financial crime. Such factors have also, however, complicated attempts to understand and analyse the extent of crimes committed under the broad rubric of “economic and financial” crime.

## II. Extent of the problem

4. Given the lack of a clear and accepted concept of economic and financial crime, it is difficult to determine the overall extent of the phenomenon and whether it is now more prevalent than in past years. Gathering such data is in any event complicated by the fact that systems for recording economic and financial crime vary greatly from country to country. Offences in this broad category may also be defined in different ways, and with different constituent elements, or may in some jurisdictions not be covered at all by the law. Also, reporting rates are generally lower for economic crimes than for other crimes, given that in many serious cases companies and financial institutions prefer to deal with incidents internally to avoid public scrutiny or unfavourable exposure. Importantly, data in cases reported or discovered by the authorities seldom give an indication of the scope of the financial loss incurred; for example, a relatively small case of cheque fraud may be counted as one incident equal in weight to a sizeable company fraud. If successful, such crimes may go undetected—a recent estimate suggests that only 20 per cent of frauds, for example, are known to the public<sup>1</sup>—or may simply be accepted as part of doing business or politics in some societies or tolerated because of the fear of reprisals against those who report them. All these factors make achieving an accurate assessment of the problem difficult.

5. Despite these challenges, several global perception surveys have indicated that both individuals and commercial entities are particularly conscious of possible increases in economic and financial crime, most notably fraud. A recent survey of businesses globally, for example, found that, of the 3,532 organizations surveyed around the world, 33 per cent (the largest overall category) regarded the problem of economic crime as more likely to occur in the forthcoming five years.<sup>2</sup> It is interesting to note too that media coverage of fraud (calculated by counting the number of headlines of stories covering such issues) has increased dramatically over the past 10 years, with nearly 90,000 headlines in major newspapers around the world in 2003 covering the subject.<sup>1</sup>

6. There is some evidence, however, that the extent and impact of economic and financial crimes are increasing, although drawing conclusive arguments in this regard remains challenging. A recent victimization survey of companies across the world indicates that over one third (37 per cent) of all respondents had suffered from some form of economic crime, an increase in relation to previous such surveys, with the banking and insurance sectors being the most vulnerable to victimization.<sup>3</sup> A similar survey of global companies in 2004 found that just under one half of respondents (47 per cent) had experienced a significant fraud in the previous year and that, where the perpetrator could be established, organized criminal groups were determined to be responsible in 6 per cent of such cases.<sup>4</sup>

7. Again, in the specific case of fraud, one of the most common forms of economic or financial crime, the available survey data indicate particularly notable increases in some regions—in Western Europe the number of organizations reporting fraud increased from 29 to 34 per cent and in Central and Eastern Europe from 26 to 37 per cent between 1999 and 2002.<sup>5</sup> The majority of cases of fraud occur in the developing world, most notably Africa, where over 51 per cent of respondents had been victimized.<sup>5</sup>

8. While it is nearly impossible to calculate the overall costs of economic and financial crime, in particular in developing countries, available figures suggest that the impact is severe. For example, in the United States of America, securities regulators estimate that securities and commodities fraud totals approximately \$40 billion a year.<sup>6</sup> Cheque fraud is estimated to cost businesses in the United States \$10 billion a year, with approximately \$500 million worth of cheques forged annually.<sup>7</sup> It is estimated that telemarketing fraud accounts for up to 10 per cent of the \$500 billion in telemarketing sales each year in Canada and the United States.<sup>7</sup> The latest report on organized crime trends released by the European Police Office (Europol) notes with concern that the counterfeiting of euros (€) continues to gain in sophistication. In 2003, 570,000 counterfeit euro notes, valued at €30 million, were seized.<sup>8</sup> Given such figures, the International Monetary Fund (IMF) has suggested that, in future, given the current level of growth, economic crimes such as fraud could rival drug trafficking as a source of profit for organized criminal groups.<sup>9</sup>

9. While economic crimes can be perpetrated by individuals, the level of sophistication and organization involved in many such crimes, in particular those where illicit profits are high, suggests the involvement of organized criminal groups. As one recent government study concludes: “Besides the lure of significant profits, organized crime groups are drawn to [economic crime] because of the relatively low risk of detection, prosecution, and punishment. Quite simply, the rewards are seen as outweighing the risks.”<sup>10</sup> Many of the offences included in the broad category of economic and financial crimes could of course also be perpetrated by legitimate companies. But the propensity for the involvement of transnational organized criminal groups in such activities has increased, given the blurring between legitimate and illegitimate activities in several sectors and the greater use by criminal groups of both formal legal businesses to launder money or invest profits and “front companies” to mask illegal activities.

10. The growth in both the quantity and seriousness of economic and financial crime has been encouraged, on the one hand, by the ongoing process of globalization and the resulting integration of the world’s financial markets coupled with the weakening of social controls and loyalties and, on the other, by growth in technological progress. The rapid integration of the world’s economy has facilitated not only the conduct of legitimate business transactions, but also that of illegitimate ones. In turn, the closer integration of global financial and other markets has meant that the knock-on effects of economic and financial crime can seldom be confined to a single country. In prominent cases of substantial fraud in the banking system in the last decade, the implications were truly global, involving investors across the world and damaging the banking systems of a number of developing countries.<sup>11</sup>

11. Organized criminal groups are engaged in significant economic and financial crimes through, for example, offences related to credit card fraud, identity theft and counterfeiting. The spread of electronic banking and the rapid growth of the Internet have also resulted in new opportunities for economic and financial crime. Fraud using credit or debit cards is now acknowledged to be a serious international problem, generating a much higher level of illegal global profits, for example, than the counterfeiting of currency.<sup>12</sup> The Internet has also provided a powerful tool for the perpetration of fraud, by making easily available information on individuals and companies that can be exploited by fraudsters and by providing a mechanism through which to perpetrate multiple fraudulent activities at the same time. In the

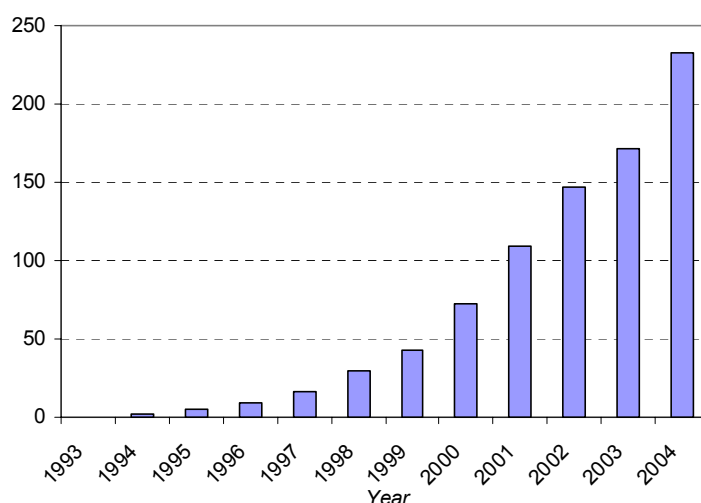
case of advanced fee fraud, for instance, the Internet is used as a resource to identify likely targets, with electronic mail providing the ability to make contact with thousands of potential victims simultaneously.

### III. Impact of advances in technology

12. In the space of a little over a decade significant advances in the field of technology have transformed global information flows and the way in which business is conducted. In 1991 there were only a handful of Internet hosts or websites, but there are now reported to be at a minimum some 200 million. What is perhaps most startling is that over half of that growth has taken place over the last three years, with an estimated 100 million hosts being added in that short space of time.<sup>13</sup> The remarkable growth in the number of Internet hosts is illustrated in the figure below. The global reach of the Internet, the growing sophistication of the banking sector and other advances in technology have dramatically reduced the importance of physical boundaries, a situation that is being exploited by criminal networks.

#### Growth in the number of Internet hosts, 1993-2004

Internet hosts  
(millions)



Source: Internet Systems Consortium.

13. Since the Council of Europe identified the various categories of economic and financial crime, rapid increases in technology and expansion of the Internet have created a myriad of new opportunities. These include a range of fraudulent activities using the Internet, as well as significant increases in credit and debit card fraud. For example, the Internet Crime Complaint Center (formerly the Internet Fraud Complaint Center) in the United States, a joint initiative of the National White Collar Crime Center and the Federal Bureau of Investigation, has noted a marked increase in complaints received over the past five years. Of the over 207,000 complaints received in 2004, 190,143 were referred to enforcement

agencies and were composed of many different types of fraud, such as auction fraud, non-delivery and credit or debit card fraud.<sup>14</sup> The fraudulent use of credit and debit cards by sophisticated organized criminal groups making use of advanced counterfeiting technologies has now become a truly globalized business. By making use of off-the-shelf technologies, data from genuine credit cards can be compromised in one country in the morning, counterfeit cards produced in the afternoon in another country, then used elsewhere again. The countries may not even be on the same continent. In 2000, global losses for fraud committed using plastic cards was estimated to be in excess of \$2 billion.<sup>15</sup>

14. The continued rapid pace of technological developments makes reliable predictions of new forms of economic crime difficult. One area of criminal activity that must be viewed with particular concern in this connection is identity fraud. Identity fraud involves the collection of data on individuals and the counterfeiting of their identities, among others, for credit purposes and, given the complexities involved, requires a relatively high degree of organization.<sup>16</sup> The increase in identity fraud has been made possible through the growth of the Internet and the easy access to personal details and even websites providing guidance on how to obtain or create fraudulent documents. While facilitating commercial exchange, the Internet has also provided new opportunities for the abuse of false identities, most notably by allowing opportunities online for obtaining fraudulent debit or credit cards and loans.<sup>17</sup> In 2003, the Federal Trade Commission (FTC) of the United States suggested that as many as 4.7 per cent of the population of that country, or 10 million people, had been victims of identity theft in the previous year, with total losses of \$53 billion, of which the vast majority were borne by commercial companies. It is estimated that in the United States the frequency of cases of identity fraud increased by more than 40 per cent in 2003 over the previous year.<sup>18</sup>

15. In many economic crimes that make use of high technology, the physical presence of the offender is not a defining factor. Crimes can therefore be committed from jurisdictions that have the weakest legal framework and law enforcement infrastructure to counter them. There are numerous examples of high-technology crime, including fraud using the Internet, being committed by perpetrators in developing countries on victims in developed ones.<sup>19</sup> The notorious advanced fee fraud or “419” scams originating in West Africa are a case in point. The impact of technology, including in the area of economic and financial crimes, makes borders irrelevant and, while the issue of high-technology crime is often debated only as one that has an impact on the developing world, there are critical implications for developing countries. If law enforcement agencies in the developed world struggle to retain skills and keep up with new technologies, significant challenges are faced by such agencies in countries with economies in transition and in the developing world (see also the background paper for Workshop 6. Measures to Combat Computer-related Crime of the Eleventh Congress (A/CONF.203/14)).

## **IV. Money-laundering**

16. Perhaps one of the most important forms of economic and financial crime, deserving specific attention in its own right, is the issue of money-laundering. Not only do economic and financial crimes often result in significant illicit proceeds that must be laundered into the legitimate financial system and are thus themselves an

important predicate offence,<sup>20</sup> but money-laundering is the key link between all criminal activities that generate significant illegal profits and the requirement to launder those profits into the legitimate financial system.

17. Money-laundering provides criminals and organized criminal groups with both cash flow and investment capital. There are two main reasons why countries commit themselves to the development and maintenance of an effective anti-money-laundering regime. Firstly, depriving the criminal of the profits of crime is a critical weapon, as profit is the main incentive for committing most crimes. Secondly, for both developed and developing countries, money-laundering activities erode the stability, efficiency and integrity of their financial systems and economic development.

18. Recently published data show a substantial increase in reported cases of money-laundering, although such increases are in part the result of more stringent reporting regulations in various jurisdictions. The Financial Crimes Enforcement Network (FinCEN) of the United States Department of the Treasury has published a compilation of data gathered from suspicious activity reports (SAR) filed by depository and other financial institutions. Over 1.5 million SAR forms had been filed at FinCEN by December 2003, with the volume of SAR filings 45 per cent higher in 2003 than those filed in 1996. The 2004 Europol *Organised Crime Report* also notes that “those Member States reporting on money laundering all noticed an increase in suspicious money transfers and money laundering cases with money transfers, land and real estate purchases still being the most common *modus operandi*”. It concludes that “possible money laundering activities by means of money transfers through the Cash Deposit System are increasing. Account holders are often ‘straw men’ (such as the use of false identities and ‘front companies’) and forged bank cards are used to withdraw the money, all of which further increases anonymity”.<sup>8</sup>

19. Interventions to curb money-laundering have relied heavily to date on financial institutions reporting suspicious transactions. Countries with weak regulations and control measures in the financial sector are particularly vulnerable to the exploitation of organized criminal groups, resulting in devastating effects. Criminal activities remain undetected and laundered funds are used to finance new criminal activities. Moreover, money-laundering distorts financial markets, discouraging foreign direct investment as a result of the damaged integrity of financial institutions. Thus a comprehensive approach is necessary to combat money-laundering, in particular from States with weak regulations and offshore jurisdictions. In many cases national laws are not adequate and law enforcement usually does not have the capacity to keep pace with new developments.

20. In its own work in the area of countering money-laundering, however, the United Nations Office on Drugs and Crime (UNODC) has found that in many developing countries there is a low level of participation in the so-called “formal” financial system; in several countries, for example, fewer than 10 per cent of the population have a bank account. It is not unreasonable to assume, therefore, that a large portion of economic activities (the transfer and storing of wealth) takes place outside of official financial institutions (for example, the *hawala* system of transferring funds).<sup>21</sup> This means that many of the developed world’s law enforcement techniques may be—at least at present—inapplicable in those countries, in particular in cases where there is evidence of large-scale involvement

of organized criminal groups. Many developing countries and countries with economies in transition therefore have an urgent need to develop skills and techniques for targeting criminal proceeds that are appropriate to the level of development of their financial systems and law enforcement expertise. This implies a renewed focus on fundamental aspects such as basic investigative skills, intelligence-led policing, value-based confiscation, reversal of the onus of proof as regards origin of assets, cross-border currency detection and other related interventions.

21. In addition, in other countries and regions, market deregulation and technological progress have advanced the electronic banking sector, offering new forms of electronic payments, including through the Internet. The rise of the electronic banking sector can benefit organized crime as it allows for fast and anonymous transfer of huge amounts of money and thus facilitates money-laundering. In future the Internet will be used more extensively to transfer money from jurisdiction to jurisdiction. Money-laundering will then take place increasingly via online banking, cellphone banking and prepaid cards. Because of the absence of third-party intermediaries (such as a bank), cyber payment systems allow for more anonymity when money is transferred and lower transaction costs significantly. Such transactions will also be more difficult to trace, thus enhancing opportunities for terrorist financing and corruption.

22. The data available, while not conclusive, suggest that economic and financial crime is set to grow rapidly in the coming years, even rivalling trafficking in illicit drugs as a source of criminal profits. Given that organized criminal groups and terrorist organizations make use of illegal financial transactions to both transfer and fraudulently acquire resources, countering such crime is increasingly becoming inseparable from effectively curtailing current global security threats.<sup>22</sup> The growth of economic and financial crime therefore poses significant challenges to the international community, including finding mechanisms by which appropriate regulations and safeguards can be put in place to prevent its occurrence without unnecessarily disrupting legal commercial activities. Since such crimes are likely to span national borders, effective control and prevention measures must rely on much higher levels of cooperation between States than is currently the case.

## **V. Impact on sustainable development**

23. It has been argued that the development of market societies has always been accompanied by economic crimes that have led to the accumulation of large fortunes and the creation of wealth. The “robber barons” and those who made money during alcohol prohibition in the United States (1919-1933) are frequently mentioned as examples. An overwhelming amount of evidence, however, indicates that no country can achieve sustainable economic development through illegal economic activity. The accumulation of private wealth through crime does not lead to higher national incomes. Indeed, most wealth accumulated through crime, in particular through financial crimes, results from a transfer of legally acquired income or assets to criminals.<sup>23</sup> These are not simple zero-sum transfers from one individual to another: they are negative-sum transfers, because illicit activities themselves can cause economic damage, such as discouraging investment and undercutting legitimate economic activities. In addition, they divert the already

scarcely available resources towards law enforcement and fighting crime and, as a result, lower the overall wealth and the quality of life in a society. Banks, for example, have to establish systems to prevent fraudulent transactions and money-laundering, private individuals who lose money have to devote time in their attempts to retrieve what has been lost and public institutions are obliged to build up appropriate mechanisms to counter criminal activities.

24. Others have argued that breaking economic laws may be not only positive but even necessary in countries where institutions and the legal and judicial system prevent the development of modern markets and economic growth. While in the short term such activities may create wealth, in the longer term they have a profound impact on the societies in which they occur. When commercial enterprises become adept at using illicit criminal activities to further their business interests and, by so doing, force any competitors to do the same, the overall result is the distortion of the legitimate economic market. By undercutting competition, transparency is undermined and wealth is accumulated by a small elite, the result being that any prospect for achieving an open system based on the rule of law is eliminated. When such practices become ingrained they are difficult to eradicate, since these are powerful groups of individuals with a direct interest in their perpetuation.

25. For these reasons, economic and financial crimes pose a serious long-term threat to peaceful and democratic socio-economic development in many countries. While in the short term such crimes typically have costs that are quantifiable, if they occur repeatedly over time, their impact—while less direct—becomes much more serious, holding the potential to undermine the effective functioning or consolidation of democracy, accountability and the rule of law. Economic and financial crimes introduce critical distortions into free market economies. Legal economic practices are undermined by introducing artificially high elements of risk in investment and business decision-making, as well as providing incentives for individuals to get rich quickly outside the formal structures of the regulated economy.

26. In economies where economic and financial crimes are socially accepted as commonplace, the confidence of legitimate investors is severely diminished. Trust underpins the existence and development of both financial markets and sound business relationships. The effective functioning of financial markets relies heavily on the expectation that high professional, legal and ethical standards are observed and enforced. Consistent violations undermine that trust and, as a result, reduce the chances of sustainable economic growth. A reputation for integrity—soundness, honesty, adherence to standards and codes—is one of the assets most valued by investors and financial institutions. Long-term and sustainable economic growth is seldom possible in the absence of these factors.<sup>24</sup>

27. Various forms of financial system abuse may compromise the reputation of financial institutions, with negative effects on investors' trust and therefore further weakening of the financial system. Economic damage arises not only from direct acts of economic or financial crime, but also from the mere perception that it occurs, affecting the reputation of financial systems and deterring outside investment. In many countries, too, widespread public suspicion that economic and financial crimes are committed by the elite in both the public and private sectors undermines

government legitimacy. Effectively countering economic and financial crime is therefore critical to sustainable development and institution-building.

28. Once developed, criminal organizations have a need to establish a social support network in society. Such networks have multiple purposes: they facilitate illegal economic activity; prevent competitors from entering into the same markets; protect money-laundering systems and investments made with funds of illicit origin; and shield criminal leaders from law enforcement efforts. Social support networks include skilled individuals needed in the illegal activity (technical personnel such as, for example, computer specialists or accountants) and those required to allow the illegal activity to be performed (border guards, military and police personnel and politicians). The result is an overall corrupting of society, with the financial (and in some cases even social and political) rewards of participating in the illicit sector often greater than for those participating in the licit economy.

29. The perpetration of economic and financial crimes has a number of direct costs in developing countries. Most notably, such crimes often have a serious impact on the poor, given that they result in the diversion of resources away from government. In developing countries, ordinary citizens, with few savings or resources to absorb the consequences, are, for example, victimized by small-scale fraud at a considerably higher level than their counterparts in developed countries. Data from the International Crime Victim Survey carried out by the United Nations Interregional Crime and Justice Research Institute in 2002 show that the percentage of respondents who reported victimization by consumer fraud during the year 2000 was 28.1 per cent for Africa, 27.6 per cent for Asia, 36.7 per cent for Eastern and Central Europe and 19.6 per cent for Latin America. The Survey showed significantly lower levels of consumer fraud for North America and Western Europe.

30. In the case of humanitarian emergencies and in the context of weak state capacity, donor funds are often vulnerable to exploitation, with the net result that the required resources do not reach the poor and vulnerable. Following large-scale disasters, victims often spend considerable amounts of their own money to reconstruct homes and communities, making them a target for criminals in search of easy profits.<sup>25</sup> Individual generosity from outside humanitarian crisis zones may be curtailed because of the perception that any money given is likely to end up in the wrong hands. In the longer term, allegations of misappropriation of resources may prevent donors either from honouring their pledges or from delivering further assistance. The potential vulnerability to criminal activity of assistance efforts in the wake of the recent Indian Ocean tsunami is a case in point.

## **VI. Preventing and controlling economic and financial crimes**

31. Since the late 1980s, growing concerns about the vast profits from drug trafficking, the impact of globalization on transnational organized crime, as well as advances in communication technology (which among other benefits have eased the transfer of funds, both licit and illicit), have led to a series of actions by international institutions and the international community to combat financial crime, most notably money-laundering.

32. The international regime against money-laundering embodies a framework of standards adopted in the context of regional or international organizations. The

United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>26</sup> and the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I) contain provisions to counter money-laundering. The latter instrument gives legal force to the criminalization of money-laundering derived from all serious crime and the adoption of measures that address customer identification, record-keeping and the reporting of suspicious transactions. The United Nations Convention against Corruption (General Assembly resolution 58/4, annex) also contains provisions against money-laundering derived from acts of corruption, as well as provisions to facilitate the return of stolen government assets to their countries of origin. The Forty Recommendations of the Financial Action Task Force on Money Laundering (FATF), revised in October 2003, are also a set of guidelines in this area (see also the background paper for Workshop 5. Measures to Combat Economic Crime, including Money-Laundering of the Eleventh Congress (A/CONF.203/13)).

33. It is important to note in this connection that the High-level Panel on Threats, Challenges and Change, in identifying transnational organized crime as a critical threat to the global community and among other measures, recommended that a comprehensive international convention on money-laundering be negotiated (see A/59/565 and Corr.1, para. 174). Similar recommendations were made by regional preparatory meetings for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice (see A/CONF.203/RPM.2/1, para. 51). The pressure for a new global instrument on money-laundering is due in part to the fact that a number of the provisions on money-laundering in the current United Nations conventions are not mandatory and that adherence to the FATF recommendations is not universal. While the proposals of the High-level Panel will undeniably initiate vital debate on the desirability of any such new legal instrument, the Eleventh Congress is an important forum to start discussion for more effective international action in this regard. UNODC has the experience to support both technical considerations and the negotiation process on any new instrument against money-laundering, as it has done for the drug, crime and corruption conventions. Considerable preparatory work will, however, be required, not only to clear technical obstacles, but also to better understand the current situation, prior to any negotiations.

34. As in the case of money-laundering, no international instrument deals exclusively with the problem of economic and financial crime and none focuses specifically on the particular problems of developing countries. Nevertheless, both the Organized Crime Convention and the Convention against Corruption contain provisions that are important in building an international framework to counter such criminal activities. The Organized Crime Convention applies specifically to cases where economic or financial crimes have been perpetrated by organized criminal groups. The Convention against Corruption covers economic or financial crimes that are the result of corrupt practices. In addition to these international instruments, and at the regional level, the European Union has adopted a framework decision whereby fraud and counterfeiting of non-cash payments must be recognized as a criminal offence by member States. It should be noted too that article 8 of the Convention on Cybercrime adopted by the Committee of Ministers of the Council of Europe<sup>27</sup> deals specifically with the issue of computer-related fraud.

35. Despite these important steps, much work remains to be done to build the capacity to comprehensively fight economic and financial crime. Two critical problems remain. The first is, as pointed out above, that legal definitions of the variety of offences that occur under the rubric of economic or financial crimes vary from country to country.<sup>28</sup> This is increasingly the case, given the variety of potentially new offences, in particular in relation to crimes committed using the Internet. Secondly, investigating economic and financial crime requires high levels of expertise, including financial analytical techniques that are not well developed in many law enforcement agencies. This is especially the case in developing countries.

36. An international framework to streamline the wide variety of necessary action to prevent and control possible offences encompassed by the term “economic and financial crime” is likely to be a considerable challenge, because of significant country differences about the concepts involved. The difficulty of including tax evasion as a predicate offence for money-laundering illustrates this problem. Some of these differences result from cultural, historical and social diversity across the world. Others simply reflect particular country interests. Financial and fiscal havens and offshore banking, for example, are based to an extent on helping foreigners avoid taxes in their own countries. Indeed, in many offshore centres local residents are not allowed to make deposits.

37. The difficulty of developing a consensus about what should be included in the category of “economic and financial crimes” suggests that further work should rather focus on specific subcategories, for example, cybercrime. Fields like this offer the possibility of tackling specific problems and issues without having to confront some of the most difficult institutional conflicts across countries and can build stepping stones to the creation of a more comprehensive set of international measures. The experience of legislation to combat money-laundering is illustrative. The first time money-laundering was dealt with internationally was in the 1988 Convention. At the time, only monies generated in the illegal drug industry were covered. This concept has been broadened in the recent past, a process that will continue. Legislation has expanded gradually, and there is no doubt that it will continue to broaden in scope to cover more offences, including financial crimes. Furthermore, in a few jurisdictions money-laundering has been defined as an autonomous crime independent of the origin of the assets, that is, it is no longer necessary to obtain a guilty verdict for a predicate offence before prosecuting a person for money-laundering.

38. A fundamental issue to discuss is the need to create a consensus among Governments as to the importance of preventing illegal economic activities in any economy. The point to stress is not just that illegally based economic growth is unsustainable, but, worse, that it generates criminal networks that corrupt a country’s polity, promote predatory economic behaviour, generate violence and end up blocking real economic growth. Once this phenomenon is clearly understood, societies can commit themselves to the rule of law.

39. A critically important partner to government in preventing the growth of economic and financial crime is the private sector. This is the case in particular with regard to the banking sector, where effective compliance mechanisms for preventing the abuse of the financial system can be effectively implemented. In addition, the exercise of due diligence with customers and financial transactions, as well as established procedures to report suspicious transactions, are also important. The

investigation of complex financial crimes requires not only the necessary skills and capacities from the side of government, but also the cooperation of private sector institutions.

40. There is also a need to strengthen international and regional law enforcement cooperation mechanisms to counter economic and financial crime. Perpetrators easily cooperate across borders while law enforcement agencies often find it difficult to do so. Turf conflicts, nationalistic feelings and cultural differences that lead to difficult communications result in weaker loyalties among those fighting transnational crime than among those committing it. This reality has first to be acknowledged and then confronted so that international cooperation can be enhanced. Strengthening international legal instruments is a first step in this direction that must be accompanied by further efforts to build social capital across law enforcement agencies around the world.

41. Technical assistance to build up national capabilities to fight economic and financial crime is relatively new. The United Nations has been promoting the adoption of model anti-money-laundering legislation and has provided assistance to establish financial intelligence units in several countries. Other technical assistance programmes of the United Nations and various bilateral and multilateral agencies have included activities to reform and strengthen police and justice systems. Most of these programmes are recent and their results are still to be fully evaluated. The experience of many countries suggests that there is a significant learning-by-doing process in fighting financial crime, but that in the medium and long run it is possible to achieve substantial results. For example, Colombia was one of the first countries to adopt legislation to combat money-laundering, but for over 10 years the legal proceedings prevented seized properties from being confiscated. Finally, in 2002 a new law streamlined the process and, in the last few years, a large number of drug traffickers' assets have been confiscated. This experience needs to be evaluated to derive lessons that may be applicable elsewhere.

42. Finally, economic and financial offences encompass a wide range of crimes. Reliable indicators might be developed for some but not all. The experience with estimations of the size of the illegal drug industry highlights the difficulties involved in arriving at estimates and their high degree of uncertainty. That experience also demonstrates that the social harm resulting from economic and financial crimes depends on the structure of the country's economy and its institutions. Some developing countries, despite having larger economies, may for several reasons be more vulnerable than others with less well developed economies. This indicates that, besides developing indicators of the magnitude of financial and economic crimes, it is also necessary to study the long-term effects and social changes caused by the illegal industry. Only then will it be possible to assess the full consequences of illegal economic activities on any country.

## **VII. Conclusions and recommendations**

43. Understanding the impact of economic and financial crime in the current global context, and on developing countries in particular, is complicated by two factors—firstly, the difficulty of determining an all-encompassing definition of the concept and, secondly, the fact that both the extent and costs of economic and

financial crimes are difficult to measure. Nevertheless, there is growing evidence that, broadly defined, economic and financial crimes are increasing, most prevalently in sectors affected by rapid advances in technology, such as commercial activity over the Internet.

44. One area where particular attention is required is that of money-laundering, given its links not only to other areas of illicit activity in the financial sector, but also because of its use by organized criminal groups involved in a variety of illegal activities. While measuring any increases in money-laundering is difficult, it seems clear that various measures now in place to record suspicious financial transactions have shown marked increases in the recent past. Also, the suggestion by the High-level Panel on Threats, Challenges and Change that a global legal instrument is required on money-laundering provides renewed focus on the effectiveness of current arrangements and the viability of possible future arrangements to counter the laundering of criminal proceeds.

45. The evidence that is available also suggests that the costs of economic and financial crime, while often eluding exact measurement in the short term, are severe for many societies seeking to achieve sustainable levels of development. This is primarily because such illicit practices undermine, in the medium and long term, effective economic management, transparent practices and the rule of law, which are essential to sustained growth. Illicit economic and financial activity also generally benefits only a few people in society, leaving the majority poorer and with fewer resources.

46. In view of these conclusions, and taking into account the recommendations of the regional preparatory meetings, the Eleventh United Nations Congress on Crime Prevention and Criminal Justice may wish to consider the following recommendations:

(a) Establishment of mechanisms at the national, regional and international level to improve data collection on economic and financial crimes, with particular emphasis on those areas where advances in technology are providing new opportunities for criminal activity;

(b) Consideration of ways in which the global legal framework to counter economic and financial crimes can be improved. If the concept of economic and financial crimes is regarded as too broad, it may help to identify specific areas (such as fraud on the Internet) where steps can be made towards a more effective global response;

(c) Provision of effective technical assistance to developing countries to improve the capacity of their law enforcement and prosecutorial agencies and judicial sectors to confront the problem, given in particular advances in technology and resulting new opportunities for economic and financial crime;

(d) Agreement on measures to improve the cooperation between government and the private sector in preventing economic and financial crime, as well as working together to identify new vulnerabilities to organized crime;

(e) Identification of effective measures to curb money-laundering in countries where participation in the “formal” financial system is low, including in the areas of research, training, skills development, technical assistance programmes and regional and international cooperation.

## Notes

- <sup>1</sup> Ernst and Young, *Fraud: the Unmanaged Risk: 8th Global Survey* (2003), p. 6.
- <sup>2</sup> PriceWaterhouseCoopers, *Global Economic Crime Survey (South Africa)* (2003), p. 16.
- <sup>3</sup> PriceWaterhouseCoopers, *Economic Crime Survey 2003*, pp. 4-6.
- <sup>4</sup> Ernst and Young, op. cit., pp. 5 and 11.
- <sup>5</sup> PriceWaterhouseCoopers, *Economic ...*, p. 4.
- <sup>6</sup> National White Collar Crime Center, WCC Issue Paper, "Securities fraud", June 2003.
- <sup>7</sup> National White Collar Crime Center, WCC Issue Paper, "Check fraud", September 2002.
- <sup>8</sup> European Police Office, *2004 European Union Organised Crime Report, Open version, December 2004*, p. 13.
- <sup>9</sup> See International Monetary Fund, *Financial System Abuse, Financial Crime and Money Laundering: Background Paper*, 12 February 2001.
- <sup>10</sup> Public Safety and Emergency Preparedness Canada, *Fact Sheet: Economic Crime*, 2003 ([www.psepc-sppcc.gc.ca/policing/organized\\_crime/FactSheets/economic\\_crime\\_e.asp](http://www.psepc-sppcc.gc.ca/policing/organized_crime/FactSheets/economic_crime_e.asp)).
- <sup>11</sup> See John Kerry and Hank Brown, "The BCCI affair: a report to the Committee on Foreign Relations, United States Senate", December 1992.
- <sup>12</sup> See the conclusion on the subject ([www.interpol.int/Public/creditcards/Default.asp](http://www.interpol.int/Public/creditcards/Default.asp)).
- <sup>13</sup> Data from the Internet Systems of the International Criminal Police Organization (Interpol) Consortium ([www.isc.org](http://www.isc.org)).
- <sup>14</sup> National White Collar Crime Center and Federal Bureau of Investigation, *IC3 2004 Internet Fraud: Crime Report; January 1, 2004-December 31, 2004*, p. 5.
- <sup>15</sup> Steve Vanhinsbergh, "The evolution of plastic card fraud", *International Criminal Police Review*, No. 491, 2001, pp. 18-23.
- <sup>16</sup> See Michael Levi and Mike Maguire, "Reducing and preventing organised crime: an evidence-based critique", *Crime, Law and Social Change*, vol. 41, 2004, p. 434; and Russell G. Smith, "Travelling in cyberspace on a false passport: controlling transnational identity-related crime", *The British Criminology Conference: Selected Proceedings*, vol. 5, British Society of Criminology Conference, Keele, July 2002.
- <sup>17</sup> For more detail, see Gary R. Gordon and others, "Identity fraud: a critical national and global threat", *Journal of Economic and Crime Management*, vol. 2, No. 1 (winter 2004).
- <sup>18</sup> See United States Federal Trade Commission, *Identity Theft Survey Report* (McLean, Virginia, Synovate, 2003).
- <sup>19</sup> For a description of such cases, see the *Financial Times*, 6 and 11 November 2003.
- <sup>20</sup> Predicate crimes are crimes whose proceeds are laundered (see International Monetary Fund, *Financial System Abuse ...*).
- <sup>21</sup> This issue was highlighted by the African, Asian and Pacific and Western Asian regional preparatory meetings for the Eleventh Congress (see A/CONF.203/RPM.3/1 and Corr.1, p. 11; A/CONF.203/RPM.1/1, p. 7; and A/CONF.203/RPM.4/1, p. 7, respectively).
- <sup>22</sup> It is important, however, to point out that the control of the funding of terrorist activities has to go beyond controlling financial crimes and developing successful anti-money-laundering systems. Extensive resources are necessary to fund large terrorist organizations, but individual terrorist actions can be carried out cheaply. In fact, the whole 11 September 2001 operation did not cost more than a few million dollars, an amount within the reach of many organizations and individuals.

- <sup>23</sup> When a drug user buys illicit drugs he does not increase total spending or aggregate demand in a country. He simply shifts consumption from bread, housing and other goods and services to illicit drugs.
- <sup>24</sup> All the regional preparatory meetings for the Eleventh Congress made a point of highlighting this conclusion.
- <sup>25</sup> See the note by Interpol entitled "Financial fraud: fraudulent reconstruction tenders and advance fee fraud following natural disasters" ([www.interpol.int/Public/FinancialCrime/FinancialFraud/ReconstructionFraud20050107.asp](http://www.interpol.int/Public/FinancialCrime/FinancialFraud/ReconstructionFraud20050107.asp)).
- <sup>26</sup> United Nations, *Treaty Series*, vol. 1582, No. 27627.
- <sup>27</sup> Council of Europe, *European Treaty Series*, No. 185.
- <sup>28</sup> In European Union framework decision (2001/413/JHA) of 28 May 2001 on combating fraud and counterfeiting of non-cash means of payment, for example, references to specific offences under existing criminal law were avoided because they do not cover the same elements everywhere.
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