United Nations E/CN.7/2003/2/Add.6

Economic and Social Council

Distr.: General
30 January 2003

Original: English

Commission on Narcotic Drugs
Forty-sixth session
Vienna, 8-17 April 2003
Items 3 and 11 of the provisional agenda*
Follow-up to the twentieth special session of the General Assembly: general overview and progress achieved by Governments in meeting the goals and targets for the years 2003 and 2008 set out in the Political Declaration adopted by the Assembly at its twentieth special session

General debate of the ministerial segment: assessment of the progress achieved and the difficulties encountered in meeting the goals and targets set out in the Political Declaration adopted by the General Assembly at its twentieth special session

Second biennial report on the implementation of the outcome of the twentieth special session of the General Assembly, devoted to countering the world drug problem together

Report of the Executive Director

Addendum

Countering money-laundering

* E/CN.7/2003/1.

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I. Introduction

1. The General Assembly, in its resolution S-20/4 D of 10 June 1998, 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. In the Political Declaration adopted by the General Assembly at its twentieth special session (Assembly resolution S-20/2, annex), the Assembly undertook to make special efforts against the laundering of money linked to drug trafficking and recommended that States that had not 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 (contained in Assembly resolution S-20/4 D).

II. International standards on money-laundering

2. The international regime against money-laundering and the financing of terrorism embodies a framework of international conventions and international standards that are reviewed and amended to reflect best practice in the field. International bodies or professional organizations may issue statements of best practice to cover new trends as they emerge, which are often eventually incorporated into the more formal framework of standards.

3. The 1988 Convention was the first international treaty to criminalize money-laundering. While the scope of the 1988 Convention does not extend beyond drug-related offences, it established a legal framework that has served as the basis for the development of policy in that area. Subsequently, international standards and frameworks first developed under the 1988 Convention have been extended to apply to all serious crimes.

4. 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.

5. The 40 recommendations adopted in 1990 by the Financial Action Task Force continue to serve as a blueprint for action needed to combat money-laundering. Following the terrorist attacks of 11 September 2001, the Financial Action Task Force added eight special recommendations to address issues specifically concerned with the financing of terrorism. In 2003, the Financial Action Task Force is to complete a revision of its 40 recommendations, taking into account measures that have proved successful in countering money-laundering since the recommendations were last revised in 1996.

6. Council of the European Communities directive 91/308/EEC of 10 June 1991,[2] on prevention of the use of the financial system for the purpose of money-laundering, which took into account the relevant provisions of the 1988 Convention, gave member States the discretion to extend the provisions of the directive to include any other criminal activity. Reliance on the drug-related provisions of the 1988 Convention made it necessary for the directive to be amended so that member States would be obliged to have in place legislation covering all serious crimes. Directive 91/308/EEC was amended on 4 December 2001 by directive 2001/97/EC[3] of the European Parliament and the Council of the European Union.

7. The United Nations Convention against Transnational Organized Crime, adopted by the General Assembly in its resolution 55/25 of 15 November 2000, builds on the foundations set by the 1988 Convention.

8. In October 2001, the Basel Committee on Banking Supervision issued *Customer Due Diligence for Banks*,[4] in which it recommended, in particular, enhanced vigilance in handling the financial affairs of so-called "politically exposed persons", that is, government leaders and public sector officials, in order to prevent corruption and the abuse of public funds.

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

10. The International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly in its resolution 54/109 of 9 December 1999, entered into force on 10 April 2002. Each State party to the International Convention must take appropriate measures to identify, detect and freeze or seize any funds used or allocated for the purpose of committing a terrorist act (article 8).

11. In its resolution 1456 (2003) of 20 January 2003, the Security Council decided to adopt a declaration on the issue of combating terrorism. In that declaration, the Council 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

12. 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 measures against money-laundering. 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 the Financial Action Task Force. A key function of those bodies is to coordinate the mutual evaluations and peer evaluations that are intended to monitor the compliance of States with international

treaty obligations and to enhance the consistency of measures taken to counter money-laundering.

13. The regional approach has been particularly useful 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 undertake international cooperation with each other 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 regimes for countering money-laundering.

14. Regional bodies involved in the fight against money-laundering include: the Asia-Pacific Group on Money Laundering (25 jurisdictions), the Caribbean Financial Action Task Force (29 jurisdictions), the Financial Action Task Force of South America against Money Laundering (GAFISUD) (9 jurisdictions), the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures of the Council of Europe (24 jurisdictions) and the Eastern and Southern Africa Anti-Money Laundering Group (14 jurisdictions).

15. International organizations, including the Financial Action Task Force, the World Bank and the International Monetary Fund, 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 financing of terrorism. It 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 intergovernmental organizations have also been engaged in activities aimed at countering money-laundering activities. Such organizations include the Intergovernmental Task Force against Money Laundering in Africa (GIABA), the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures of the Council of Europe, with its mutual evaluation programmes and on-site visits, the Commonwealth Secretariat and Inter-American Drug Abuse Control Commission (CICAD), which promoted action against money-laundering and introduced peer review by its member States on progress in the implementation of national programmes against money-laundering and revised its model regulations on the control of money-laundering.

16. Important progress is being made by States and territories within the framework of the above-mentioned regional and international initiatives designed to promote and strengthen effective measures against money-laundering.

IV. United Nations action against money-laundering

17. In 1997, the Office for Drug Control and Crime Prevention (now called the United Nations Office on Drugs and Crime) established the Global Programme against Money-Laundering to address United Nations mandates against money-laundering based on the 1988 Convention and the United Nations Convention against Transnational Organized Crime. The United Nations Office on Drugs and

Crime 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, thus enabling them to implement treaty provisions on money-laundering.

18. The main objective in providing technical cooperation is 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. Specific initiatives are built around institution-building, training, research and awareness-raising. In the field of developing legal frameworks, the United Nations Office on Drugs and Crime assists in the drafting of legislation against money-laundering. Assistance in the development of legislation against money-laundering has recently been provided to, for example, Andorra, Georgia, Indonesia, Israel, Kazakhstan, Lebanon and the Russian Federation. The United Nations Office on Drugs and Crime has prepared model legislation that States have used as guidance in enacting or updating their laws against money-laundering.

19. The United Nations Office on Drugs and Crime works to help States to put in place the institutional machinery necessary to enable them to fight illegal financial flows. The Office supports the establishment of financial intelligence units in the context of its working relationship with the Egmont Group of Financial Intelligence Units. A unique mentoring system is used to put experts in a position where they can assist new financial intelligence units in tackling day-to-day operational problems. In particular, the Global Programme against Money-Laundering provides long-term assistance to States by providing mentors, who assist in building the capacity of financial investigations and prosecution services for jurisdictions handling major cases involving money-laundering and the seizure of assets. Training is also provided to legal, judicial, law enforcement and financial regulatory authorities to enhance their capacity to undertake their respective roles in the fight against money-laundering. Efforts are also under way to extend training to relevant private sector officials. Activities are also 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 on countering money-laundering as reported in the biennial questionnaire for the second reporting period (2000-2002)

20. In section V of the biennial questionnaire, dealing with money-laundering, Member States were 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.

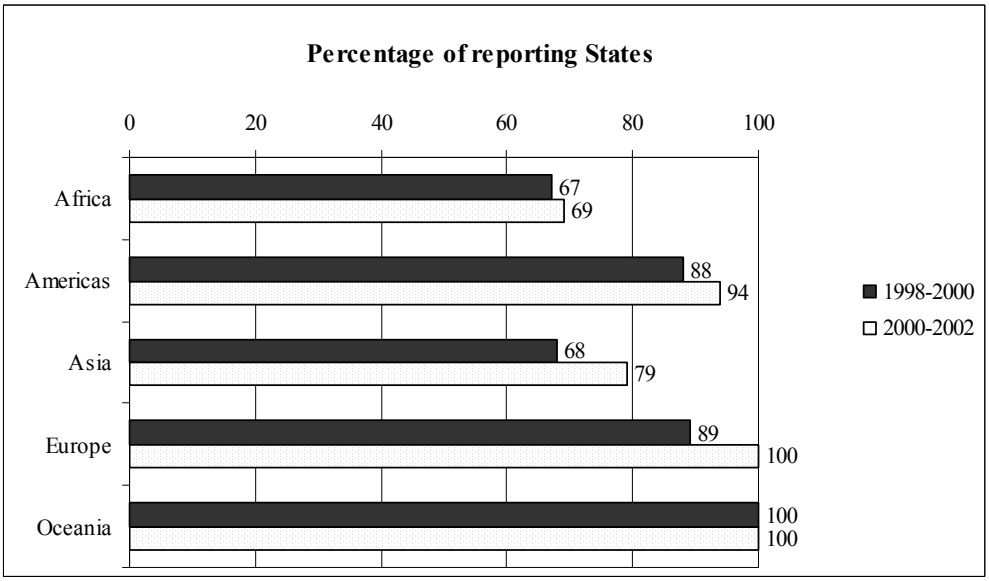
A. Legislative measures

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 questionnaire for the second reporting period (2000-2002) had adopted and applied domestic legislation that identified money-laundering as a criminal offence, in accordance with the provisions of the 1988 Convention.

22. Most States replying to the questionnaires for both the first and second reporting periods (80 per cent) indicated that laundering of proceeds derived from drug trafficking was a criminal offence in their jurisdictions (see figure I). Other States (11 per cent) reported that they were in the process of adopting legislative measures that dealt with the laundering of proceeds from 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 in which it is a criminal offence to launder the proceeds of drug trafficking, by region, 1998-2000 and 2000-2002
(Percentage of those responding in both reporting periods)



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

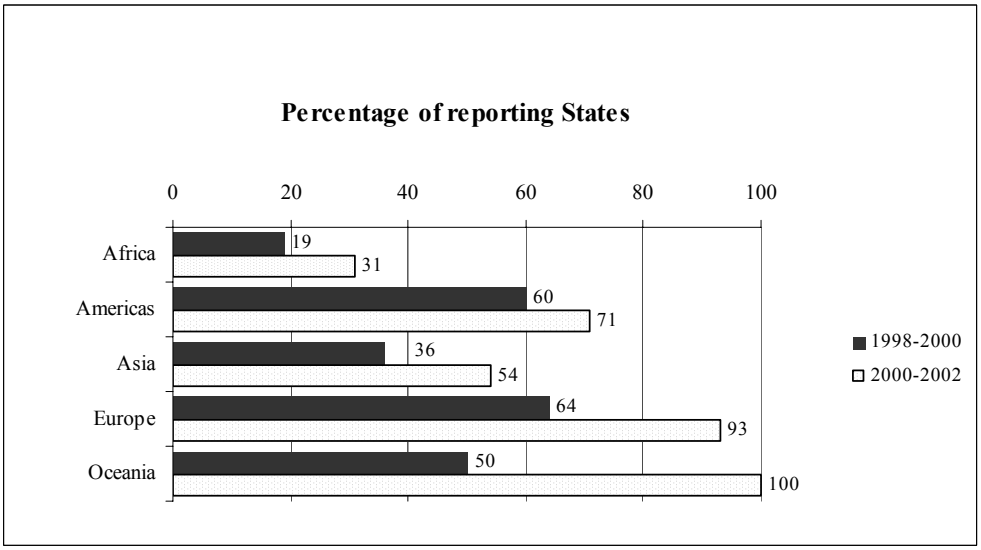
23. In most States replying to the questionnaire for the second reporting period, (79 per cent, compared with 63 per cent for the first reporting period (1998-2000)), laundering of the proceeds of other serious crimes was also considered a criminal offence. Such conduct was, however, not a criminal offence in 17 per cent of those

States replying to the questionnaires for both reporting periods. Several States (11 per cent) reported that they were in the process of introducing legislative measures to deal with the laundering of proceeds from serious crimes other than drug trafficking and to meet the target date of 2003 established by the General Assembly at its twentieth special session. Progress has been made towards meeting the objective for all Governments to adopt national legislation to criminalize money-laundering by 2003. 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 by 2003, as recommended in the Political Declaration adopted by the Assembly at its twentieth special session.

3. Legislation leading to investigation, prosecution, convictions

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 to the questionnaire for the second reporting period indicated that legislation against money-laundering had led to investigations, prosecutions or convictions for money-laundering offences in their jurisdictions, compared with 48 per cent for the first reporting period. Regional cooperation had contributed to that success (see figure II).

Figure II
States in which legislation led to investigations, prosecutions or convictions, by region, 1998-2000 and 2000-2002
(Percentage of those responding in both reporting periods)



4. Data on investigation of cases

25. 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 58 per cent of the States replying to the questionnaire for the second reporting period reported that they had kept statistical data on the investigations of cases involving money-laundering, compared with 48 per cent of the States replying to the questionnaire for the first reporting period.

Some States indicated that statistical data on money-laundering investigations were either available or that there were no centralized databases for such cases. Several States and territories reported on the number of cases investigated in 2001, which varied considerably from less than 10 in some jurisdictions to hundreds in others. For example, 39 such cases were investigated in the Bahamas, 115 in Bolivia (of which 59 had been reported by financial institutions and 56 by other sources), 177 in Brazil, 5 in Chile, 345 in Colombia, 6 in Croatia, 203 in Cyprus, 137 in El Salvador, 25 in Estonia, 199 in Finland, 840 in Greece, 607 in the Hong Kong Special Administrative Region (SAR) of China, 5 in Japan, 193 in Lithuania, 423 in Luxembourg, 10 in Oman, 177 in Pakistan, 1 in Panama, 144 in Slovakia, 1,245 in Spain, 47 in Sweden, 334 in Trinidad and Tobago and 409 in Venezuela.

5. Prosecutions related to money-laundering

26. About one half of the States replying to the biennial questionnaires (49 per cent for the second reporting period compared with 43 per cent for the first reporting period) 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 reported varied from 5 to 2,518. For example, for the period 2000-2001, there were 333 prosecutions in Australia; and for 2001, there were 4 prosecutions in the Bahamas, 150 in Canada, 5 in Chile, 1 in the Czech Republic, 39 in Hong Kong SAR of China, 1 in Ireland, 3 in Lithuania, 32 in New Zealand, 1 in Panama, 3 in Paraguay, 92 in Slovakia, 1 in Trinidad and Tobago, 2,518 in the United States of America and 240 in Venezuela.

6. Data collected on convictions for money-laundering offences

27. Forty-five per cent of the States replying to the questionnaire for the second reporting period indicated that they had statistical data on convictions for money-laundering offences, compared with 38 per cent for the first reporting period. The same proportion of States (45 per cent) indicated that they did not have such statistical data. As in the case of investigations and prosecutions, some States reported that there was no centralized collection of data pertaining to convictions for money-laundering offences. As expected, the rate of reported convictions, which varied significantly, was lower than the rate of reported investigations or prosecutions. For example, the reported number of convictions for money-laundering offences amounted to, for the period 2000-2001, 325 in Australia, and, for 2001, 2 in the Bahamas, 31 in Colombia, 1 in the Czech Republic, 24 in El Salvador, 9 in Hong Kong SAR of China, 3 in Ireland, 11 in New Zealand, 6 in Slovakia, 7 in Sweden, 1,175 in the United States and 1 in Venezuela.

7. Money-laundering considered to be a serious crime

28. Most reporting States (85 per cent) indicated that money-laundering was considered a serious offence in their jurisdictions. Some States, such as Ethiopia, Georgia, the Islamic Republic of Iran, Jordan, Paraguay, Saudi Arabia and the Sudan, reported that, in their jurisdictions, money-laundering was not considered a serious offence.

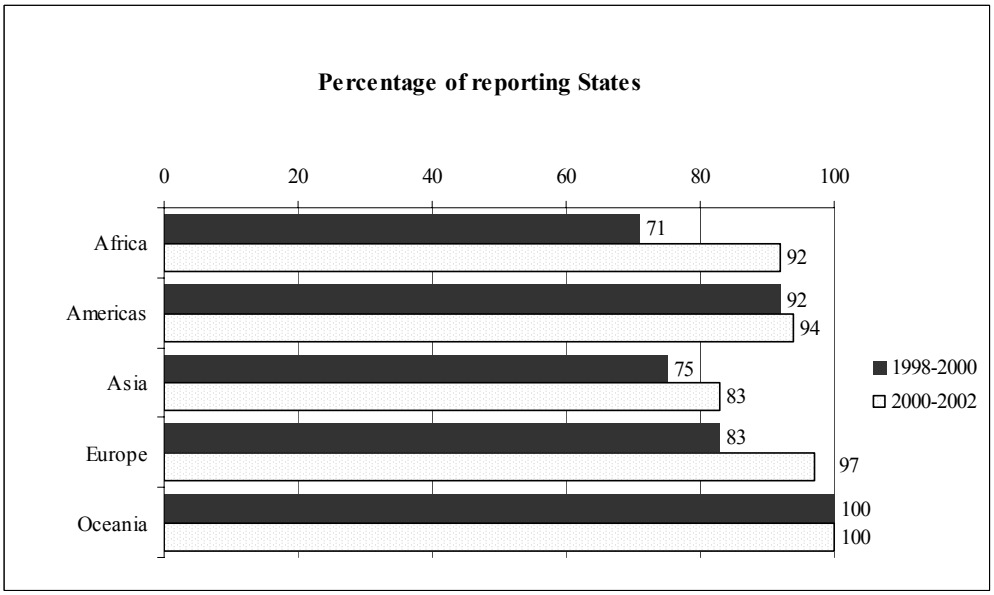
8. Freezing, seizing and confiscation of proceeds of drug trafficking offences

29. 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. Ninety-one per cent of the States replying to the questionnaire for the second reporting period (compared with 80 per cent for the first reporting period) indicated that national laws and regulations provided for the freezing, seizure and confiscation of illicit proceeds from drug trafficking, in line with the provisions of the 1988 Convention (see figure III). A few States (2 per cent), such as Burundi, Saudi Arabia, Sri Lanka, Uganda and Yugoslavia, reported that their legislation did not provide for the freezing, seizure and confiscation of proceeds of drug trafficking. Six per cent of the States submitting the questionnaire did not answer the question.

Figure III

States with legislation providing for the freezing, seizure and confiscation of proceeds of drug trafficking, in accordance with the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, by region, 1998-2000 and 2000-2002

(Percentage of those responding in both reporting periods)



30. Most States (77 per cent, compared with 61 per cent for the first reporting period) reported having either frozen, seized or confiscated proceeds from drug trafficking. A number of States, such as Bangladesh, Botswana, the Central African Republic, Chad, Côte d'Ivoire, Ethiopia, Georgia, Haiti, Indonesia, Kyrgyzstan, Paraguay, Swaziland, Ukraine and Uruguay, 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.

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

31. Governments made significant progress in adopting legislation enabling the seizure of assets resulting from money-laundering related to serious crimes other than drug trafficking. Most States replying to the questionnaire for the second reporting period (75 per cent, compared with 62 per cent for the first reporting cycle) had adopted measures for the freezing, seizure or confiscation of proceeds of serious crimes other than drug trafficking. Some States (12 per cent), such as Bangladesh, Bolivia, Chad, Côte d'Ivoire, Ghana, Indonesia, Jordan, the Lao People's Democratic Republic, Pakistan, Paraguay, Saudi Arabia, Sri Lanka, Swaziland, Uganda and Yemen, indicated that the provisions on money-laundering in their national legislation were not applicable to serious crimes other than drug trafficking. Twelve per cent of the States did not reply to the question.

32. Steady progress has been made in freezing, seizing or confiscating proceeds derived from serious crimes other than drug trafficking. Sixty-three per cent of the States replying to the questionnaire reported that they had effectively frozen, seized or confiscated proceeds of serious crimes other than drug trafficking. Several States (16 per cent), such as the Central African Republic, Ethiopia, Haiti, Malaysia, Panama and Venezuela, 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.

10. Maintaining of statistics on legal action taken

33. 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 and confiscated proceeds. Only 39 per cent of the States replying to the questionnaire for the second reporting period (compared with 30 per cent for the first reporting period) maintained statistics on seized or confiscated proceeds resulting from legal action to combat money-laundering. Many States (50 per cent) had no such information.

34. Several States and territories with such information reported the seizure of large sums, the equivalent of millions of United States dollars, by their competent authorities. For example, in the period 2000-2001, the Office of the Director of Public Prosecutions of Australia had restrained 2 million Australian dollars (A$) and the Australian Federal Police had restrained A$ 17.3 million and contributed to the forfeiture of A$ 4.3 million; the Bahamas had seized proceeds amounting to almost 16 million United States dollars (US$); El Salvador had seized over US$ 0.5 million; in Estonia, five accounts in three banks, with assets totalling approximately 10 million Estonian krooni, were seized; in Hong Kong SAR of China, 1 billion Hong Kong dollars in proceeds had been seized pending confiscation, as of 1 January 2002; the Federal Department of Public Prosecutions of Mexico seized

almost 300 million new pesos and almost US$ 35 million in the course of investigating money-laundering cases; in the Russian Federation, almost 170 million roubles were seized; and in the United Kingdom of Great Britain and Northern Ireland, 14 million pounds (£) in cash had been seized at the borders between April 2001 and March 2002. In Brazil and Guatemala, no statistics on the total amount of property seized were available. In Colombia and Costa Rica, law enforcement officers had seized assets, including vehicles, properties and money in bank accounts and other items. In Colombia, aircraft and ships or boats were also seized. In the United States, the Department of Justice did not maintain statistical data solely on proceeds seized for money-laundering offences but rather on the total amount of civil and criminal asset seizures.

11. Maintaining of data on confiscated proceeds of money-laundering

35. Governments were invited to report whether their relevant authorities maintained statistical data on seized and confiscated proceeds as a result of legal action taken to combat money-laundering. Thirty-eight per cent of the States replying to the questionnaire reported that they kept such data. However, many States (43 per cent) did not have such information. Many States with such information reported having seized large sums, the equivalent of millions of United States dollars. For example, in Australia, the Office of the Director of Public Prosecutions had recovered A$ 1 million; the United Kingdom had confiscated assets totalling about £20 million during the period 2000-2001; Norway had confiscated almost 43 million kroner; and South Africa had confiscated about US$ 1.7 million. In Brazil, no precise statistics were available on the total amount of assets confiscated. In Mexico, national legislation prohibited the confiscation of assets but allowed for their seizure in connection with money-laundering offences.

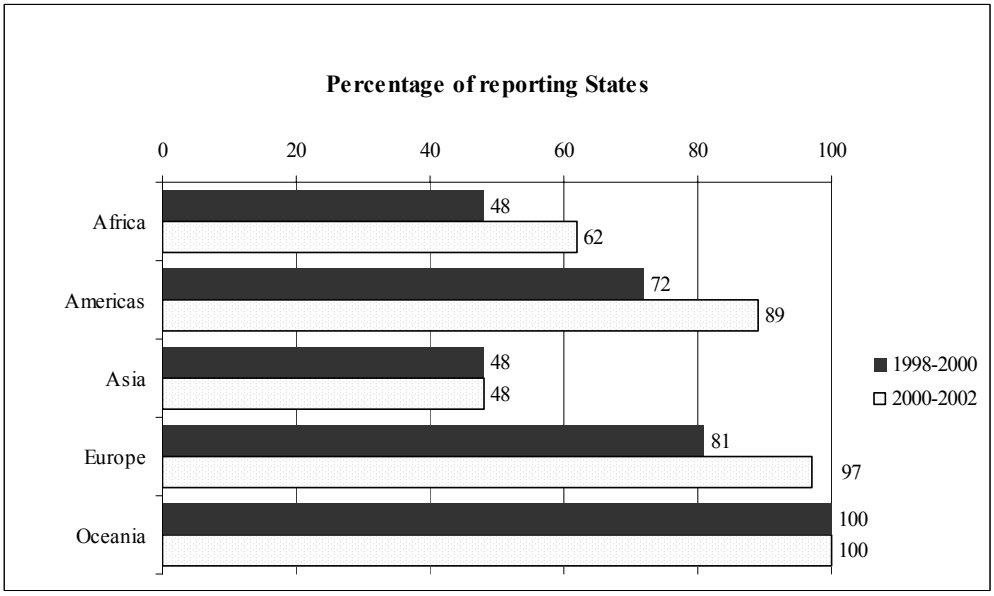
12. Money-laundering treated as an extraditable offence

36. Money-laundering was an extraditable offence in most of the States reporting in the second reporting period (75 per cent, compared with 65 per cent in the first reporting period), although different qualifications applied to different jurisdictions (see figure IV). In some States, the extradition of nationals, including for money-laundering offences, was prohibited. In other States (13 per cent), such as Azerbaijan, Bolivia, Brunei Darussalam, Burundi, Cape Verde, Egypt, Ethiopia, Jordan, Myanmar, Pakistan, Paraguay, Saudi Arabia and Yugoslavia, money-laundering was not an extraditable offence. Ten per cent of the respondents did not reply to the question.

Figure IV

States in which money-laundering is considered an extraditable offence, by region, 1998-2000 and 2000-2002

(Percentage of those responding in both reporting periods)



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

37. Almost 70 per cent of the Governments replying to the questionnaire for the second reporting period indicated that their national legislation made it a requirement to declare the cross-border transport of cash exceeding a specified amount. That represents a significant change from the first reporting period, when only 49 per cent of the responding States indicated in their replies that their national legislation established such requirements. In some other States (21 per cent), there was no such requirement.

38. Penalties for failure to declare cash transactions ranged from fines and/or confiscation of all or part of the value of the undisclosed sum to imprisonment. For example, in Australia, the maximum penalty for failure to declare cash transactions was two years of imprisonment or a fine. In several States, such as Azerbaijan, Bulgaria, Ethiopia and Nigeria, imprisonment was the penalty; in others, such as Belize, the Czech Republic, Denmark, Georgia, Indonesia, New Zealand, Panama and Spain, fines were imposed for cash transactions exceeding a specified amount; and in Canada the penalty was forfeiture. In Bolivia and Costa Rica, the transport of cash in excess of US$ 10,000 must be accompanied by justifying documentation. In Brazil, the penalty was the withholding of assets exceeding the stipulated limit with a view to verifying the origin of that amount. Colombia, France, Italy and Thailand indicated that, in cases involving undeclared cash, the penalty was the confiscation of the money and a fine depending on the total amount confiscated. Lithuania and the Russian Federation reported that failure to declare cash at the border was an administrative or criminal offence, depending on the amount of the undeclared cash that had been detected. New legislation was being introduced in some States, such

as Canada and Chile, on the cross-border transport of cash. In Greece, there was no criminal sanction for such offences.

14. National legislation requiring the declaration of negotiable bearer instruments being transported across borders

39. As to whether their national legislation required the declaration of negotiable bearer instruments being transported across borders, 45 per cent of the States indicated on the questionnaire for the second reporting period that there was a requirement to declare such instruments (compared with 31 per cent in the first reporting period). In other States (40 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 to the forfeiture of the negotiable bearer instruments. In a number of States, the cross-border transport of negotiable bearer instruments was usually covered under customs legislation as smuggling or violation of foreign exchange controls.

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

1. Reporting suspicious and/or unusual transactions

40. 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 (80 per cent), replying to the questionnaire for the second reporting period, which represented a marked improvement compared with the replies for the first reporting period (63 per cent). The number of suspicious transactions reported varied widely between countries and might have been influenced by differing requirements, such as mandatory reporting as opposed to suspicion-based reporting. For example, for the period 2000-2001 the number of suspicious and/or unusual transactions reported was as follows: 7,247 in Australia, 1,750 in the Czech Republic, 319 in Denmark, 2,796 in Finland, 12,372 in Japan, 158 in Liechtenstein, 6 in the Russian Federation and 31,251 in the United Kingdom.

41. States were also asked to report which financial businesses and professional groups were subject to reporting requirements. Most indicated that the following were subject to reporting requirements: all enterprises involved in financial brokerage and auxiliary financial services (banks, credit unions, money service businesses, trust and loan companies etc.); those involved in securities brokerage and related activities; insurance companies, brokers and agents; commercial casinos and gambling houses; and real estate agencies. For example, according to directive 2001/97/EC of the European Parliament and the Council of the European Union, all commercial enterprises and legal professions were obliged to report suspicious financial transactions.

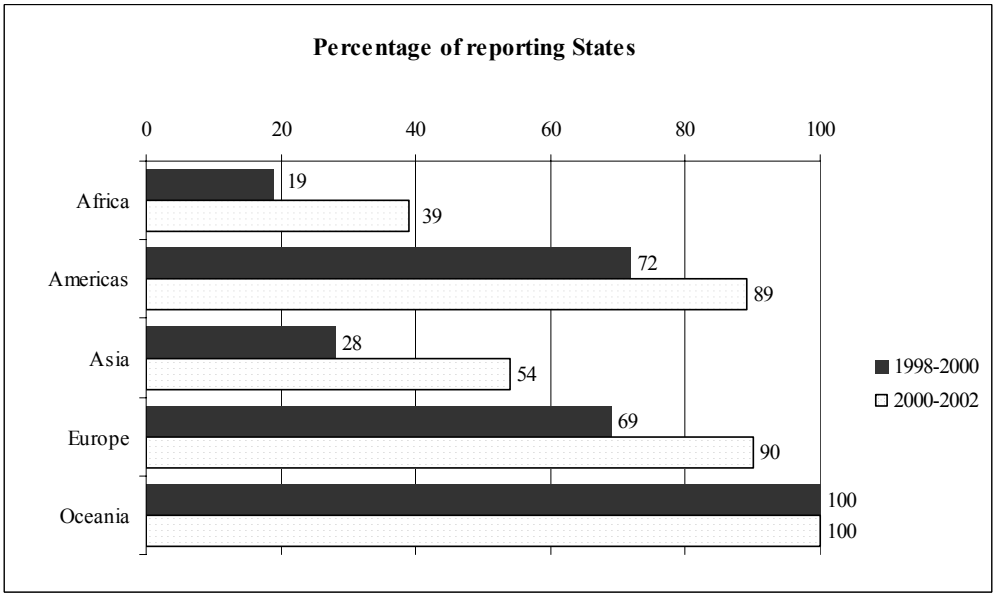
2. "Know-your-client" principle

42. Almost 72 per cent of the States replying to the questionnaire for the second reporting period had taken measures to put the "know-your-client" principle into practice, a considerable increase compared with the 50 per cent that reported having taken such measures in the first reporting period (see figure V). The approaches taken towards implementing the principle varied. Several States indicated that they had implemented the "know-your-client" principle by establishing policies and procedures for the identification of clients when performing listed financial transactions and other related functions and by periodically updating clients' data and profiles. For example, pursuant to directive 2001/97/EC of the European Parliament and the Council of the European Union, accountants, lawyers, casinos, dealers in high-value goods and real estate agents were brought into the regulated sector and the identification requirements also applied to them. In the United States, there was no formal "know-your-client" regulation; however, there was an informal understanding among reputable financial businesses to examine more closely any unusual or suspicious transactions proposed by their clients, and regulations were currently being drafted to require financial institutions to identify and verify customers.

Figure V

States that have put into practice the "know-your-client" principle, by region, 1998-2000 and 2000-2002

(Percentage of those responding in both reporting periods)

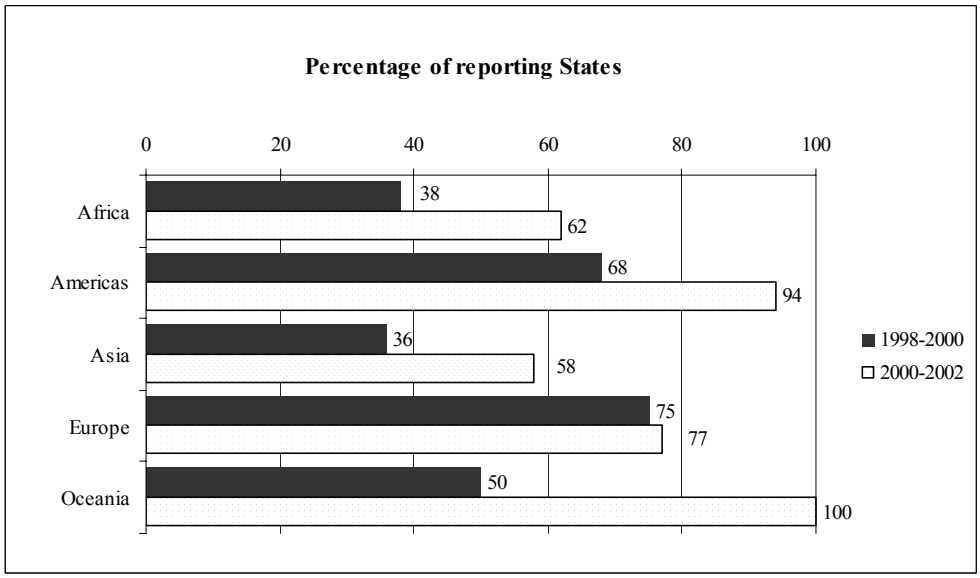


3. Removing impediments to criminal investigations related to bank secrecy

43. Bank secrecy has been one of the major obstacles to criminal investigations in money-laundering offences. Several States (72 per cent) replying to the questionnaire for the second reporting period reported that they had adopted measures in order to remove impediments to criminal investigations related to bank secrecy (see figure VI); that was a significant improvement compared with the

replies to the questionnaire for the first reporting period, when only 57 per cent of the States reported having adopted such measures. Some States (12.5 per cent) reported that they had not yet done so.

Figure VI
States that have removed impediments to criminal investigations related to bank secrecy, by region, 1998-2000 and 2000-2002
(Percentage of those responding in both reporting periods)



44. Most reporting States indicated that legal requirements to report suspicious transactions expressly overrode any commercial or other confidentiality considerations. In member States of the European Union, bank secrecy was suspended whenever there was a suspicion of money-laundering. In Argentina, Bulgaria, Bolivia, Chile, Colombia, Hong Kong SAR of China and Mexico, any legal provisions relating to professional, banking or tax secrecy or the confidentiality obligations established by law or by contract were lifted if the request for information was made by the national judicial or taxation authority. The United States reported that bank secrecy, as currently practised, posed no significant impediments to criminal investigations; banks were compelled to produce records and other information about their clients.

4. Identification of beneficial owners of accounts

45. One related action was the adoption, by 75 per cent of the States replying to the questionnaire for the second reporting period, of measures enabling the identification of the beneficial owners of accounts, corporate bodies and other financial assets. Only 11 per cent of the respondents had not adopted measures to enable such identification. In European Union member States, “reasonable measures” must be taken by financial institutions to identify beneficiaries of accounts. Along the same line, in the United States, national regulations required that financial institutions must take “reasonable steps” to ascertain the identity of the nominal and beneficial owners of, and the source of funds deposited into, the private banking account.

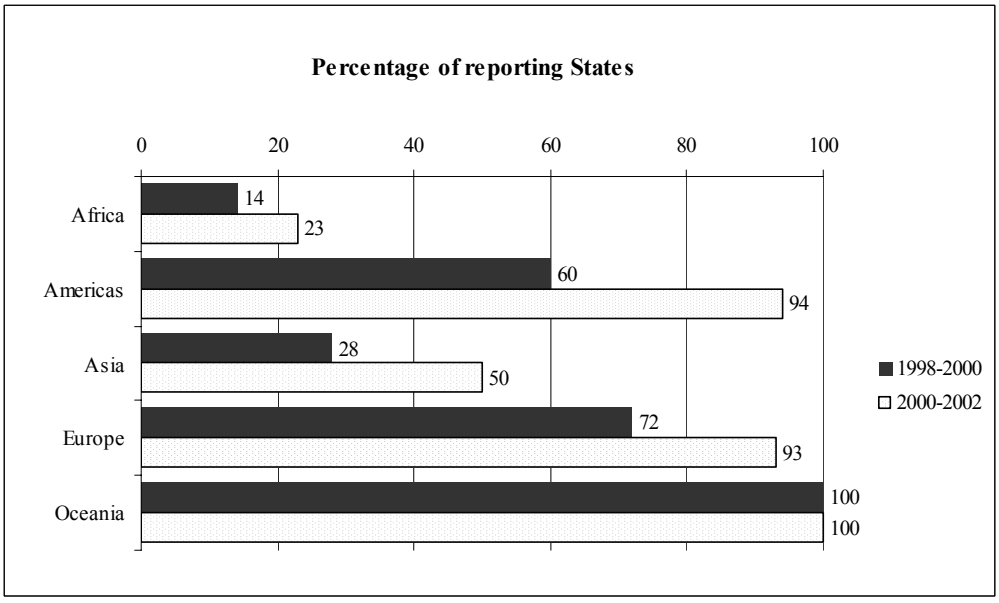
5. Establishment of central financial intelligence units

46. Many States have established specialized agencies to deal with money-laundering. One important development has been the establishment of more than 48 operational financial intelligence units worldwide, as centralized agencies that, at a minimum, receive, analyse and disclose to the competent authorities information provided by financial institutions concerning possible money-laundering and other financial crimes. Many others are in various stages of development. The units serve as a link between the 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 per cent of the States responding to the questionnaire for the second reporting period had established a central, financial intelligence unit to collect and analyse reports and intelligence on suspected money-laundering cases (see figure VII). That indicates a significant improvement since the first reporting period, when only 49 per cent of States had established such financial intelligence units. In most cases, the mandates of the financial intelligence units included the collection and analysis of suspicious transactions with a view to detecting money-laundering activities and passing on relevant information to the judicial authorities. The Global Programme against Money-Laundering of the United Nations Office on Drugs and Crime has devoted much of its time to providing assistance to States in establishing such units. That aspect of the work of the Global Programme has been undertaken in conjunction with the Egmont Group, an informal international umbrella organization for financial intelligence units. More effort is, however, necessary, as 20 per cent of the States replying to the questionnaire for the second reporting period had not yet established such units to deal with money-laundering cases.

Figure VII

States that have established a central financial intelligence unit to collect and analyse reports and intelligence on suspected money-laundering cases, by region, 1998-2000 and 2000-2002

(Percentage of those responding in both reporting periods)



C. Measures to provide for the investigation of and prosecution for money-laundering

47. Seventy-two per cent of the States replying to the questionnaire for the second reporting period (compared with less than half (49.6 per cent) of the States replying for the first reporting period) reported that they had implemented measures to provide for the effective investigation and prosecution of those involved in money-laundering. Some States (17 per cent, compared with over 25 per cent in the period 1998-2000) reported that they had not done so.

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

49. The numbers of specialized officers dealing with money-laundering cases varied widely between countries. For example, there were 5 officers dealing with such crimes in Trinidad and Tobago, there were 6 in Panama, 60 in the Republic of Korea, 98 in the Russian Federation, 426 in Italy and 554 in Turkey. Several States replying to the questionnaire for the second 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.

50. Some States, such as Bolivia, Finland and the United Kingdom, gave particular attention to the training of investigators, public prosecutors and/or revenue officers specialized in economic crimes. In Australia, a computer-based targeting system had been introduced to analyse financial transactions and to identify drug trafficking syndicates. 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. In Guatemala, a money-laundering investigation had led, in 2001, to the arrest of a former Minister of Interior and three other persons.

D. International cooperation

1. Requests for mutual legal assistance

51. 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. Almost 60 per cent of the respondents had, during the second reporting period, sent or received requests from other States for mutual legal assistance concerning cases of money-laundering, including the freezing, seizure and confiscation of criminal assets. The number of requests sent in 2001 included 9 from Ecuador, 15 from the United Kingdom, 46 from Brazil, 60 from Greece and 91 from Finland.

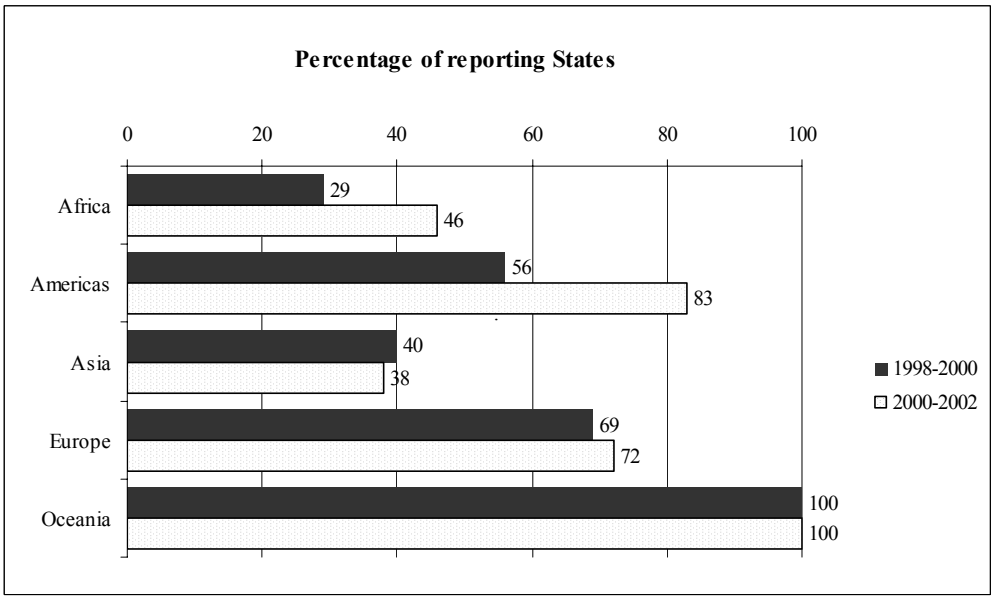
52. As for requests received, 4 had been received in Indonesia, 5 had been received in the United Kingdom, 43 in Brazil, 58 in Greece and 154 in Finland. Several States reported that they had undertaken appropriate follow-up action to requests for mutual legal assistance in accordance with domestic legislation,

resulting in the freezing, seizure and/or confiscation of money or assets. Twenty-four per cent of the States replying to the questionnaire for the second reporting period had not sent or received any requests for mutual legal assistance concerning money-laundering offences.

2. Signing of treaties, agreements and memorandums for the exchange of information on money-laundering

53. Progress has been made in improving for the second reporting period cooperation against money-laundering. Sixty per cent of the States replying to the questionnaire for the second reporting period (compared with 52 per cent for the first reporting period) had concluded treaties, agreements, memorandums of understanding or letters of understanding with other States with a view to exchanging financial information and/or mutual legal assistance concerning money-laundering (see figure VIII). Some States (22 per cent) reported that they had not entered into such arrangements.

Figure VIII
States that have concluded treaties, agreements, memorandums of understanding or letters of understanding with other States, by region, 1998-2000 and 2000-2002
(Percentage of those responding in both reporting periods)



54. Several States reported on agreements and arrangements at the bilateral and regional levels. For example, Australia reported that it had concluded in June 2002 a memorandum of understanding with Indonesia that provided a framework for law enforcement cooperation in preventing, investigating, disrupting and dismantling transnational criminal activities impacting on one or both of those States. With regard to police cooperation, Bulgaria had concluded treaties with Belgium and Italy in 2001 and with Austria in 2002. Bulgaria had also signed treaties on police cooperation with France and Lebanon but they had not yet entered into force. Bulgaria had also signed memorandums of understanding with a view to exchanging

financial information with Belgium, the Czech Republic, Italy, Lebanon, Lithuania, Romania, Poland and the former Yugoslav Republic of Macedonia. Canada was currently negotiating memorandums of understanding with various other States on the exchange of information on money-laundering and financing terrorist activities. Colombia had signed international agreements for the exchange of financial intelligence with Bolivia, Brazil, Costa Rica, France, Guatemala, Panama, Portugal, Spain, the United Kingdom and Venezuela. Italy had signed 12 memorandums of understanding to facilitate the exchange of information related to suspicious transactions with correspondent foreign institutions. Mexico had signed 19 bilateral treaties on international legal assistance and was a party to various international conventions providing for legal assistance; it had also signed agreements for the exchange of financial information with France, Spain and the United States. Panama had signed memorandums of understanding or other cooperation agreements for the exchange of information in the investigation of suspicious transactions with Belgium, Brazil, Colombia, Costa Rica, Croatia, the Dominican Republic, El Salvador, France, Germany, Guatemala, Italy, Mexico, Paraguay, Spain, the United Kingdom and the United States. Peru had signed memorandums of understanding with foreign bodies with a view to exchanging financial information, the most recent being in 2001 with Banca d'Italia. Slovakia had signed memorandums of understanding with Belgium, the Czech Republic, Poland and Slovenia. Swaziland had concluded a bilateral agreement on mutual legal assistance with South Africa. The United Kingdom had entered into mutual legal assistance treaties and agreements with a number of other States and, in addition, could provide legal assistance to other States without the need for specific agreements. The agreements had rather a general application covering a wide range of offences, including money-laundering.

VI. Recommendations

55. The Commission on Narcotic Drugs should acknowledge the close connection between money-laundering, drug trafficking, other forms of transnational organized crime and the financing of terrorism.

56. The Commission should consider strengthening United Nations action against money-laundering by stressing the importance of the United Nations Office on Drugs and Crime continuing 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, advice and long-term technical assistance to States.

57. The Commission should encourage States to participate actively in regional approaches to countering both money-laundering and the financing of terrorist acts and to route technical assistance requests through the United Nations Office on Drugs and Crime or regional bodies for countering money-laundering that are similar to the Financial Action Task Force, in order to ensure compliance with coordination mechanisms of the World Bank and the International Monetary Fund.

58. The Commission should recommend that States consult with the United Nations Office on Drugs and Crime and other relevant entities when drafting and

prior to passing legislation against money-laundering, in order to ensure that it meets international standards.

59. The Commission should recognize that the financial intelligence unit is an essential institution on which States should centre their efforts against money-laundering.

60. The Commission should encourage States, where possible, to share the costs of the delivery of technical assistance in the area of preventing money-laundering.

61. The Commission should recommend that States consider the value of contributing expertise that they have developed to 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 (Assembly resolution S-20/4 D).

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] Basel Committee on Banking Supervision, *Customer Due Diligence for Banks*, Publication No. 85 (October 2001).