



Economic and Social Council

Distr.: General
16 January 2007

Original: English

Commission on Narcotic Drugs

Fiftieth session

Vienna, 12-16 March 2007

Item 4 of the provisional agenda*

Follow-up to the twentieth special session of the General Assembly

The world drug problem

Fourth biennial report of the Executive Director

Addendum

Countering money-laundering

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* E/CN.7/2007/1.



I. Introduction

1. At its twentieth special session (resolution S-20/4 D), the General Assembly recognized that the problem of money-laundering derived from illicit trafficking in narcotic drugs and psychotropic substances and other serious crimes had become such a global threat to the integrity, reliability and stability of financial and trade systems and even government structures as to require countermeasures by the international community. The Assembly, *inter alia*, urged all States to implement the provisions against money-laundering contained in the United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 1988 and other relevant international instruments on money-laundering. The present report provides information on compliance and progress by Member States as reflected in the fourth reporting period compared with the three previous reporting periods.

II. International standards on money-laundering

2. The United Nations conventions and internationally recognized and accepted standards constitute the international regime to prevent money-laundering and to counter the financing of terrorism. The international standards are not static and adapt in accordance with international trends. The 1988 Convention criminalized trafficking in drugs as the predicate offence for money-laundering. Subsequent United Nations conventions extended the predicate offences to cover 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 complete revision of the 40 recommendations was adopted in 2003 and additional amendments were made in October 2004. 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 to be implemented by States according to their particular circumstances and constitutional framework. They cover measures that should be in place in national criminal justice and regulatory systems; the preventive measures to be taken by financial institutions, other businesses and professions; and international cooperation.

6. The European Parliament and the Council of the European Union adopted Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing on 26 October 2005. This directive repeals two previous directives, adopted in 1991 and 2001 respectively. It prohibits money-laundering and terrorist financing and requires reporting entities to apply customer due diligence, to report suspicious transactions to national financial intelligence units, to take supportive measures such as record-keeping, training and risk management, and to supervise national compliance. European Union member States are expected to implement the new directive by 15 December 2007.
7. The United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I), which entered into force on 29 September 2003, widens the definition of money-laundering to include the proceeds of all serious crime and gives legal force to a number of issues addressed in the Political Declaration adopted by the General Assembly at its twentieth special session, in 1998 (resolution S-20/2).
8. The United Nations Convention against Corruption (General Assembly resolution 58/4, annex), which entered into force on 14 December 2005, creates as an offence the concealment and laundering of the proceeds of acts of corruption and includes further extensive measures to combat money-laundering.
9. The International Convention for the Suppression of the Financing of Terrorism (General Assembly resolution 54/109, annex), which entered into force on 10 April 2002, requires Member States to take measures to protect their financial systems from abuse by persons planning or engaged in terrorist activity.
10. After the events of 11 September 2001, the Security Council adopted resolution 1373 (2001), in which, acting under Chapter VII of the Charter of the United Nations, the Council decided that all States should prevent and suppress the financing of terrorist acts and established a committee of the Council to monitor the implementation of the resolution.
11. In its resolution 1456 (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 arms trafficking.
12. The General Assembly, in recognizing the ongoing threat of money-laundering and the financing of terrorism, adopted the United Nations Global Counter-Terrorism Strategy (General Assembly resolution 60/288) in September 2006 and strengthened the mandate of the United Nations Office on Drugs and Crime (UNODC) to combat money-laundering and the financing of terrorism. In the Strategy, and more specifically in the Plan of Action (Assembly resolution 60/288, annex), UNODC is encouraged to enhance cooperation with States to help them to comply fully with international norms and obligations to combat money-laundering and the financing of terrorism.

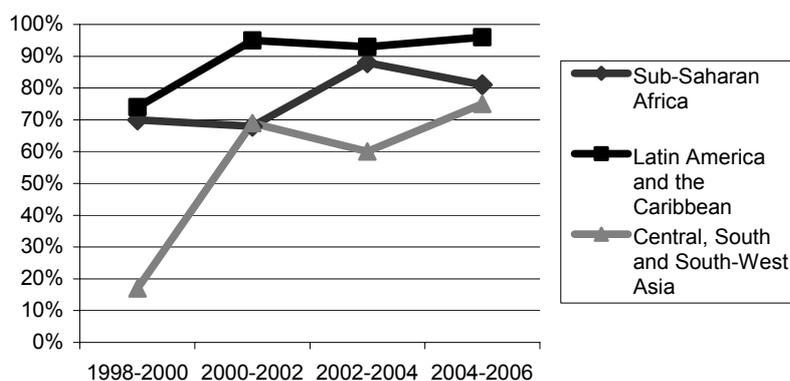
III. Action by Governments

A. Legislation criminalizing money-laundering

13. Three years after 2003, the year set by the twentieth special session of the General Assembly as the target date for the adoption of national legislation to counter money-laundering, there are still some regions where Member States need to enhance their efforts to criminalize laundering of the proceeds derived from drug trafficking and other serious crimes, as well as the financing of terrorism. In the fourth reporting period, the region of Latin America and the Caribbean showed a slight increase (3 per cent) in the number of countries in the region complying with this requirement. In the region of Central, South and South-West Asia, an increase of 15 per cent compared with the previous reporting period was noted. However, a decline was observed in Sub-Saharan Africa,¹ from 88 per cent in the third reporting period to 81 per cent in the fourth reporting period (see figure I).

Figure I

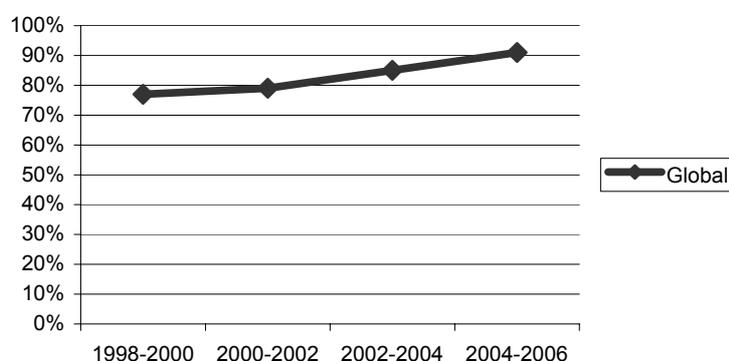
Criminalization of laundering of the proceeds of drug trafficking and other serious crimes, by region



14. However, from a global perspective, there has been a steady increase in the number of Member States criminalizing money-laundering since the baseline reporting period (1998-2000), with a 6 per cent increase between the third and fourth reporting periods, representing a 91 per cent compliance rate (see figure II).

¹ The decreases in reporting can be attributed to the fact that not all States reporting in the third cycle did so in the fourth reporting period.

Figure II
Criminalization of laundering of the proceeds of drug trafficking and other serious crimes, global



B. Freezing, seizure and confiscation of the proceeds of crime

15. Most States responding in the fourth reporting period indicated that their legislation provided for freezing, seizure and confiscation of the proceeds of crime. In Eastern and South-Eastern Europe, a steady increase since the baseline reporting period (1998-2000) was observed, while East and South-East Asia reflected a 4 per cent decline. In Northern Africa and the Middle East, a 28 per cent increase since the third reporting period was observed, with 88 per cent of the States in that region that responded to the fourth reporting period indicating that their legislation provided for the temporary prohibition of the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property, as well as the permanent deprivation of property by order of a court or other competent authority (see figures III and IV).

Figure III
Freezing, seizure and confiscation of the proceeds of crime, by region

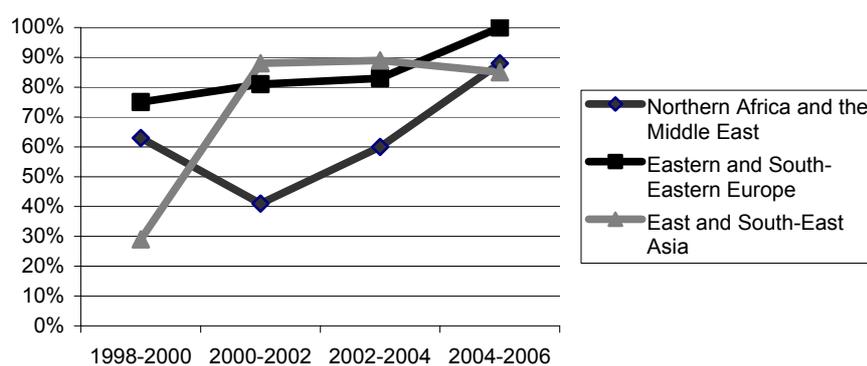
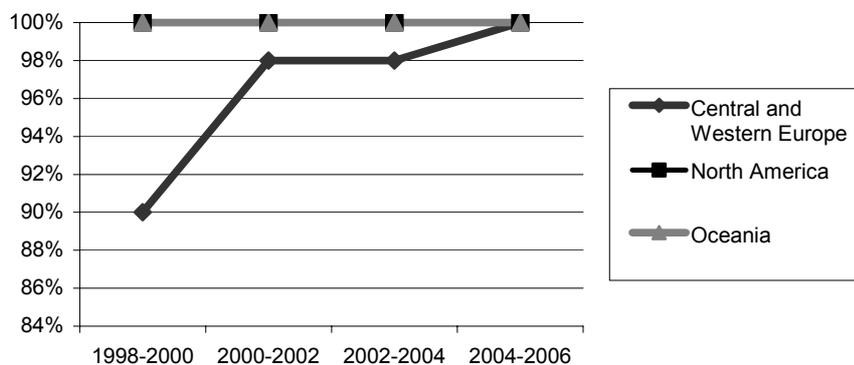
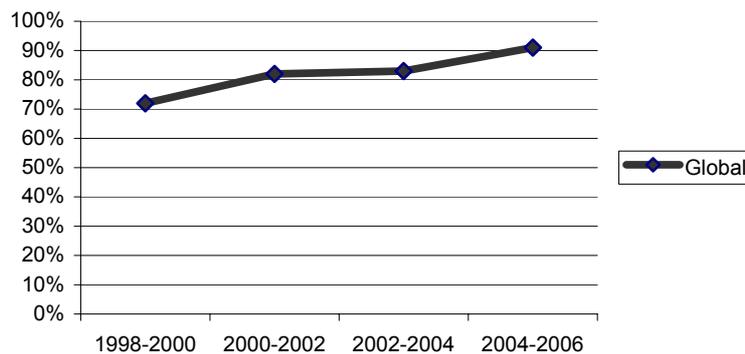


Figure IV
Freezing, seizure and confiscation of the proceeds of crime, by region



16. From a global perspective, 91 per cent of Member States indicated in the fourth reporting period that their legislation provided for freezing, seizure and confiscation of the proceeds of trafficking in illicit drugs and other serious crimes. It is encouraging to note this high global figure and Member States are encouraged to continue to include these vital measures in their national legislation (see figure V).

Figure V
Freezing, seizure and confiscation of the proceeds of crime, global



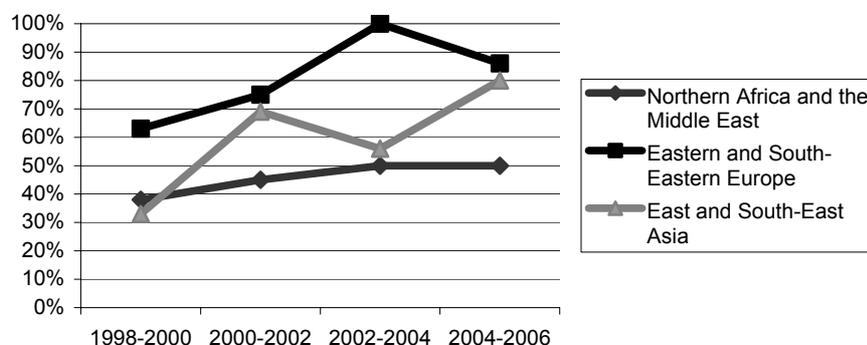
C. Money-laundering as an extraditable offence

17. In the fourth reporting period, the region of Eastern and South-Eastern Europe reflected a 14 per cent decrease of States in the region that considered money-laundering an extraditable offence. However, the majority of Member States in the region considered money-laundering an extraditable offence and approximately 79 per cent of Governments will extradite a person if charged with or convicted of a money-laundering offence in another State. Figure VI reflects the situation concerning the establishment of money-laundering as an extraditable offence in

Northern Africa and the Middle East, Eastern and South-Eastern Europe and East and South-East Asia.

Figure VI

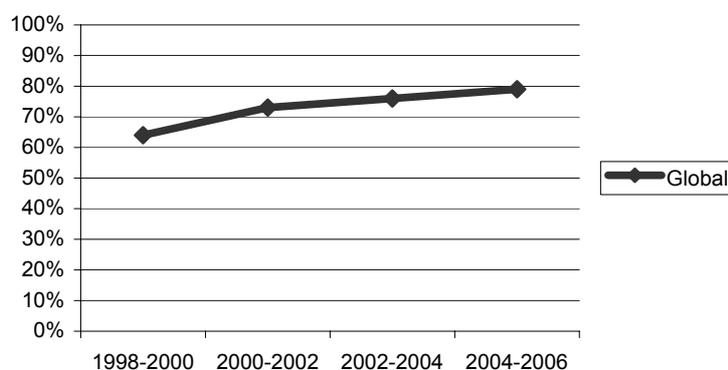
Money-laundering as an extraditable offence, by region



18. Globally, 79 per cent of Member States reported that they considered money-laundering as an extraditable offence. The United Nations conventions and international standards call on Member States to increase international cooperation and Member States should make renewed efforts to increase the compliance rate to above 90 per cent (see figure VII).

Figure VII

Money-laundering as an extraditable offence, global



D. National legislation requiring the declaration of cross-border transportation of cash and negotiable bearer instruments

19. An increased percentage of Member States responding during the fourth reporting period reported having legislation requiring the declaration of cross-border transportation of cash and negotiable bearer instruments when the value exceeded specified amounts. Moreover, of the responding States in the North America and Oceania regions, compliance had reached 100 per cent regarding

the requirement to declare cross-border transportation of cash. In Eastern and South-Eastern Europe, however, the compliance rate decreased from 83 per cent in the third reporting period to 71 per cent in the fourth reporting period (see figure VIII). Of the responding Member States in the Northern Africa and the Middle East, Sub-Saharan Africa, and Central, South and South-West Asia regions, 50 per cent or less had legislation in place requiring the declaration of cross-border transportation of negotiable bearer instruments (see figure IX).

Figure VIII
Cross-border transportation of cash, by region

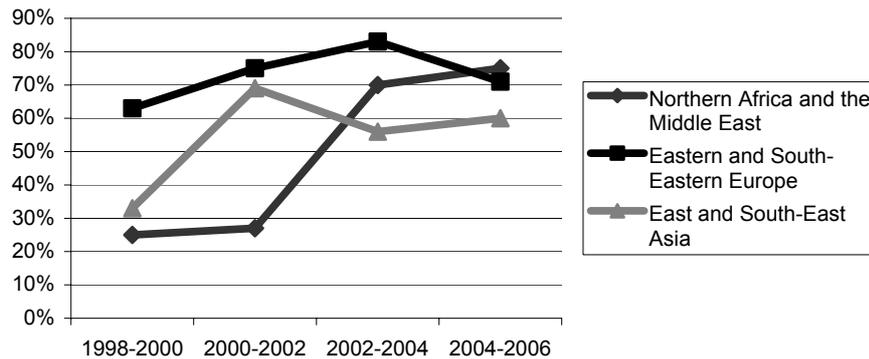
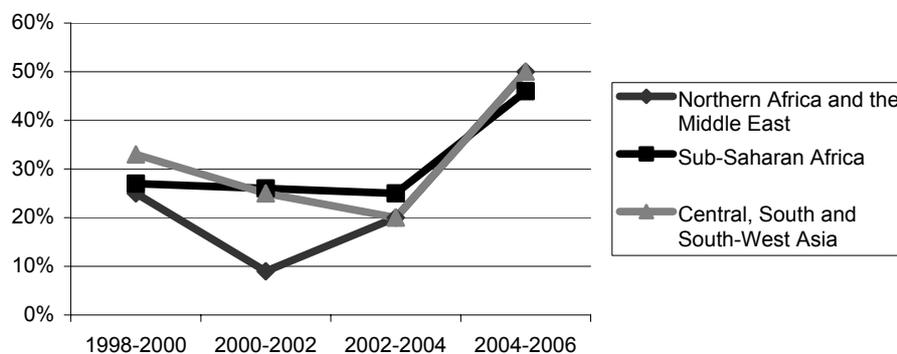


Figure IX
Cross-border transportation of negotiable bearer instruments, by region



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

20. In the fourth reporting period, most of the world's regions had measures to prevent and detect money-laundering in financial entities, which included reporting of suspicious and unusual transactions, "know-your-client" practices, identification of the beneficial owners of accounts and establishment of financial intelligence units to collect and analyse reports and disseminate intelligence on suspected cases

involving money-laundering. However, the North America, Sub-Saharan Africa and Eastern and South-Eastern Europe regions reflected a decrease in measures to prevent and detect money-laundering in financial entities in the present reporting period compared with the previous period. Responses from Member States in North America reflected a 7 per cent decrease in such measures, while those from Sub-Saharan Africa reflected an 8 per cent decrease and those from Eastern and South-Eastern Europe reflected a 31 per cent decrease (see figures X-XII).

Figure X
Measures to prevent and detect money-laundering in the financial system,
by region

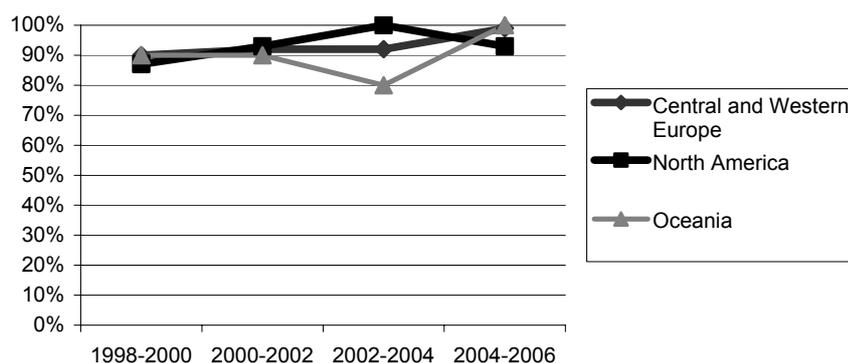


Figure XI
Measures to prevent and detect money-laundering in the financial system,
by region

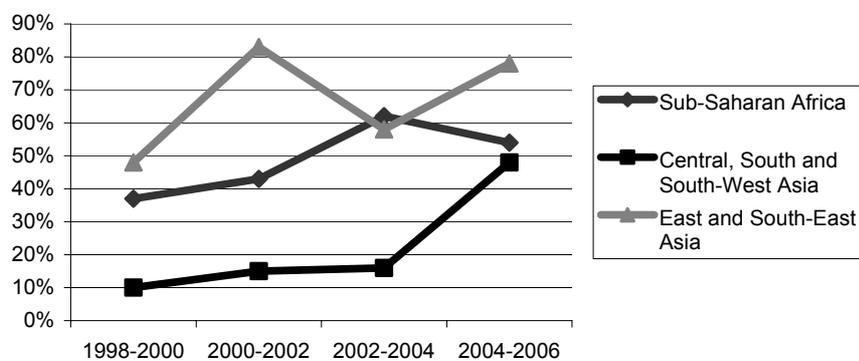
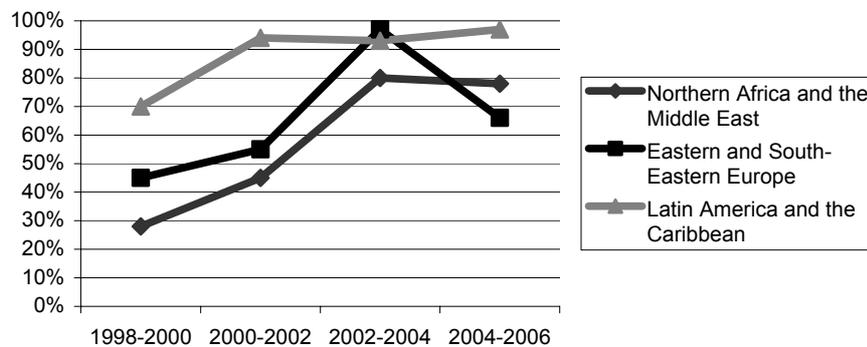
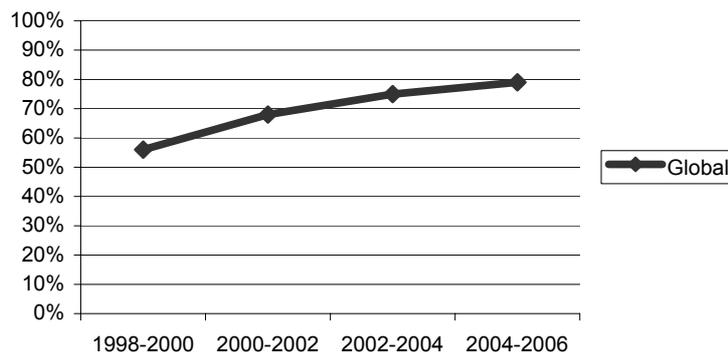


Figure XII
Measures to prevent and detect money-laundering in the financial system,
by region



21. Globally, there was a slight increase of 4 per cent of Member States implementing measures to detect and prevent money-laundering in the financial system. The figure rose globally from 75 per cent in the third reporting period to 79 per cent in the fourth reporting period (see figure XIII).

Figure XIII
Measures to prevent and detect money-laundering in the financial system, global



IV. Global and regional initiatives

22. 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 to counter money-laundering and the financing of terrorism.

23. 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 to target and coordinate technical assistance to be provided to requesting States for the development of their regimes to prevent money-laundering.

24. In addition to FATF, there are eight organizations established throughout the world known as FATF-style regional bodies. These regional bodies provide a strong global platform for the delivery of technical assistance to Member States. The principal functions of the FATF-style regional bodies are to facilitate the adoption, effective implementation and enforcement of internationally accepted standards against money-laundering and the financing of terrorism, in particular the FATF 40 recommendations and nine special recommendations on terrorist financing and United Nations conventions and resolutions, in order to establish systems for the protection of the financial systems of their members from money-laundering and the financing of terrorism, including systems for reporting suspicious and other transactions and to promote mutual legal assistance and cross-border cooperation between their members.

25. The following FATF-style regional bodies are involved in the fight against money-laundering: the Asia/Pacific Group on Money Laundering (APG) with 32 jurisdictions, the Caribbean Financial Action Task Force (CFATF) with 30 jurisdictions, the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) with 14 jurisdictions, the Eurasian Group on Combating Money Laundering and Financing of Terrorism (EAG) with 7 jurisdictions, the Financial Action Task Force of South America against Money Laundering (GAFISUD) with 9 jurisdictions, the Intergovernmental Action Group against Money Laundering in West Africa (GIABA) with 15 jurisdictions, the Middle Eastern and North African Financial Action Task Force (MENAFATF) with 14 jurisdictions and the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) of the Council of Europe with 27 jurisdictions.

26. International organizations, including the International Monetary Fund (IMF), the World Bank and FATF, 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 FATF 40 recommendations and nine special 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) of the Organization of American States, 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 which has revised its model anti-money-laundering regulations.

27. The regional and international initiatives described above continue to promote and strengthen effective measures against money-laundering.

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

28. UNODC is carrying out its Global Programme against Money-Laundering, which was established in response to the 1988 Convention. The International Convention for the Suppression of the Financing of Terrorism, the Organized Crime Convention and the Convention against Corruption all subsequently strengthened the mandate to combat money-laundering and the financing of terrorism.

29. In keeping with the requirements of the United Nations conventions and other internationally accepted standards, such as the FATF recommendations, the broad objective of the Global Programme against Money-Laundering is to strengthen the capacity and ability of Member States to implement those standards.

30. More specifically, the objectives of the Global Programme are to assist in the achievement of the objectives agreed by the General Assembly at its twentieth special session: for all States to have in place legislation on money-laundering; to equip States with the necessary knowledge, means and expertise to implement national legislation and the measures adopted at the special session to counter money-laundering; to increase the capacity of States to undertake financial investigations and prosecutions successfully; to equip States with the necessary legal, institutional and operational framework to comply with international standards on countering money-laundering and the financing of terrorism, including the relevant resolutions of the Security Council; to assist States in detecting, seizing and confiscating the proceeds of crime and terrorist funds and assets; to contribute to the development of FATF-style regional bodies and their implementation of standards and measures to prevent money-laundering and counter the financing of terrorism; and to assist States in detecting, seizing and confiscating illicit proceeds of crime.

31. The Global Programme also encourages money-laundering policy development, raises public awareness about money-laundering and the financing of terrorism and acts as a coordinator of initiatives to counter money-laundering between the United Nations and other organizations.

32. The technical assistance component of the Global Programme is aimed at meeting the needs of Member States at the national and regional levels in the implementation of their policies against money-laundering and the financing of terrorism. Its wide range of activities include reviewing legal and institutional frameworks against money-laundering and the financing of terrorism; assisting in the drafting or upgrading of legislation and related regulations; supporting the implementation and establishment of the necessary preventive mechanisms; fostering awareness, understanding and implementation of best practices in the regulation of financial services; and conducting training workshops and seminars for law enforcement agencies, regulatory bodies, central banks, the banking and finance sector, prosecutors and the judiciary.

33. The Global Programme continues to focus on capacity-building in its work with Member States. Hands-on advice and assistance are being provided to practitioners involved in the fight against money-laundering and terrorist financing, law enforcement, prosecutors, judges, financial regulators and personnel of financial intelligence units. UNODC has sought to maximize the power of partnership by

joining forces with several international bodies and Governments to provide assistance.

34. UNODC has developed, in collaboration with the Commonwealth Secretariat and IMF, model laws for both common law and civil law legal systems to assist States in drafting legislation against money-laundering and terrorist financing in order to be in full compliance with the applicable United Nations conventions and the FATF recommendations.

35. The model laws serve as working tools for Member States and are continually being upgraded in order to encompass new international standards. The model laws are intended to be adjusted to the particularities of national legal and administrative systems.

36. In 1999, the Global Programme launched a mentoring programme in order to provide in-depth and long-term assistance to Member States in the fight against money-laundering and the financing of terrorism. The Global Programme continues to expand the deployment of professional expertise in the field to train people and build institutions, to deliver direct technical assistance and to improve capacity to prevent money-laundering and terrorist financing. Currently expert mentors are deployed in the Middle East and Northern Africa, Central Asia, West and Central Africa, South-East Asia, Eastern and Southern Africa and Central America. Expert mentors can be deployed in the field for periods of one to four years depending on the needs of the State requesting assistance.

37. Assistance in establishing financial intelligence units has become a priority in technical assistance activities delivered under the Global Programme. A financial intelligence unit is responsible for receiving, analysing and disseminating to the competent authorities disclosures of financial information concerning suspected proceeds of crime in order to counter money-laundering and financing of terrorism. A national financial intelligence unit needs to provide a facility for the collection, analysis and rapid dissemination of financial information both nationally and internationally, while ensuring confidentiality of the data collected. An effective financial intelligence unit is now a requirement of the FATF standards.

38. The Egmont Group, established in 1995 and which currently has 101 members, pursues best practice among financial intelligence units and promotes international cooperation in the fight against money-laundering and the financing of terrorism. This cooperation also includes the exchange of financial intelligence on a secure computer network (the Egmont Group secure website). UNODC, through its Global Programme against Money-Laundering, participates in Egmont Group meetings and conducts workshops in cooperation with the Group. UNODC also assists developing countries to meet best practice standards in their financial intelligence units and to be admitted as members of the Egmont Group.

39. In 2003, UNODC launched its first set of anti-money-laundering computer-based training modules. This training CD-ROM, which contains an introductory course on money-laundering, was designed to help develop financial investigation expertise in law enforcement agencies. Since then, 13 anti-money-laundering modules have been developed, which are being delivered through global computer-based training centres.

40. The training programme has flexibility in terms of language, level of expertise, target audience and theme. The current prototype is an awareness-raising introduction for officials with a fairly basic level of skills. Future courses will also be targeted at specialists, to cover such topics as financial intelligence unit systems, asset forfeiture, “know-your-customer” requirements, specialized investigative techniques, mutual legal assistance, countering the financing of terrorism and investigating alternative remittance systems.

41. Computer-based training is particularly applicable in countries and regions where resources are few and law enforcement skills and knowledge are low. UNODC has delivered computer-based training in Africa, Asia, Latin America and the Pacific. A total of 17 specialist anti-money-laundering computer-based training centres have been set up worldwide, reaching more than 15,000 trainees in 12 languages.

42. The International Money-Laundering Information Network (IMoLIN), a one-stop research resource for anti-money-laundering and countering the financing of terrorism, was established in 1998 by the United Nations on behalf of a partnership of international organizations involved in anti-money-laundering. UNODC now administers and maintains IMoLIN on behalf of the following 10 partner organizations: APG, CFATF, CICAD, the Commonwealth Secretariat, EAG, ESAAMLG, FATF, GAFISUD, Interpol and MONEYVAL. In the first half of 2004, UNODC re-launched IMoLIN after completing an extensive renovation of the site’s presentation and content (www.imolin.org).

43. Within IMoLIN is the Anti-Money-Laundering International Database (AMLID), a unique password-protected service cataloguing world laws against money-laundering and terrorist financing in an easily searchable format. Within AMLID, UNODC maintains the largest available online legal library of national legislation related to these issues. The database now contains legislation from some 163 jurisdictions and, since January 2005, more than 300 new and amended laws and regulations have been included in the database.

44. In addition, AMLID contains a legal analysis of the regimes to prevent money-laundering and terrorist financing of Member States. On 27 February 2006, the Global Programme against Money-Laundering launched the AMLID second round of legal analysis and the database currently reflects the updated legal analysis of 34 States and jurisdictions.

45. UNODC continues to work in cooperation with other international organizations active in the fight against money-laundering and terrorist financing, such as the Commonwealth Secretariat, the Egmont Group, the European Union, IMF, the Office of Overseas Prosecutorial Development, Assistance and Training of the United States of America Department of Justice, the Organization for Security and Cooperation in Europe, the United Nations Commission on International Trade Law and the World Bank. UNODC, in the context of its Global Programme against Money-Laundering, enjoys observer status within FATF and the FATF-style regional bodies listed below and participates actively in their work: APG, CFATF, EAG, ESAAMLG, MENAFATF, MONEYVAL, GAFISUD and GIABA.

VI. Recommendations

46. Approximately eight years after the General Assembly addressed the problem of the laundering of money derived from illicit trafficking in narcotic drugs and psychotropic substances as well as other serious crimes at its twentieth special session, the global threat to the integrity, reliability and stability of financial and trade systems is still very much at the forefront of the international agenda. As the present report illustrates, some progress has been made towards implementation of the provisions against money-laundering; nevertheless, some regions should enhance their efforts in that regard.

47. In order to combat money-laundering effectively, and building on the recommendations contained in the third biennial report of the Executive Director, the following measures are recommended:

(a) All Member States should establish legislative frameworks to criminalize money-laundering 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;

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

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

(d) Member States should consider establishing financial intelligence units to counter money-laundering and, where applicable, participate in relevant regional and international anti-money-laundering mechanisms;

(e) 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;

(f) Member 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 styled on the FATF, in order to ensure compliance with international standards;

(g) Member States are encouraged to consult with UNODC's Global Programme against Money-Laundering and other relevant entities when drafting and

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

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

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