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The world drug problem

Third biennial report of the Executive Director

Addendum

Countering money-laundering

Contents

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I. Introduction

1. At its twentieth special session (resolution S-20/4 D), the General Assembly recognized that the problem of laundering of money derived from drug trafficking and other serious crimes had become such a global threat to the integrity, reliability and stability of the financial and trade systems and even government structures as to require countermeasures by the international community in order to deny safe havens to criminals and their illicit proceeds. In the Political Declaration adopted at the same session (resolution S-20/2, annex), Member States undertook to make special efforts against the laundering of money linked to drug trafficking, and recommended that States that had not yet done so adopt by the year 2003 national money-laundering legislation and programmes in accordance with the relevant provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,[1] as well as the measures for countering money-laundering adopted at the twentieth special session. They also emphasized the importance of strengthening international, regional and subregional cooperation.

II. International standards on money-laundering

2. The international regime against money-laundering and the financing of terrorism embodies an evolving framework of international conventions and standards, including statements issued periodically by international bodies or professional organizations to cover new trends as they emerge. The 1988 Convention was the first international treaty to criminalize money-laundering. While the scope of that Convention does not extend beyond drug-related offences, it established a legal framework that has served as the basis for policy development in the area of serious crime prevention. Subsequently, international standards and frameworks first developed under the Convention have been extended to apply to all serious crimes.

3. In 1988, the Basel Committee on Banking Supervision (then called the Basel Committee on Banking Regulations and Supervisory Practices) issued a statement on the prevention of criminal use of the banking system for the purpose of money-laundering, in which it recognized the risks of misuse of financial institutions for criminal purposes and issued guidance to banks regarding customer identification and the need to comply with laws against money-laundering and to cooperate with law enforcement authorities in that area.

4. In 1990, the Financial Action Task Force on Money Laundering (FATF) adopted 40 recommendations on action needed to combat money-laundering, which were revised in 1996. Following the terrorist attacks of 11 September 2001, FATF added eight special recommendations to address issues concerned specifically with the financing of terrorism. In 2004, a ninth special recommendation, on cash couriers, was adopted.

5. A more thorough revision of the 40 recommendations was adopted in 2003. The revised and additional recommendations together provide a comprehensive framework of measures for combating money-laundering and the financing of terrorism. The recommendations set minimum standards for action for States to implement according to their particular circumstances and constitutional

frameworks. They cover measures that national systems should have in place in their criminal justice and regulatory systems; the preventive measures to be taken by financial institutions, other businesses and professions; and international cooperation.

6. The Council of the European Communities adopted a directive on 10 June 1991 on prevention of the use of the financial system for the purpose of money-laundering,[2] which was amended on 4 December 2001 by the European Parliament and the Council of the European Union.[3] The amended directive broadened the scope of predicate offences to money-laundering beyond drug offences to other serious crimes and the obligations under the directive concerning customer identification, record-keeping and reporting of suspicious transactions were extended to other activities and professions outside the financial sector. A proposal from the Commission of the European Union for a new directive is currently under discussion by the Council of the European Union and the European Parliament.

7. The United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I) builds on the foundations set by the 1988 Convention. The Organized Crime Convention deals with the fight against organized crime in general and some of the major activities in which transnational organized crime is commonly involved, such as money-laundering, corruption and the obstruction of investigations or prosecutions. It entered into force in September 2003.

8. After the events of 11 September 2001, the Security Council adopted resolution 1373 (2001), in which it, acting under Chapter VII of the Charter of the United Nations, decided that all States should prevent and suppress the financing of terrorist acts and decided to establish a committee of the Council to monitor the implementation of the resolution.

9. The International Convention for the Suppression of the Financing of Terrorism (General Assembly resolution 54/109) entered into force on 10 April 2002. Each State party to the International Convention agreed to take appropriate measures to identify, detect and freeze or seize any funds used or allocated for the purpose of committing a terrorist act.

10. In its resolution 1456 (2003) of 20 January 2003, the Security Council decided to adopt a declaration on the issue of combating terrorism. It reaffirmed that terrorists must be prevented from making use of other criminal activities such as transnational organized crime, illicit drugs and drug trafficking, money-laundering and illicit arms trafficking.

III. Global and regional initiatives

11. As a reflection of its political will to combat money-laundering, the international community has launched several multilateral initiatives to serve as legislative and policy frameworks to be used by States in defining and adopting countermeasures. Many States have engaged in a series of self-evaluation exercises, and “mutual evaluations”, undertaken through regional bodies for countering money-laundering that are similar to FATF. A key function of those bodies is to coordinate the mutual and peer evaluations that are intended to monitor the

compliance of States with international treaty obligations and to enhance the consistency of anti-money-laundering measures.

12. The regional approach has been particularly effective because neighbouring States often have a common language, legal system and culture and are frequently at a similar level of policy development and implementation. Moreover, States from the same region need to cooperate with each other in order to combat transnational crime, so contacts are essential at the political and operational levels to ensure the effectiveness of such cooperation. In addition, regional bodies assist requested States in targeting and coordinating technical assistance to be provided to requesting States for the development of their anti-money-laundering regimes.

13. There are several FATF-style regional bodies involved in the fight against money-laundering. The following have been working for several years: the Asia-Pacific Group on Money Laundering (28 jurisdictions), the Caribbean Financial Action Task Force (30 jurisdictions), the Financial Action Task Force of South America against Money Laundering (9 jurisdictions), the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures of the Council of Europe (Moneyval) (26 jurisdictions) and the Eastern and Southern Africa Anti-Money Laundering Group (14 jurisdictions).

14. The following FATF-style regional bodies were set up more recently: the Intergovernmental Task Force against Money Laundering in Africa (15 jurisdictions), the Eurasian Group (6 jurisdictions) and the Middle East and North Africa FATF (14 jurisdictions).

15. International organizations, including FATF, the World Bank and the International Monetary Fund (IMF), have developed a common methodology of evaluation—covering the legal and institutional framework and preventive measures for the financial sector—to assess States' compliance with international standards for countering money-laundering and combating the funding of terrorism. It is based primarily on the 49 FATF recommendations, but it also draws on the standards issued by, among others, the Basel Committee on Banking Supervision, the International Association of Insurance Supervisors and the International Organization of Securities Commissions. Regional and other intergovernmental organizations have also been engaged in anti-money-laundering activities. These organizations include the Commonwealth Secretariat and the Inter-American Drug Abuse Control Commission (CICAD), which has promoted action against money-laundering and peer review by its member States on progress in the implementation of national programmes against money-laundering and revised its model anti-money-laundering regulations.

16. Important progress is being made against money-laundering and the funding of terrorism by States and territories within the framework of the initiatives set out above.

IV. Action by the United Nations Office on Drugs and Crime

17. In 1997, the United Nations Office on Drugs and Crime (UNODC) established the Global Programme against Money-Laundering to address United Nations convention-based mandates against money-laundering.[4] UNODC is the focal point

in the United Nations system for issues related to money-laundering and proceeds of crime. It provides technical assistance to States to develop the infrastructure necessary for fighting money-laundering and implementing treaty provisions.

18. UNODC technical cooperation aims to assist legal, financial and law enforcement authorities in developing legal frameworks, institutional capacity, training in financial investigations and intelligence-gathering, research and awareness-raising. UNODC assists in the drafting of legislation against money-laundering and has, in cooperation with IMF and the World Bank, prepared model legislation on money-laundering and the financing of terrorism. States can use this model law as guidance in enacting or updating their laws against money-laundering and the financing of terrorism.

19. UNODC supports States in establishing the institutional machinery necessary to fight illegal financial flows. UNODC supports the establishment of financial intelligence units (FIUs) in the context of its working relationship with the Egmont Group of FIUs, including putting experts in place to assist new FIUs in tackling day-to-day operational problems and gives long-term assistance to States by providing mentors, who assist in building the capacity of financial investigations and prosecution services to handle major cases involving money-laundering and the seizure of assets. Mentors also render on-site assistance to establish and develop FIUs. Training is also provided to legal, judicial, law enforcement and financial regulatory authorities to enhance their capacity to undertake their roles in the anti-money-laundering effort. Efforts are also under way to extend training to relevant private sector officials and activities are being conducted to raise awareness in government and the financial sector about money-laundering, its negative impact and the measures necessary to combat it.

V. Action by Governments

20. In section V of the biennial questionnaire, dealing with money-laundering, Member States are requested to report on the following issues: (a) legislative measures; (b) measures to prevent and detect money-laundering in financial entities; and (c) international cooperation. Of the 88 countries that responded to the questionnaire in the third reporting period, 16 were from Africa, 17 were from the Americas, 24 were from Asia, 29 were from Europe and 2 were from Oceania. A total of 72 countries responded in both the second and the third reporting periods and this report also highlights changes occurring within this core group.

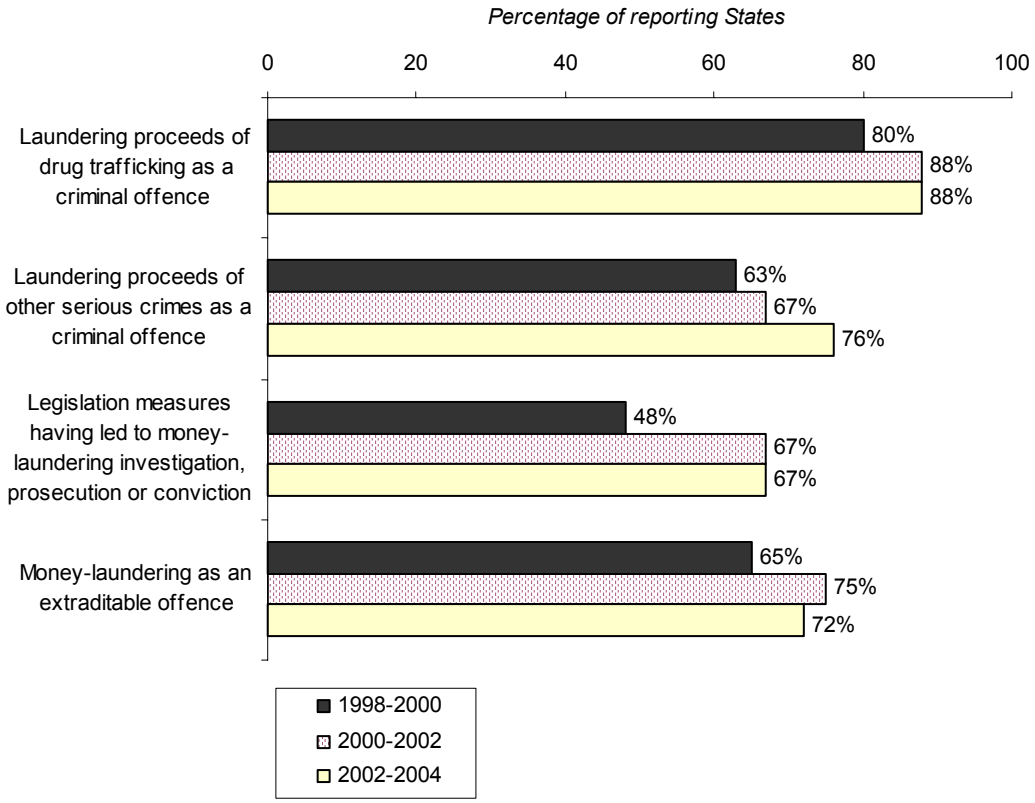
A. Legislative measures

1. Legislation criminalizing money-laundering

21. Parties to the 1988 Convention are required to establish money-laundering as a punishable offence and to adopt the measures necessary to enable the authorities to identify, trace and freeze or seize the proceeds of drug trafficking. Notable efforts have been made by a large number of States to adopt and apply domestic legislation that identifies money-laundering as a criminal offence. Most States replying to the questionnaires (88 per cent) indicated that laundering of proceeds derived from drug trafficking was a criminal offence in their jurisdictions, in accordance with the

provisions of the 1988 Convention (see figure I). Other States (8 per cent) reported that they were in the process of adopting legislative measures that dealt with the laundering of proceeds of drug trafficking in order to meet the target date of 2003 established by the General Assembly at its twentieth special session. Several States had recently adopted new legislation or amended existing laws and regulations on money-laundering.

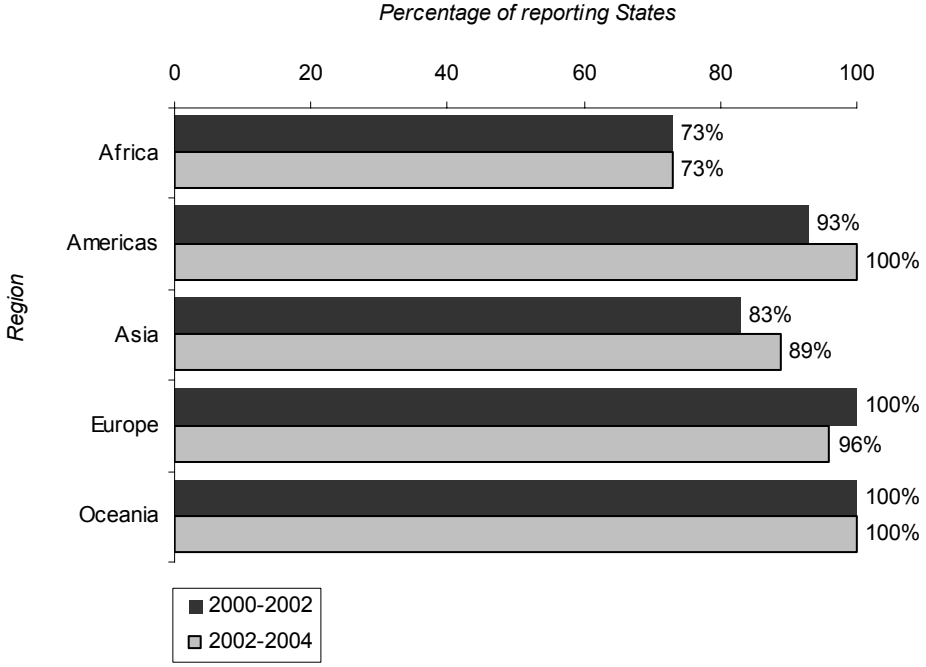
Figure I
States reporting measures against laundering proceeds of crime



22. From a regional perspective, as regards the States replying to the questionnaire in both the second and third reporting periods, the Americas and Asia showed an increase in countries criminalizing the laundering of the proceeds of drug trafficking (Americas: 93 per cent in 2000-2002 and 100 per cent in 2002-2004; Asia: 83 per cent in 2000-2002 and 89 per cent in 2002-2004). Africa and Oceania remained stable at 73 per cent and 100 per cent respectively. Europe showed a small decline, from 100 per cent to 96 per cent (see figure II).

Figure II

States in which it is a criminal offence to launder the proceeds of drug trafficking, by region (those responding in both the second and the third reporting period)



2. Laundering of proceeds of other serious crimes considered a criminal offence

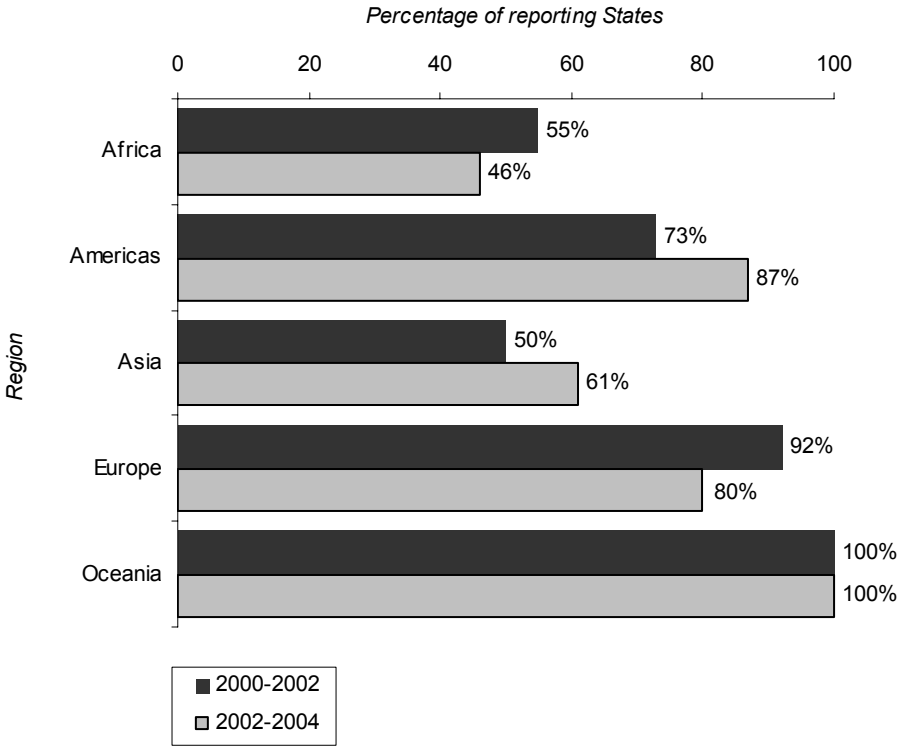
23. In most States replying to the questionnaire for the third reporting period (76 per cent, compared with 79 per cent for the second reporting period (2000-2002) and 63 per cent for the first (1998-2000)), laundering of the proceeds of other serious crimes was also considered a criminal offence (see figure I). Several States (8 per cent) reported that they were in the process of introducing legislative measures to deal with the laundering of proceeds of serious crimes other than drug trafficking. Considerable progress has been made towards the objective of adoption by all Governments of national legislation to criminalize money-laundering. However, to fully meet that objective, those Governments which have not yet done so should ensure that national legislation, including penal measures, and programmes against money-laundering, are adopted as soon as possible, as recommended in the Political Declaration adopted by the Assembly at its twentieth special session. Most reporting States (86 per cent, compared with 85 per cent for the second reporting period) indicated that money-laundering was considered a serious offence in their jurisdictions.

3. Legislation leading to investigation, prosecution or conviction

24. States have made good progress in the effective implementation of national legislation to criminalize money-laundering. Sixty-seven per cent of the States replying in the third reporting period indicated that legislation against money-laundering had led to investigation, prosecution or conviction for money-laundering

offences in their jurisdictions, compared with the same percentage for the second reporting period and 48 per cent for the first reporting period (see figure III).

Figure III
States where money-laundering legislation had led to investigation, prosecution or conviction, by region (those responding in both the second and the third reporting periods)



25. There were significant differences between regions with regard to whether the legislation had led to investigation, prosecution or conviction for money-laundering offences in individual jurisdictions: in Africa, 31 per cent of the States replying had had investigations, prosecutions or convictions for money-laundering, whereas in the Americas the total was 88 per cent, in Asia 56 and in Europe 83. Both the replying States in Oceania responded positively in this regard.

26. Of the 72 States reporting in both the second and the third reporting periods concerning where money-laundering laws had led to investigation, prosecution or conviction, the Americas showed a significant increase, from 73 per cent in 2000-2002 to 87 per cent in 2002-2004; Asia increased from 50 per cent in the second reporting period to 61 per cent in the third; both countries from Oceania reported positively (100 per cent in both periods); while Africa declined from 55 per cent to 46 per cent and Europe from 92 per cent to 80 per cent.

4. Statistical data on legal action taken to combat money-laundering

27. States were asked to report whether their relevant authorities had statistical data on legal action taken to combat money-laundering, including investigations, prosecutions and convictions. A total of 53 per cent of the States replying reported that they had kept statistical data on the investigation of cases involving money-laundering, compared with 58 per cent for the second reporting period and 48 per cent for the first period. On a regional basis, the majority of States replying to the questionnaire for the third reporting period in the Americas, Europe and Oceania had such data, while in Asia a minority of States reported having it. In Africa the figure was 31 per cent.

28. Some States indicated that it was difficult to extract statistical data on money-laundering investigations because they were either unavailable or there were no centralized databases for such cases. Several States reported on the number of cases investigated in 2003, which varied considerably, from less than 10 in some jurisdictions to several hundreds in others. A total of 29 States reported that investigations had taken place within their jurisdictions.

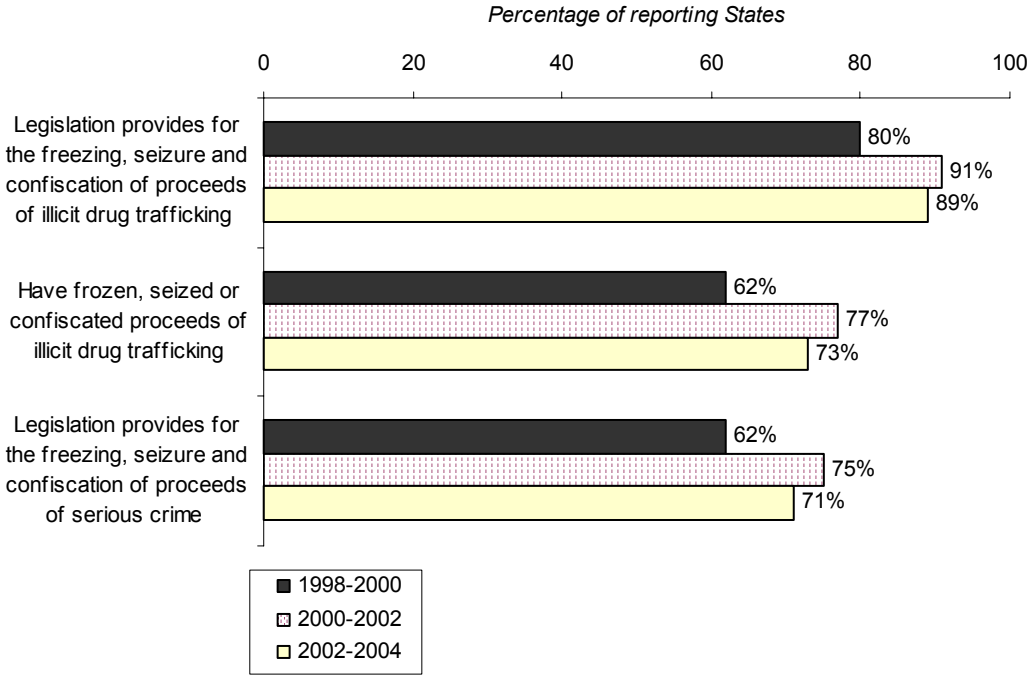
29. About one half of the States replying to the questionnaires (48 per cent for the third reporting period compared with a similar proportion (49 per cent) for the second and 43 for the first) reported that their authorities maintained statistical data on prosecutions for money-laundering offences. Several States reported on the rate of prosecutions during the past year, which, as expected, was lower than the number of investigations. The number of prosecutions per reporting State varied from a few, for example 2 in Hungary, 13 in Nigeria and 4 in Costa Rica, to 830 in the Russian Federation.

30. Forty-four per cent of States indicated that they had statistical data on convictions for money-laundering offences, compared with the 45 per cent for the second reporting period and 38 for the first. Only 38 per cent of States indicated that they did not have such statistical data, compared with 45 per cent for the second reporting period. As expected, the rate of reported convictions, which varied significantly, was lower than the rate of reported investigations or prosecutions. For example, the following are reported numbers of convictions for money-laundering offences for the period 2002-2004: 2 cases in Bolivia, 5 in Bulgaria, 138 in Colombia, 34 in Japan, 1 in Mauritius, 70 in the Netherlands, 34 in New Zealand, 6 in Nigeria, 74 in the Russian Federation, 98 in Switzerland for 2002, 86 in the United Kingdom of Great Britain and Northern Ireland for 2002 and 5 in Zambia.

5. Freezing, seizure and confiscation of proceeds of drug trafficking offences

31. States were asked to report whether their legislation provided for the freezing, seizure and confiscation of proceeds of drug trafficking, in line with the provisions of the 1988 Convention. Eighty-nine per cent of the States replying (compared with 91 per cent for the second reporting period and 80 for the first) responded in the affirmative (see figure IV). Only one State, Algeria, reported that its legislation did not make such provision. Nine per cent of States did not answer the question.

Figure IV
States reporting measures for freezing, seizure and confiscation of illicit proceeds



32. Most States (73 per cent) reported having had proceeds of drug trafficking frozen, seized or confiscated. This should be compared with 77 per cent for the second reporting period and 62 per cent for the first reporting period. A number of States—Afghanistan, Estonia, Ethiopia, Lithuania, Madagascar, Niger, Oman, Swaziland, Uganda and Zimbabwe—reported that, even though they had legislation in line with the provisions of the 1988 Convention, they had not yet frozen, seized or confiscated any proceeds from drug trafficking.

6. Freezing, seizure and confiscation of proceeds of other serious crimes

33. Most States replying for the third reporting period (71 per cent, compared with 75 per cent for the second and 62 for the first) had adopted measures for the freezing, seizure or confiscation of proceeds of serious crimes other than drug trafficking. Some States (10 per cent)—Afghanistan, Algeria, Bolivia, Estonia, Haiti, Jordan, Madagascar and Uganda—indicated that the provisions on money-laundering in their national legislation were not applicable to serious crimes other than drug trafficking. Eighteen per cent of the States did not reply to the question.

34. Some progress has been made in freezing, seizing or confiscating proceeds of serious crimes other than drug trafficking. Sixty-six per cent of States reported that they had effectively frozen, seized or confiscated proceeds of serious crimes other than drug trafficking compared with 63 per cent for the second reporting period. A number of States (10 per cent)—Brunei Darussalam, Chile, Ethiopia and Swaziland—indicated that even though they had the relevant legislation in place they had not yet frozen, seized or confiscated proceeds of serious crimes other than

drug trafficking. In most regions, the majority of States indicated having frozen, seized or confiscated proceeds of serious crimes other than drug trafficking. The exception was the African region, where 33 per cent reported positively.

7. Maintaining statistical data on seized proceeds of money-laundering

35. Governments were asked to report whether their relevant authorities kept statistical data on the results of legal action taken to combat money-laundering, such as data on seized proceeds. Forty-six per cent of States replying to the questionnaire reported that they had such statistics. Only 39 per cent for the second period (although a significant improvement compared with 30 per cent for the first period) maintained statistics on seized or confiscated proceeds resulting from legal action to combat money-laundering. The Americas was the only region where a majority of the States (65 per cent) reported that their relevant authorities kept such statistical data.

36. Several States having such information reported the seizure of large sums, the equivalent of millions of United States dollars (US$), by their competent authorities. For example, in 2003, Australia had restrained 52 million Australian dollars (A$); between June 2002 and June 2004 the Bahamas had seized proceeds valued at almost US$ 4 million; during 2002-2004 Canada had seized nearly 120 million Canadian dollars (Can$); in Chile approximately US$ 3 million had been seized; during 2002 and 2003 Colombia seized more than US$ 13 million, 2.6 million euros (€) and 1,220 million Colombian pesos; during 2002 and 2003 Germany had seized €42.6 million; Italy €156 million; Japan 235 million yen; Mexico almost 195 million new pesos and more than US$ 43 million in the course of investigating money-laundering cases; the Russian Federation more than 1,400 million roubles in 2003; and South Africa 455 million rand between 2002 and 2004.

8. Maintaining statistical data on confiscated proceeds of money-laundering

37. Governments were invited to report whether their relevant authorities maintained statistical data on confiscated proceeds as a result of legal action taken to combat money-laundering. Thirty-four per cent of the States replying to the questionnaire reported that they kept such data, against 38 per cent for the second reporting period.

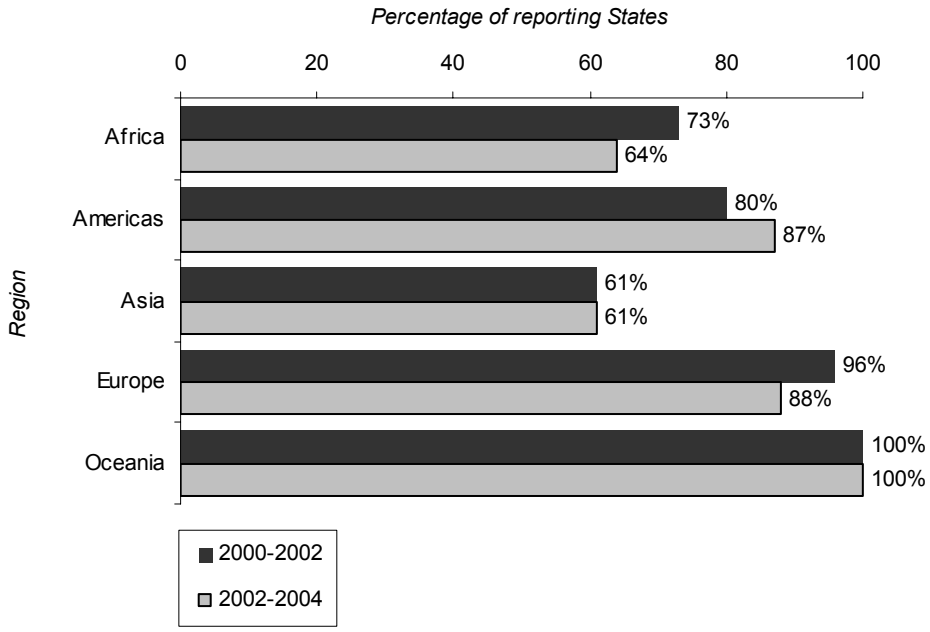
38. Many States with such information reported having confiscated large sums, the equivalent of millions of United States dollars. For example, Australia confiscated A$ 3.5 million, the Bahamas more than US$ 580 million during the period from June 2002 to June 2004, Canada Can$ 27 million, Chile US$ 14 million and Sweden approximately US$ 2.6 million.

9. Money-laundering treated as an extraditable offence

39. Money-laundering was an extraditable offence in most of the States reporting in the third period (72 per cent, compared with 75 per cent in the second period and 65 per cent in the first). In other States (10 per cent, compared with 13 per cent in the second period)—Afghanistan, Algeria, Bolivia, Brunei Darussalam, Ethiopia, Honduras, Jordan, the Lao People's Democratic Republic and Nepal—money-laundering was not an extraditable offence.

40. On a regional basis, of those 72 States replying in both the second and the third reporting periods as to whether money-laundering was an extraditable offence, the Americas showed an increase from 80 per cent to 87 per cent; Asia and Oceania remained stable at 61 per cent and 100 per cent, respectively; Africa declined from 73 per cent to 64 per cent; and Europe declined from 96 per cent to 88 per cent (see figure V).

Figure V
States in which money-laundering is considered an extraditable offence, by region (those responding in both the second and the third reporting period)



10. National legislation requiring the declaration of cash being transported across borders when exceeding a specified amount

41. Almost 64 per cent of responding Governments indicated that their national legislation required the declaration of the cross-border transport of cash exceeding a specified amount. This compared with 70 per cent of responding States in the second reporting period and 49 per cent in the first. In a number of other States (24 per cent), there was no such requirement.

42. Penalties for failure to declare transborder cash transactions ranged from fines and/or seizure or confiscation of all or part of the value of the undisclosed sum to imprisonment. For example, in Albania, Australia, the Bahamas, Bulgaria, Israel, Lithuania, Mexico, Myanmar, the Republic of Korea, the Russian Federation, South Africa, the Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia and Zambia the maximum penalty for failure to declare cash being transported across a border was a fine or up to 10 years' imprisonment. In some States, such as Ethiopia,

Nigeria, the Philippines and Viet Nam, imprisonment was the penalty; in several others—Colombia, Cyprus, the Czech Republic, Denmark, El Salvador, Grenada, Indonesia, Italy, New Zealand, Poland, Portugal, Slovakia and Spain—fines were imposed for transborder cash transactions exceeding a specified amount, which could be combined with a confiscation order. In Argentina, Guatemala and Honduras customs seized the assets and started an investigation and in Canada, Nigeria and Zimbabwe the penalty was forfeiture, which could be combined with a fine and imprisonment. In Costa Rica, the transport of cash in excess of US$ 10,000 must be accompanied by justifying documentation.

43. Asia was the only region where less than half of the States replying to the questionnaire (48 per cent) reported that their national legislation made it a requirement to declare the cross-border transport of cash exceeding a specified amount. In all the other regions a majority of States replying to the questionnaire made such a declaration a requirement.

11. National legislation requiring the declaration of negotiable bearer instruments being transported across borders when exceeding a specified amount

44. Asked whether their national legislation required the declaration of negotiable bearer instruments being transported across borders, 40 per cent of States indicated such a requirement (compared with 45 per cent for the second reporting period and 31 in the first). In other States (35 per cent) there was no such requirement. In most cases, national legislation establishing requirements to declare the cross-border transport of cash was also applicable to negotiable bearer instruments. As in the case of undeclared cross-border cash transactions, penalties ranged from fines and/or seizure and confiscation of the instruments to imprisonment.

45. The Americas was the only region where a majority of the States (65 per cent) reported that their national legislation required the declaration of the cross-border transport of negotiable bearer instruments exceeding a specified amount. In all the other regions a minority of States had such measures.

B. Measures to prevent and detect money-laundering in financial entities

1. Reporting of suspicious and/or unusual transactions

46. States were asked to report whether measures had been adopted in their financial systems with a view to enabling the reporting of suspicious and/or unusual transactions. Such measures had been adopted by most States (82 per cent), which represented a marked improvement over the first and second reporting periods (63 and 80 per cent, respectively).

47. The number of suspicious transactions reported varied widely between countries and might have been influenced by differing requirements, such as whether reporting was mandatory or not. For example, a number of countries reported the following numbers of suspicious and/or unusual transactions (in ascending order): 10 in Brunei Darussalam; 28 in Oman; 60 in the Bahamas; 338 in Argentina; 374 in Liechtenstein; 3,577 in the Republic of Korea; 7,909 in New Zealand; 14,794 in Canada; 30,858 in Italy; 38,366 in Croatia; 56,613 in Colombia;

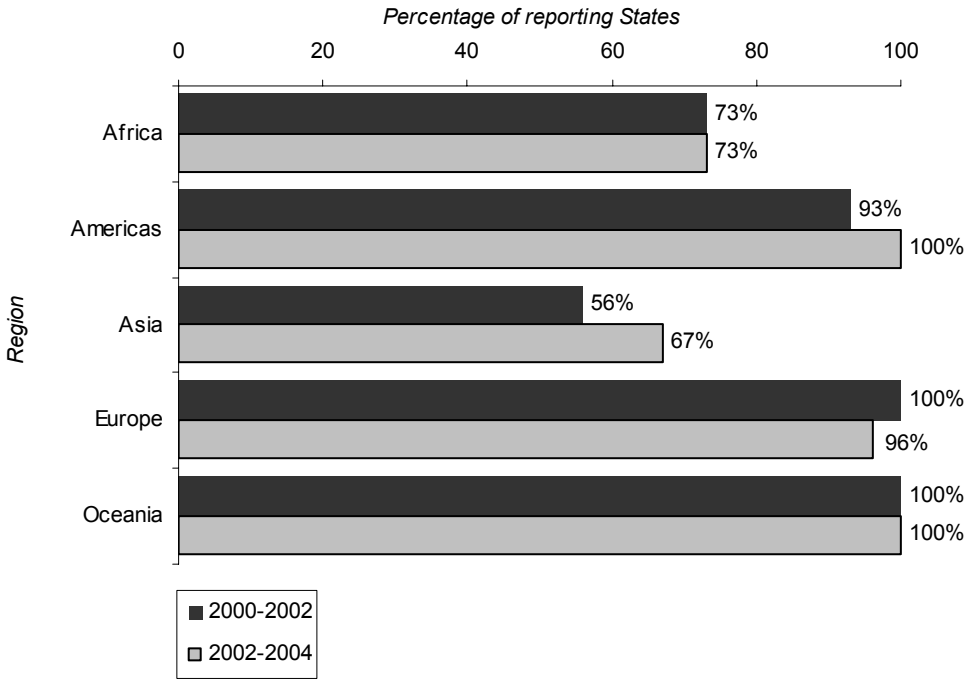
94,708 in the United Kingdom; 177,000 in the Netherlands; and 630,567 in the Russian Federation.

48. In the Americas and Oceania, all States replying to the questionnaire for the third reporting period indicated that measures had been adopted in their financial systems with a view to enabling the reporting of suspicious and/or unusual transactions. The figures for other regions were: Europe 93 per cent, Africa 75 per cent and Asia 61 per cent.

49. States were also asked to report which financial businesses and professional groups were subject to reporting requirements. Most indicated that financial institutions such as banks, credit unions, money service businesses, trust and loan companies were subject. Also required to report were those involved in securities brokerage and related activities; insurance companies, brokers and agents, commercial casinos and gambling houses; and real estate agencies. New professions that were obliged to report suspicious financial transactions were accountants, lawyers and dealers in high-value goods.

50. On a regional basis, the percentages of the 72 countries reporting in both the second and third reporting periods having adopted measures for reporting suspicious or unusual transactions were: the Americas increased from 93 per cent to 100 per cent and Asia also increased, from 56 per cent to 67 per cent; Africa remained stable at 73 per cent for both periods; Oceania remained stable at 100 per cent for both periods; and Europe declined from 100 per cent to 96 per cent (see figure VI).

Figure VI
States that had adopted measures for the reporting of suspicious or unusual transactions, by region (those responding in both the second and the third reporting periods)



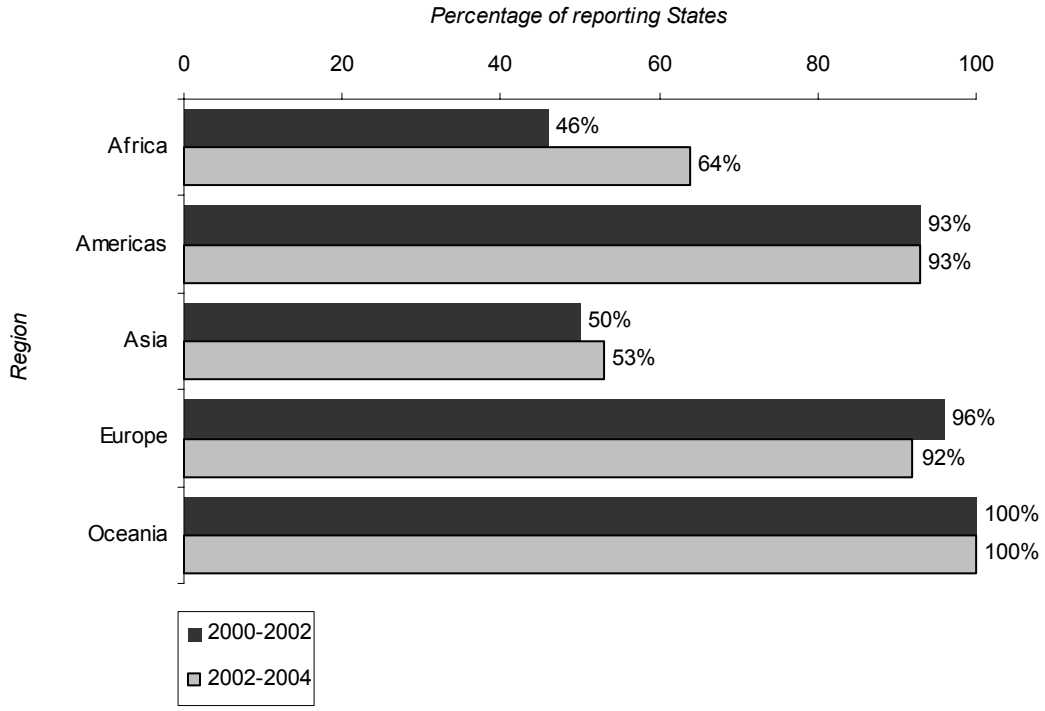
2. "Know-your-client" principle

51. Almost 74 per cent of States had taken measures to put the "know-your-client" principle into practice, a slight increase compared with 72 per cent in the second reporting period and 50 in the first. The approaches taken to implementing "know-your-client" varied. Several States indicated that it was a long established principle, whereas others had implemented it by establishing policies and procedures for the identification and verification of clients when performing listed financial transactions and other related functions and by periodically updating clients' data and profiles.

52. All States in Oceania and a vast majority of States in the Americas (94 per cent) and Europe (93 per cent) indicated that they had taken measures to put the "know-your-client" principle into practice. In Africa 63 per cent and in Asia 50 per cent of States reported having taken such measures.

53. On a regional basis, of the countries reporting for both the second and third periods on putting into practice the "know-your-client" principle, Africa showed a significant increase, from 46 per cent to 64 per cent; Asia increased from 50 per cent to 53 per cent; the Americas remained stable at 93 per cent; Oceania (two countries) remained stable at 100 per cent; while Europe declined from 96 per cent to 92 per cent (see figure VII).

Figure VII
States that had put into practice the "know your client" principle, by region (those responding in both the second and the third reporting period)



3. Removing impediments to criminal investigations related to bank secrecy

54. Bank secrecy has been one of the major obstacles to criminal investigations in money-laundering offences. Several States (73 per cent) reported adoption of measures to remove bank secrecy impediments to criminal investigations; that was a similar proportion compared with the second reporting period (72 per cent) and the first (only 57 per cent). Some States (9 per cent) reported that they had not yet done so.

55. From a regional perspective, the majority of States in Europe (89 per cent), in the Americas (88 per cent) and in Africa (75 per cent) indicated adoption of such measures. The figure in Oceania (two countries reported) was 50 per cent and in Asia 48 per cent.

4. Identification of beneficial owners of accounts, corporate bodies and other financial assets

56. Seventy-four per cent of States responding had adopted measures enabling the identification of the beneficial owners of accounts, corporate bodies and other financial assets, whereas 6 per cent responded that they had not. According to the FATF recommendations, beneficial owners are to be identified and "reasonable measures" must be taken to verify their identity.

57. A vast majority of States in the Americas (94 per cent) and in Europe (93 per cent) had adopted measures enabling such identification. In Africa 63 per cent and in Asia 52 per cent had done so.

5. Establishment of financial intelligence units

58. Many States have established specialized agencies to deal with money-laundering. One important development has been the establishment of operational FIUs worldwide as centralized agencies that, at a minimum, receive, analyse and disseminate to the competent authorities information provided by financial institutions and designated non-financial businesses and professions concerning possible money-laundering and other financial crimes. FIUs serve as a link between law enforcement, financial and regulatory authorities, providing law enforcement agencies around the world with an important new avenue for the collection and exchange of information. Seventy-three per cent of States responding for the third period had established a central FIU to collect and analyse reports and intelligence on suspected money-laundering cases. That figure indicates an improvement since the second reporting period, when 70 per cent had established FIUs, and since the first, when only 49 per cent had.

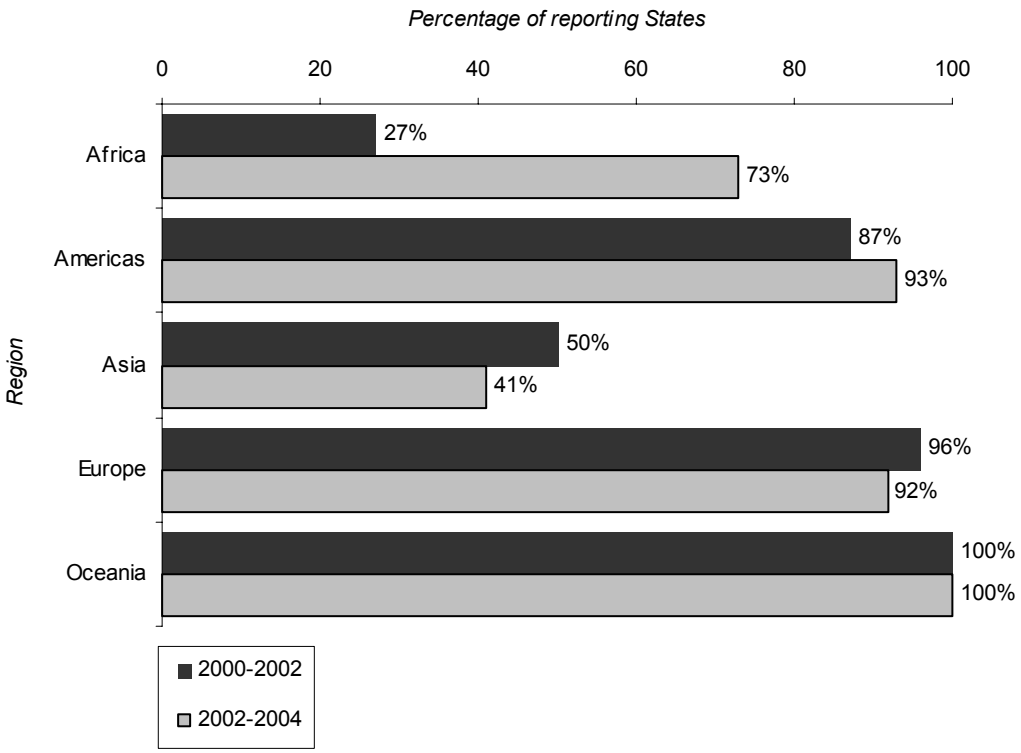
59. There are major differences between the regions concerning the measures adopted for the establishment of FIUs. In Oceania, both States replying to the questionnaire for the third reporting period had adopted measures. In the Americas, 94 per cent and in Europe 93 per cent of the States had done so, while the figure for Africa was 69 per cent and in Asia only 41 per cent.

60. In most cases, the mandates of FIUs included the collection and analysis of suspicious transaction reports with a view to detecting money-laundering activities and passing on relevant information to judicial authorities. The UNODC Global Programme against Money-Laundering has devoted considerable efforts to

providing assistance to States in establishing such units. This aspect of the Programme's work has been undertaken in conjunction with the Egmont Group, an informal international umbrella organization for FIUs.

61. On a regional basis, of those countries which reported in both the second and the third cycle on the establishment of a central anti-money-laundering unit, Africa showed a dramatic increase, from 27 per cent to 73 per cent; the Americas increased from 87 per cent to 93 per cent; Oceania remained the same at 100 per cent; Asia declined from 50 per cent to 41 per cent; and Europe also declined slightly, from 96 per cent to 92 per cent (see figure VIII).

Figure VIII
States that had established a central anti-money-laundering unit, by region (those responding in both the second and the third reporting period)



6. Measures to investigate and prosecute those involved in money-laundering

62. Sixty-six per cent of States (compared with 72 per cent for the second period and less than half (49.6 per cent) for the first) reported that they had implemented measures to provide for the effective investigation and prosecution of those involved in money-laundering. Some States (15 per cent, compared with 17 per cent in the period 2000-2002 and over 25 in 1998-2000) reported that they had not done so.

63. While both States replying in Oceania and almost all in Europe (93 per cent) and in the Americas (82 per cent) had implemented measures to provide for the effective investigation and prosecution of those involved in money-laundering, the figures were considerably lower for States in Asia (43 per cent) and in Africa (37 per cent).

64. A continuing challenge facing several States in the investigative, prosecution and trial phases was the lack of financial resources and trained personnel with the operational know-how required to achieve the forfeiture of assets.

65. The numbers of specialized officers dealing with money-laundering cases varied widely between countries. For example, there were 20 and fewer officers dealing with such crimes in the Bahamas, Bolivia, Bulgaria, Costa Rica, Croatia, Cyprus, El Salvador, Estonia, Grenada, Hungary, Liechtenstein, Lithuania, Myanmar, Monaco, Oman, Paraguay, Sweden, Switzerland and Trinidad and Tobago. At the higher end of the scale were 92 in the United Arab Emirates; 400 in Italy; 825 in Turkey and 2,300 in Japan. Several States replying to the questionnaire for the third reporting period indicated that they did not have precise data, as the specialized officers assigned to the investigation and prosecution of money-laundering cases were spread across a wide range of prosecution and/or law enforcement agencies.

66. Some States—Bolivia, Finland, Grenada, Israel, Japan, Myanmar, Nigeria, the Russian Federation, Spain and Sweden—gave particular attention to the training of investigators, public prosecutors and/or revenue officers specialized in economic crimes as well as to the reporting institutions in the private sector. In Canada a project had been established to educate and solicit cooperation from the business community to help thwart the use of their enterprises for moving proceeds of crime. Mexico indicated that its Federal Department of Public Prosecutions had concentrated its efforts on the development of an integrated strategy for the adequate planning and direction of investigations of money-laundering cases. The Russian Federation has set up a Police Investigation Office to make the prevention of laundering of proceeds more effective.

C. International cooperation

1. Requests for mutual legal assistance

67. In the area of international cooperation, States were asked to report whether they had sent to or received from other States any requests for mutual legal assistance concerning cases of money-laundering or the freezing, seizure or confiscation of criminal assets. Only 48 per cent of the respondents had, during the third reporting period, sent or received such requests, compared with almost 60 per cent of respondents during the second period.

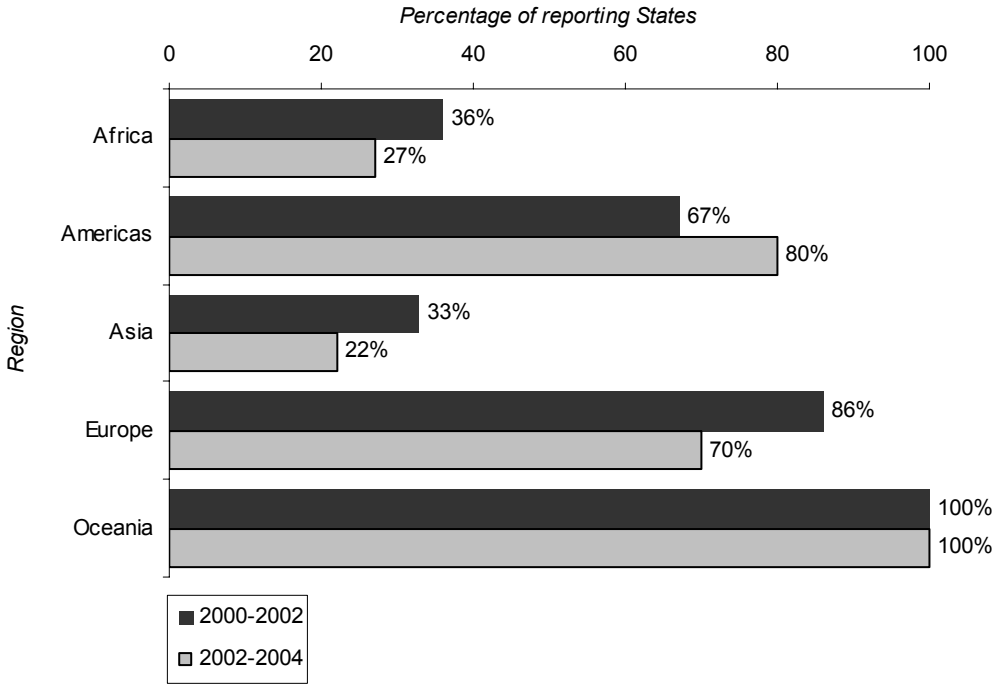
68. There were major differences between the regions. While all States replying to the questionnaire in Oceania and a majority in the Americas (82 per cent) and in Europe (67 per cent) had sent to or received from other States requests for mutual legal assistance on these matters, only 22 per cent of States in Asia and 19 per cent in Africa had sent to or received from other States any such requests.

69. The number of requests sent or received varied from a few up to several hundred, such as in the case of Finland, which made 378 requests and received 299 requests. Among the number of requests received were the following: 1 request to Honduras, Slovenia and Trinidad and Tobago; 3 requests to Albania; 5 to Nigeria; 7 to Japan; 8 to Ecuador; 10 to Costa Rica; 11 to Algeria; 13 to Australia; 14 to Cyprus; 21 to Bolivia; 27 to Argentina; 28 to Liechtenstein; 30 to Israel; 32 to Mexico; 36 to the Bahamas; 61 to El Salvador; 64 to Turkey; 77 to Canada; 84 to Poland; 135 to Italy; 150 to Greece; 200 to Lithuania; and 203 to the Czech Republic. Twenty-seven per cent of States had not sent or received any requests for mutual legal assistance concerning money-laundering offences.

70. From a regional perspective, of the 72 countries replying to both the second and third reporting cycles concerning sending or receiving requests for mutual legal assistance in connection with money-laundering, the African region reported a decline from 36 per cent to 27 per cent and the Americas an increase from 67 per cent to 80 per cent; Asia declined from 33 per cent to 22 per cent; Europe declined significantly, from 86 per cent to 70 per cent; and both countries reporting from Oceania remained stable at 100 per cent. There would appear to be a need to enhance international cooperation in this area, especially in those regions where requests for mutual legal assistance had significantly declined (see figure IX).

Figure IX

States that had sent or received requests for mutual legal assistance on money-laundering, freezing, seizure or confiscation of criminal assets, by region (those responding in both the second and the third reporting period)



2. Signing of treaties, agreements or memorandums or letters of understanding for the exchange of financial information and/or mutual legal assistance on money-laundering

71. Little progress has been made, for the third reporting period, in improving cooperation against money-laundering. Fifty-nine per cent of the States replying to the questionnaire for the third reporting period (compared with 60 per cent for the second period and 52 per cent for the first) had concluded treaties, agreements or memorandums or letters of understanding with other countries with a view to exchanging financial information and/or mutual legal assistance concerning money-laundering. Some States (18 per cent) reported that they had not entered into such arrangements.

72. Major differences appeared between the different regions. While both States replying in Oceania and almost all of the States replying in the Americas (94 per cent) and in Europe (80 per cent) had concluded one or more such instruments with other countries with a view to exchanging financial information and/or mutual legal assistance concerning money-laundering, only 35 per cent of States in Asia and 31 per cent of responding States in Africa had done so.

VI. Recommendations

73. The following recommendations aimed at countering money-laundering are brought to the attention of the Commission on Narcotic Drugs:

(a) All Member States should implement the provisions against money-laundering contained in the 1988 Convention and other relevant international instruments, in accordance with the principles set forth in the Political Declaration adopted by the General Assembly at its twentieth special session (resolution S-20/4 D);

(b) States should adopt and implement legislation to criminalize the laundering of money derived from serious crimes in order to provide for the prevention, detection, investigation and prosecution of the crime of money-laundering, including through:

(i) The adoption of measures to identify, freeze, seize and confiscate the proceeds of crime;

(ii) Enhancing international cooperation and mutual legal assistance in cases involving money-laundering;

(iii) Implementation of law enforcement measures to provide for effective action against money-laundering, extradition procedures and information-sharing mechanisms among relevant competent authorities;

(c) States should consider introducing measures to keep centralized statistical data on legal action taken to combat money-laundering, including investigations, prosecutions and convictions;

(d) States should consider the adoption of measures to enable and facilitate the reporting and investigation of suspicious and/or unusual transactions that may be linked to money-laundering activities;

(e) States should consider establishing FIUs to counter money-laundering and, where applicable, participate in relevant regional and international anti-money-laundering mechanisms;

(f) UNODC should continue to strengthen its work against money-laundering, in cooperation with relevant multilateral and regional institutions and organizations engaged in activities to give effect to international standards in the area of countering money-laundering, by providing training and advice;

(g) States should participate actively in regional approaches to countering both money-laundering and the financing of terrorist acts and to route technical assistance requests through UNODC or regional bodies for countering money-laundering, including those which are similar to the Financial Action Task Force, in order to ensure compliance with international standards;

(h) States are encouraged to consult with UNODC and other relevant entities when drafting and prior to passing legislation against money-laundering, in order to ensure that it meets international standards;

(i) States are encouraged, where possible, to share the costs of the delivery of technical assistance in the area of preventing money-laundering;

(j) States should consider sharing expertise with other States in the global effort to comply with international treaty obligations and the measures for countering money-laundering adopted by the General Assembly at its twentieth special session.

Notes

[1] *Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

[2] *Official Journal of the European Communities*, No. L 166, 28 June 1991, p. 77.

[3] Ibid., No. L 344, 28 December 2001, p. 76.

[4] The 1988 Convention and the United Nations Convention against Transnational Organized Crime.