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Thematic debate on the 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

The world drug problem

Fifth report of the Executive Director

Addendum

Countering money-laundering

Summary

The present report covers the fifth and final reporting period relating to section V, on countering money-laundering, of the biennial reports questionnaire. Responses under section V from the five reporting periods (1998-2000, 2000-2002, 2002-2004, 2004-2006 and 2006-2007) were analysed and enriched with additional research on mutual evaluation reports of the Financial Action Task Force on Money Laundering (FATF) and the FATF-style regional bodies. In addition, the report presents and incorporates the recommendations of experts on money-laundering that attended two expert group consultations held in Vienna in February and September 2007.

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Measures taken by Member States to combat money-laundering increased significantly in all areas addressed in the biennial reports questionnaire. The comparison of the data received from Member States through the biennial reports questionnaire with mutual evaluation reports of FATF, FATF-style regional bodies and international financial institutions validated, in most cases, the responses provided by Member States.

Contents

I. Introduction

1. The present report covers the fifth and final reporting period relating to section V, "Countering money-laundering", of the biennial reports questionnaire, a process carried out pursuant to the Political Declaration adopted by the General Assembly at its twentieth special session (resolution S-20/2, annex). The information submitted under section V in the five reporting periods (1998-2000, 2000-2002, 2002-2004, 2004-2006 and 2006-2007) was analysed and enriched with additional research on mutual evaluation reports of the Financial Action Task Force on Money Laundering (FATF), the international financial institutions and FATF-style regional bodies, as well as with supplementary data provided by the Financial Action Task Force of South America against Money Laundering, the Caribbean Financial Action Task Force and the Egmont Group of Financial Intelligence Units. In addition, the report presents the recommendations of experts on money-laundering that attended two expert group consultations held in Vienna in February and September 2007.[1]

II. International standards on money-laundering

2. The relevant 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 but are adapted to take new developments into account. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988[2] requires States parties to criminalize trafficking in drugs as a predicate offence of 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. In addition, the Committee issued guidance to banks regarding customer identification, compliance with laws against money-laundering and cooperation with law enforcement authorities.

4. In 1990, FATF adopted the Forty Recommendations on action needed to combat money-laundering, which were revised in 1996 and 2003 to reflect new trends in countering money-laundering and, in particular, to address the vulnerability of non-financial businesses and professions to money-laundering. Following the terrorist attacks of 11 September 2001, FATF added eight special recommendations to address issues specifically concerned with the financing of terrorism. In 2004, a ninth special recommendation, on cash couriers, was adopted.

5. Together, the revised Forty Recommendations on Money-Laundering and Nine Special Recommendations on Terrorist Financing provide a comprehensive

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[1] More detailed information on the collection and use of such data is contained in documents E/CN.7/2007/7 and E/CN.7/2008/8.

[2] United Nations, *Treaty Series*, vol. 1582, No. 27627.

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; preventive measures to be taken by financial institutions, other businesses and professions; and international cooperation.

6. The United Nations Convention against Transnational Organized Crime,[3] which entered into force on 29 September 2003, expanded the definition of the offence 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.

7. The European Parliament and the Council of the European Union adopted, on 26 October 2005, directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money-laundering and terrorist financing. The directive repeals the 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, report suspicious transactions to national financial intelligence units, take supportive measures such as record-keeping, training and risk management and supervise national compliance with the directive. States members of the European Union were obliged to implement the new directive by 15 December 2007.

8. In the United Nations Convention against Corruption (General Assembly resolution 58/4, annex), which entered into force on 14 December 2005, States parties are required to establish as offences the concealment and the laundering of the proceeds of crime and to take 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 of 28 September 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 decided to establish a committee of the Council to monitor implementation of the resolution.

11. In its resolution 1456 of 20 January 2003, the Security Council adopted a declaration on the issue of combating terrorism. In its 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.

12. The General Assembly, recognizing the ongoing threat of money-laundering and the financing of terrorism, adopted the United Nations Global Counter-Terrorism Strategy (Assembly resolution 60/288) on 8 September 2006 and strengthened the mandate of the United Nations Office on Drugs and Crime

[3] Ibid., vol. 2225, No. 39574.

(UNODC) to combat those threats. In the Strategy and more specifically in the plan of action annexed to the Strategy, UNODC was 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. Global and regional initiatives

13. The international community has launched several multilateral initiatives to serve as legislative and policy frameworks to assist States in defining and adopting measures to counter money-laundering.

14. The regional approach has been particularly effective because neighbouring States often share a common language and cultural roots, and they often have similar legal systems and similar levels of policy development and implementation. Moreover, because States from the same region need to cooperate with each other in order to combat transnational crime, contacts at the political and operational levels to ensure the effectiveness of such cooperation are essential. And often, such contacts already exist or are easily established. In addition, regional bodies assist requested States to target and coordinate the technical assistance to be provided to requesting States for the development of their regimes to prevent money-laundering.

15. In addition to FATF, there are eight FATF-style regional bodies that provide a strong global platform for the delivery of technical assistance to Member States. The principal function of the FATF-style regional bodies is to facilitate the adoption, effective implementation and enforcement of internationally accepted standards against money-laundering and the financing of terrorism, in particular the FATF Forty Recommendations on Money-Laundering and Nine Special Recommendations on Terrorist Financing and relevant United Nations conventions and resolutions. In addition, FATF-style regional bodies help to establish systems for the protection of the financial systems of their members from money-laundering and the financing of terrorism, including mechanisms for reporting suspicious and other transactions. In addition, they promote mutual legal assistance and cross-border cooperation among their members.

16. The following FATF-style regional bodies are involved in the fight against money-laundering: the Asia/Pacific Group on Money Laundering (APG) with 36 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 10 jurisdictions, the Intergovernmental Action Group against Money-Laundering in West Africa (GIABA) with 15 jurisdictions, the Middle East and North Africa Financial Action Task Force (MENAFATF) with 17 jurisdictions and the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) of the Council of Europe with 28 jurisdictions.

17. 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 financing of terrorism. It is based primarily on the FATF Forty Recommendations and Nine Special Recommendations but 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 activities to counter money-laundering. Those 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.

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

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

19. The Global Programme against Money-Laundering, implemented by the Anti-Money-Laundering Unit of UNODC, was established in 1997 to assist Member States in the implementation of their obligations arising from the 1988 Convention. The 1999 International Convention for the Suppression of the Financing of Terrorism, the 2000 Organized Crime Convention and the 2003 Convention against Corruption all subsequently widened the obligations of Member States and strengthened the mandate of the Global Programme against Money-Laundering to combat money-laundering and the financing of terrorism.

20. The objective of UNODC in this area is to assist Member States in implementing measures against money-laundering and the financing of terrorism, in compliance with United Nations instruments and global standards, in particular the FATF Forty Recommendations and Nine Special Recommendations, by providing relevant and appropriate technical assistance to States upon request.

21. Specifically, UNODC focuses on the following areas: assisting States to achieve the objective, set by the General Assembly at its twentieth special session, that all States have in place legislation on money-laundering; equipping States with the necessary knowledge, means and expertise to implement national legislation and the action plan against money-laundering (Assembly resolution S-20/4 D); increasing the capacity of States to successfully undertake financial investigations and prosecutions; assisting beneficiary States in all regions to improve the specialized expertise and skills of criminal justice officials in the investigation and prosecution of complex financial crimes, including money-laundering and the financing of terrorism; equipping 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 Security Council resolutions; assisting States in detecting, seizing and confiscating the proceeds of crime and terrorist funds and assets; contributing to the development of FATF-style regional bodies and their implementation of standards and measures to combat money-laundering and the financing of terrorism; and enhancing international and

regional cooperation through capacity-building in the areas of information exchange and mutual legal assistance.

22. UNODC, through the Global Programme against Money-Laundering, also encourages the development of policy against money-laundering, raises public awareness about money-laundering and the financing of terrorism and acts as a coordinator of initiatives of the United Nations and other organizations to counter money-laundering.

23. The technical assistance component of the Global Programme against Money-Laundering is aimed at meeting the needs of Member States, at the national and regional levels, in the implementation of their policies to combat money-laundering and the financing of terrorism. The wide range of activities carried out under that component include: drafting and reviewing legislation based on model legislation that is elaborated and regularly updated by UNODC; establishing and strengthening institutional infrastructure; fostering awareness, understanding and implementation of best practices in the regulation of financial services; maintaining an Internet-based database on legislation to counter money-laundering; and conducting training workshops and seminars for law enforcement agencies, regulatory bodies, central banks, the banking and finance sector, prosecutors and the judiciary. The work of the Programme is supported by technical advisers placed in the field, in Africa, Central and South-East Asia and Latin America, to provide in-depth assistance to countries or groups of countries through regional anti-money-laundering mechanisms. Practical advice and assistance are provided to practitioners in the area of countering money-laundering and the financing of terrorism, law enforcement officers, prosecutors, judges, financial regulators and personnel of financial intelligence units.

24. In 1999, the Global Programme against Money-Laundering 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, deliver direct technical assistance and to improve capacity to prevent money-laundering and the financing of terrorism. Currently, expert mentors are deployed in Central Asia, South-East Asia, the Northern Pacific, Central America and Southern Africa and within the ESAAMLG Secretariat. Expert mentors can be deployed in the field for periods of one to four years, depending on the needs of the States requesting assistance and the availability of resources.

25. Assistance in establishing financial intelligence units has become a priority in the technical assistance activities of UNODC. Financial intelligence units are 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 the financing of terrorism. National financial intelligence units need to provide a facility for the collection, analysis and rapid dissemination of financial information both nationally and internationally, while ensuring the confidentiality of the data collected. FATF standards now require States to have an effective and operational financial intelligence unit and for the unit to become a member of the Egmont Group.

26. The Egmont Group of Financial Intelligence Units, which was established in 1995, and currently has 106 members, seeks to implement best practices among financial intelligence units and promotes international cooperation in the fight against money-laundering and the financing of terrorism. That cooperation 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 implement best practices in their financial intelligence units and to be admitted as members of the Egmont Group.

27. In 2003, UNODC launched its first set of computer-based training modules on anti-money-laundering. The training CD-ROM, containing 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 and delivered through global computer-based training centres, and a fourteenth module, on asset forfeiture, is currently being developed. Computer-based training is aimed at improving the ability of the anti-money-laundering community, including bank staff and law enforcement officers, to understand, detect and investigate money-laundering, the financing of terrorism and related financial crimes.

28. The training programme offers different levels of language and expertise and is directed at various target audiences and themes. The current prototype programme is an awareness-raising introduction for officials possessing a fairly basic level of related skills. Future courses will be targeted at specialists and will cover topics such as financial intelligence unit systems and countering the financing of terrorism.

29. Computer-based training is particularly applicable in countries and regions where resources are limited and law enforcement skills and knowledge are low. Through the Global Programme against Money-Laundering, UNODC works daily with many Governments faced with a low level of expertise among their front-line law enforcement officers. Computer-based training is an approach that lends itself well to the Global Programme's global technical assistance operations. The training includes high-quality voice recordings, photographs, graphics, interactive video and animation, simulation and student tests. Through the Global Programme, computer-based training has been delivered in a total of 40 countries in Africa, Latin America, the Middle East and Asia and the Pacific, and the modules have been made available in 10 languages.

30. In keeping with the theme of the "Power of partnership" set by the Executive Director of UNODC, the Global Programme has joined forces with several international bodies and Governments to provide assistance.

31. In collaboration with the Legal Advisory Section of UNODC, the Commonwealth Secretariat and IMF, the Global Programme has developed model laws for common law and civil-law legal systems to help States to draft legislation to prevent money-laundering and the financing of terrorism in order to comply fully with the applicable United Nations conventions and the FATF recommendations.

32. The model laws, which serve as working tools for Member States, are continually upgraded to take into account any new international standards. The

model laws are intended to be adjusted to the particularities of national legal and administrative systems.

33. The International Money-Laundering Information Network (IMoLIN), a one-stop research resource on preventing money-laundering and countering the financing of terrorism, was established in 1998 by UNODC on behalf of a partnership of international organizations involved in countering money-laundering. Through the Global Programme against Money-Laundering, UNODC administers, maintains and regularly updates IMoLIN on behalf of the following 11 partner organizations: APG, CFATF, CICAD, the Commonwealth Secretariat, EAG, ESAAMLG, FATF, GAFISUD, GIABA, Interpol and MONEYVAL. In the first half of 2004, UNODC relaunched IMoLIN after completing an extensive reworking of the content and the general look of the website (www.imolin.org). Information contained in IMoLIN is now available in English and French.

34. As part of IMoLIN, the Global Programme against Money-Laundering maintains a unique password-protected service, the Anti-Money-Laundering International Database (AMLID), containing the largest available online legal library of national laws against money-laundering and the financing of terrorism in an easily searchable format. The database now contains legislation from some 175 jurisdictions and, since January 2005, more than 370 new and amended laws and regulations have been included in the database.

35. In addition, AMLID also provides a legal analysis of the regimes to prevent money-laundering and to counter the financing of terrorism in place in 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 legal analysis of 55 countries and jurisdictions. The AMLID questionnaire has been updated to take into account new trends in money-laundering and standards, for its prevention, and takes into account provisions related to the financing of terrorism and other current standards, such as the revised FATF recommendations. In addition, the revised AMLID questionnaire now includes a "Conventions framework" section, which provides an overview of the status of countries and territories with respect to their compliance with the relevant international conventions, as well as the status of countries and territories with respect to their compliance with bilateral and multilateral treaties and agreements on mutual legal assistance in criminal matters and extradition.

36. Through the Global Programme against Money-Laundering, UNODC continues to work in cooperation with other international organizations active in the fight against money-laundering and the financing of terrorism, such as the Executive Directorate of the Counter-Terrorism Committee of the Security Council, the Counter-Terrorism Implementation Task Force of the United Nations, the United Nations Commission on International Trade Law, the World Bank, IMF, the Asian Development Bank (ADB), the Commonwealth Secretariat, the Egmont Group, Interpol, the Organization for Security and Cooperation in Europe (OSCE), the European Union, and the Office of Overseas Prosecutorial Development, Assistance and Training of the Department of Justice and the Office of Technical Assistance of the Department of the Treasury of the United States of America. The Global Programme has gained observer status with FATF and the following FATF-style regional bodies: APG, CFATF, EAG, ESAAMLG, GIABA, MENAFATF and MONEYVAL.

V. Action by Governments

A. Legislation criminalizing money-laundering

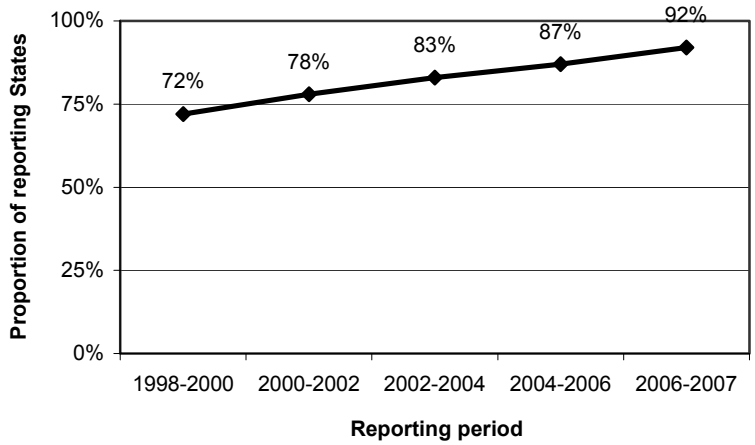
37. The present report analyses the information submitted under section V of the biennial reports questionnaires for the five reporting periods and the general and regional trends for Member States with respect to certain key issues/requirements on the legislation in place to counter money-laundering. The analysis takes into account only those countries that responded to the biennial reports questionnaire (see the table).

Table
States responding to section V of the biennial reports questionnaire, by reporting period

Reporting period	*States*
1998-2000	109
2000-2002	122
2002-2004	104
2004-2006	100
2006-2007	107

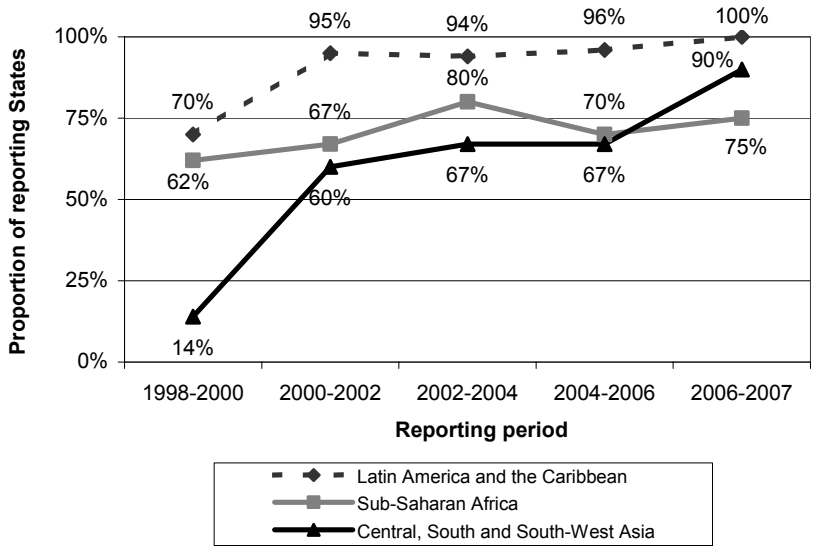
38. Between 1998 and 2007, there was a global trend of a regular increase in national legislation against money-laundering in all Member States. By the fifth reporting period (2006-2007), 92 per cent of Member States that reported on the criminalization of money-laundering had legislation in place making it a criminal offence to launder proceeds derived from drug trafficking and other serious crimes (see figure I).

Figure I
All regions: criminalization of laundering of the proceeds of drug trafficking and other serious crimes, by reporting period
(Percentage)



39. Some subregions made greater progress than others in reaching the goal of establishing a comprehensive legislation regime to counter money-laundering that criminalized the laundering of proceeds derived from drug trafficking and other serious crimes by 2003, the target date set by the General Assembly at its twentieth special session (see figure II). Some subregions have achieved steady progress over the past 10 years, but in others, progress still needs to be made. For example, since the fourth reporting period (2004-2006), Central, South and South-West Asia has reached a compliance rate of 90 per cent for implementation of money-laundering legislation, compared with a rate of only 14 per cent for the first reporting period (1998-2000), which is the baseline period. Sub-Saharan Africa has shown an increase in compliance of 5 percentage points between the fourth and the fifth reporting periods. Latin America and the Caribbean reported a compliance rate of 100 per cent for the fifth reporting period.

Figure II
Selected subregions: criminalization of laundering of the proceeds of drug trafficking and other serious crimes, by reporting period
(Percentage)



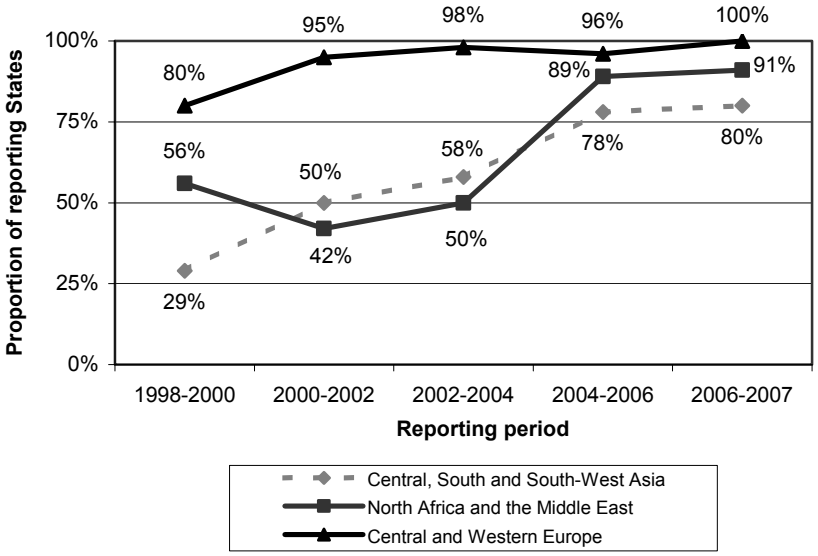
B. Freezing, seizure and confiscation of the proceeds of crime

40. Analysis of the fifth reporting period shows that more States have put in place legislation concerning the freezing, seizure and confiscation of the proceeds of crime (see figure III). A minimum of 80 per cent of the reporting Member States in each subregion claim to have complied with this provision (apart from Sub-Saharan Africa, where only 60 per cent of countries have legislation in place on freezing, seizure and confiscation, which represents a slight decrease from the rate of 67 per cent for the fourth reporting period).[4] The subregion of North Africa and the Middle

[4] The discrepancy is due to the fact that not all Member States that reported in the fourth reporting period also reported in the fifth reporting period.

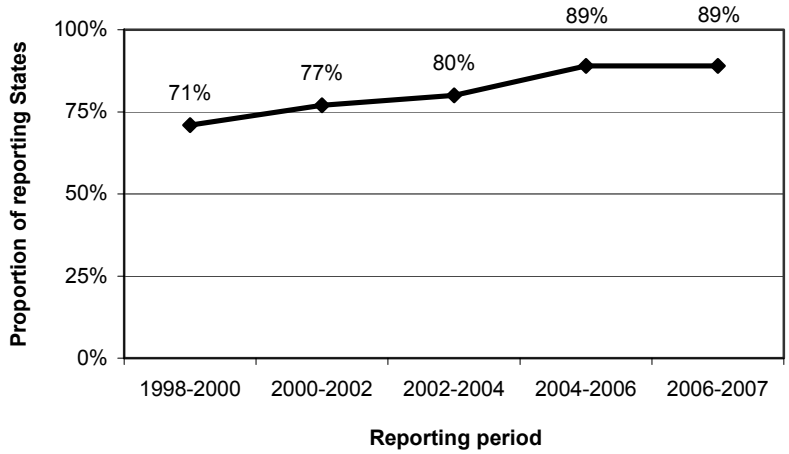
East showed an increase of 2 percentage points since the fourth reporting period, reaching compliance rate of 91 per cent. In Central and Western Europe, an increase of 4 percentage points in the rate of compliance was noted between the fourth and the fifth reporting periods, and the subregion has now reached a compliance rate of 100 per cent, which means that all reporting countries of the subregion have indicated that their legislation provides for the temporary prohibition of the transfer, conversion, disposition or movement of property or the temporary custody or control of property, as well as the permanent deprivation of property by order of a court or other competent authority. The subregion of Central, South and South-West Asia has now reached a compliance rate of 80 per cent, compared with the rate of 29 per cent in the first reporting period.

Figure III
Selected subregions: legislation on freezing, seizure and confiscation of the proceeds of crime, by reporting period
(Percentage)



41. Globally, the rate of compliance for legislation on freezing, seizure and confiscation of the proceeds from drug trafficking and other serious crimes remained stable from the fourth to the fifth reporting period, as 89 per cent of reporting Members States indicated that they had put in place such legislation (see figure IV). The trend built on what was already a high level of compliance (following an increase from more than 70 per cent in 1998 to 89 per cent in 2007), which is very encouraging. Notwithstanding this trend, States that have not yet done so are urged to adopt legislation on freezing, seizure and confiscation of the proceeds of drug trafficking and other serious crimes, as it remains a crucial issue in countering money-laundering.

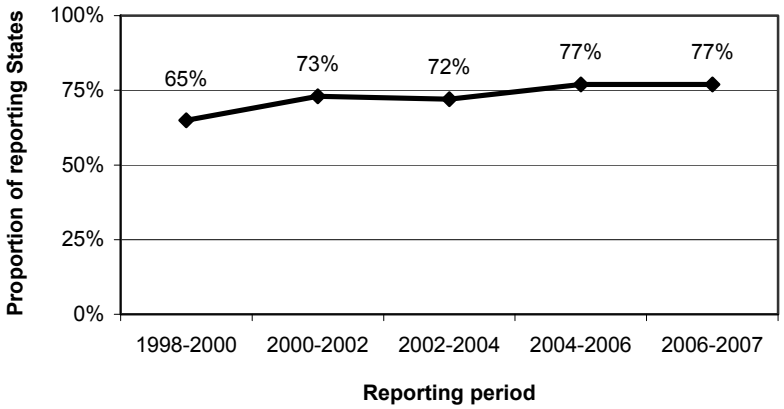
Figure IV
All regions: legislation on freezing, seizure and confiscation of the proceeds of crime, by reporting period
(Percentage)



C. Money-laundering as an extraditable offence

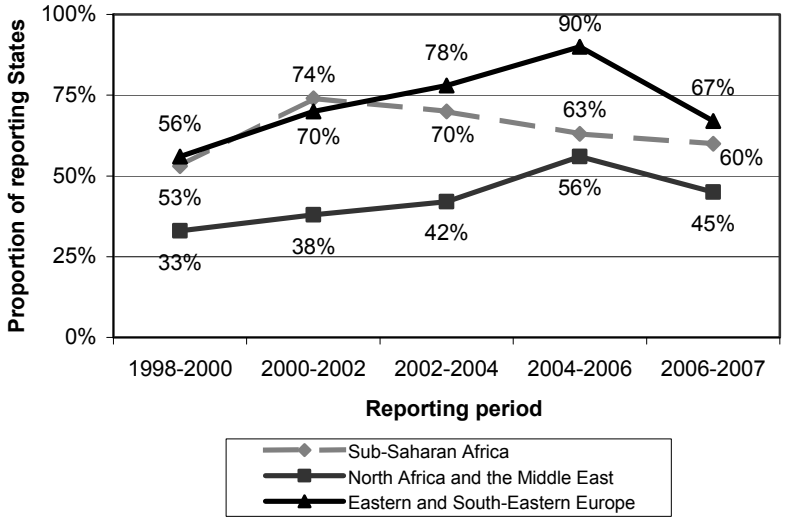
42. At the global level, over the five reporting periods, there was a steady increase, reaching 77 per cent, in the proportion of Member States that had made money-laundering an extraditable offence, a trend that stabilized in the fourth and fifth reporting periods (see figure V). Nevertheless, that rate of compliance remains low, in the light of the requirements of the relevant international standards and the fact that all Member States have been called upon to increase cooperation and mutual legal assistance and make money-laundering an extraditable offence.

Figure V
All regions: proportion of all reporting States in which money-laundering is an extraditable offence, by reporting period
(Percentage)



43. The analysis of subregional trends shows that the lowest rates of reporting States that had made money-laundering an extraditable offence can be found in North Africa and the Middle East, Sub-Saharan Africa, and Eastern and South-Eastern Europe, as shown in figure VI. The rate of compliance for Sub-Saharan Africa and Eastern and South-Eastern Europe declined from the fourth to the fifth reporting period, which may be explained by the fact that very few States in those subregions reported during the fourth and fifth reporting periods. For the fifth reporting period, North Africa and the Middle East reached a compliance rate of 45 per cent; Sub-Saharan Africa, a rate of 60 per cent; and Eastern and South-Eastern Europe, a rate of 67 per cent.

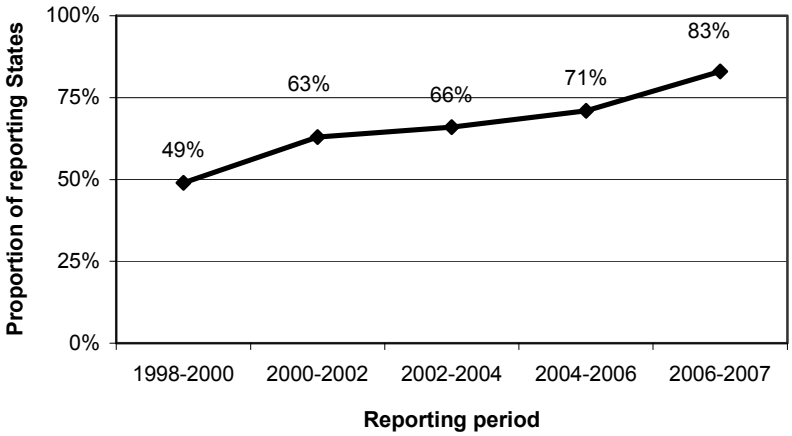
Figure VI
Selected subregions: proportion of reporting States in which money-laundering is an extraditable offence, by reporting period
(Percentage)



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

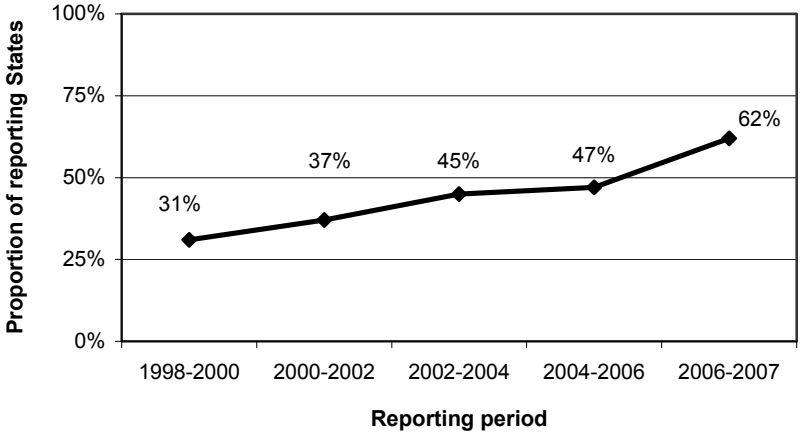
44. The proportion of reporting Member States that have legislation requiring the declaration of cross-border transportation of cash exceeding specified amounts has been steadily rising, from 49 per cent in the first reporting period to 83 per cent in the fifth reporting period (see figure VII). Full compliance remains distant because this requirement remains controversial for some Member States.

Figure VII
All regions: proportion of all reporting States requiring a declaration for cross-border transportation of cash, by reporting period
(Percentage)



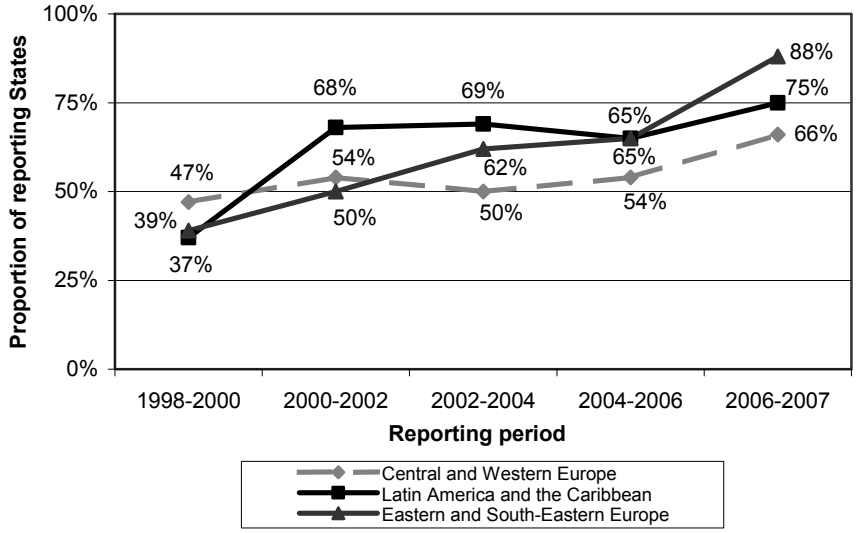
45. With respect to legislation on the declaration of cross-border transportation of negotiable bearer instruments, the global level of compliance remains low (see figure VIII), even though a strong increase can be noted from the fourth reporting period (47 per cent) to the fifth reporting period (62 per cent). Discrepancies between subregions are significant. North America is the only subregion that has reached 100 per cent compliance, while many other subregions have a compliance rate below 60 per cent (Central, South and South-West Asia, Central and Western Europe, Oceania, North Africa and the Middle East, Latin America and the Caribbean and Sub-Saharan Africa).

Figure VIII
All regions: proportion of all reporting States requiring a declaration for cross-border transportation of negotiable bearer instruments, by reporting period
(Percentage)



46. Subregional compliance rates regarding legislation on the declaration of cash and negotiable bearer instruments have been increasing (see figure IX). For instance, in Eastern and South-Eastern Europe, there has been a significant increase, from 39 per cent in 1998 to 88 per cent presently, in the number of reporting States that have legislation requiring the declaration of the cross-border transportation of cash and negotiable bearer instruments for values exceeding specified amounts. In Central and Western Europe, the compliance rate increased from 54 per cent in the fourth reporting period (2004-2006) to 66 per cent in the fifth reporting period (2006-2007). In Latin America and the Caribbean, reporting States, which had reached an overall compliance rate of 65 per cent in the fourth reporting period, improved a further 10 percentage points reaching 75 per cent by the fifth reporting period.

Figure IX
Selected subregions: cross-border transportation of cash and negotiable bearer instruments, by reporting period



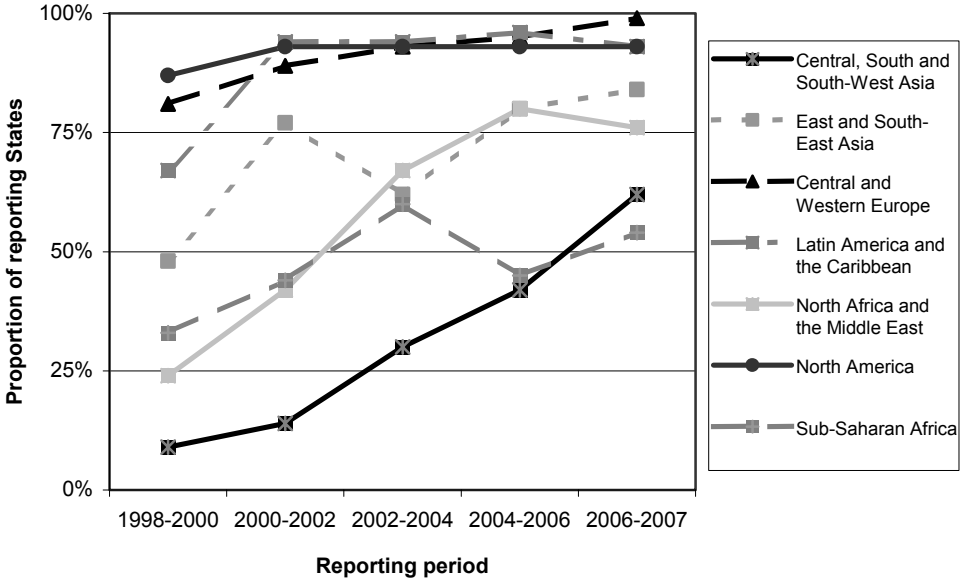
E. Measures to prevent and detect money-laundering in financial entities

47. In the fifth reporting period, an increasing number of Member States put in place measures to prevent and detect money-laundering in financial entities (see figure X). Those measures included the reporting of suspicious and unusual transactions, "know-your-client" practices, identification of the beneficial owners of accounts, the removal of impediments to criminal investigations due to banking secrecy and the establishment of financial intelligence units to collect and analyse reports and disseminate intelligence on suspected cases involving money-laundering. However, from the fourth to the fifth reporting period, there was a slight decline[5] in

[5] The decline is probably due to the fact that not all Member States that reported in the fourth reporting period did so in the fifth reporting period.

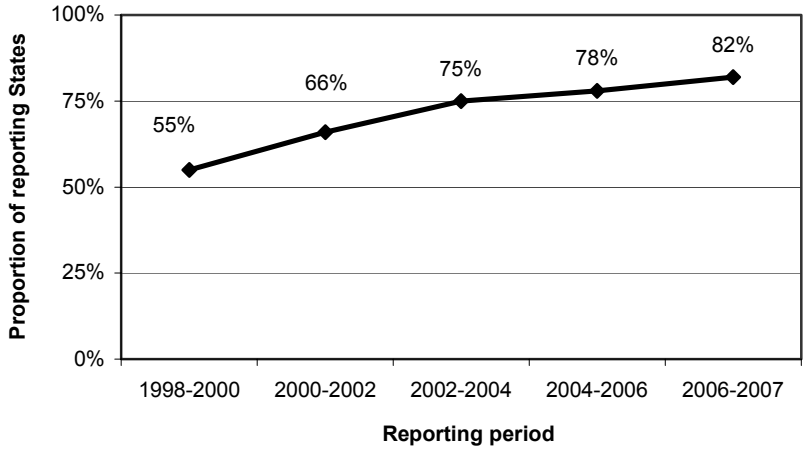
the compliance rate for measures to prevent and detect money-laundering in financial entities among reporting States of Latin America and the Caribbean (a decline of 3 percentage points) and of North Africa and the Middle East (a decline of 4 percentage points), as can be seen in figure X.

Figure X
Measures to prevent and detect money-laundering in the financial system, by subregion and reporting period
(Percentage)



48. Seen from a global perspective, the trend was a progressive increase over the reporting periods. In the fifth reporting period, 82 per cent of responding Member States reported having measures in place in the financial system to detect and prevent money-laundering. The global compliance rate rose from 55 per cent to 82 per cent in the 10-year period 1998-2007 (see figure XI). Such a high rate of compliance is encouraging because it reflects the will of Member States to implement the international standards to prevent money-laundering in their financial institutions, which is a key requirement for an efficient national strategy to counter money-laundering.

Figure XI
All regions: measures to prevent and detect money-laundering in the financial system, by reporting period
(Percentage)



VI. Analysis using supplementary data from the mutual evaluation reports

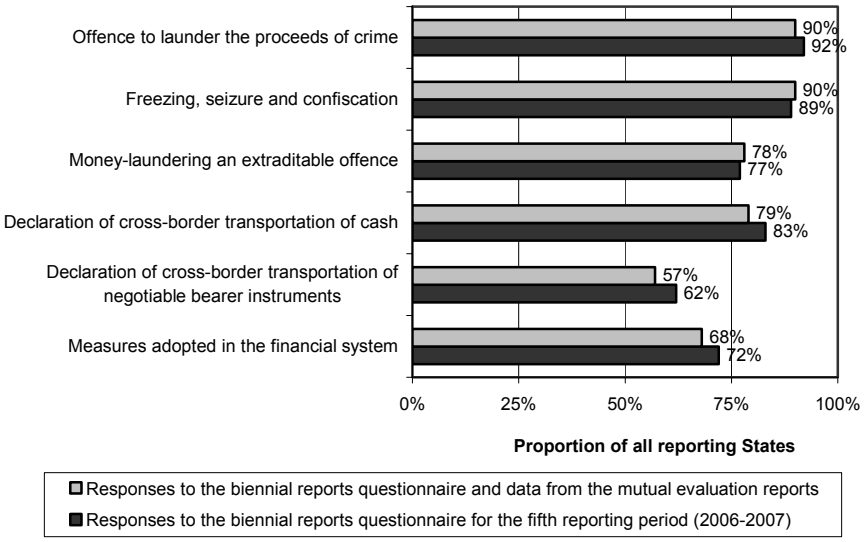
49. FATF and the FATF-style regional bodies conduct regular evaluations of the compliance of their member States with the international standards to counter money-laundering. Those mutual evaluation reports are very comprehensive, covering the study of all requirements for an effective regime for countering money-laundering. As recommended by the Commission on Narcotic Drugs in its resolution 49/1, this section of the report complements the data obtained from Member States through the biennial reports questionnaire with information contained in the mutual evaluation reports. Data provided by CFATF, the Egmont Group and GAFISUD were comprehensive and useful in supplementing the data received through the biennial reports questionnaire. Furthermore, data from several other evaluations completed in the period 2006-2007 by APG, EAG, ESAAMLG, FATF, GIABA, MENAFATF and MONEYVAL, which were sometimes prepared by the World Bank and IMF and researched through the Global Programme against Money-Laundering, have been included in the information presented in the figures below. The analysis of those supplementary data helps to obtain a broader and more accurate evaluation of the trends regarding compliance by Member States with requirements for countering money-laundering and the financing of terrorism.

50. In order to obtain a broader overview of the current situation and, at the same time, validate the data received from Member States through their responses to the biennial reports questionnaire for the fifth reporting period, a second database was created to carry out the analysis of the compiled data received from Member States through the biennial reports questionnaire for that period and the mutual evaluation reports. That second database also includes States that responded to the questionnaire for the fifth reporting period, but for which more objective

information was available from the mutual evaluation reports, as well as States that did not respond to the questionnaire and for which the only data available were those contained in the mutual evaluation reports. The paragraphs below contain a comparison of the two databases, as well as conclusions regarding the quality of the data received from Member States.

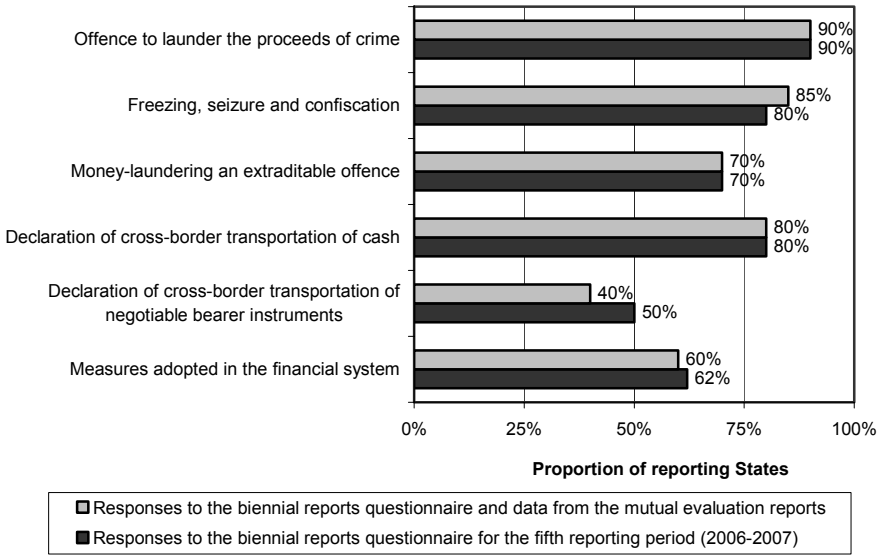
51. In general, the data from the fifth reporting period, which comprise only the responses to the biennial reports questionnaires, and the data culled from the mutual evaluation reports, when compared, reflect a similar trend, a result that tends to validate the information provided by Member States through the biennial reports questionnaire on measures taken to combat money-laundering (see figure XII). However, with respect to responses to questions on measures in place in the financial system and on legislation on the declaration of cross-border transportation of cash and negotiable bearer instruments, there is a discrepancy of 4 and 5 percentage points, respectively, between the rate based on the biennial reports questionnaire and the rate based on the merged data.

Figure XII
All regions: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007
(Percentage)



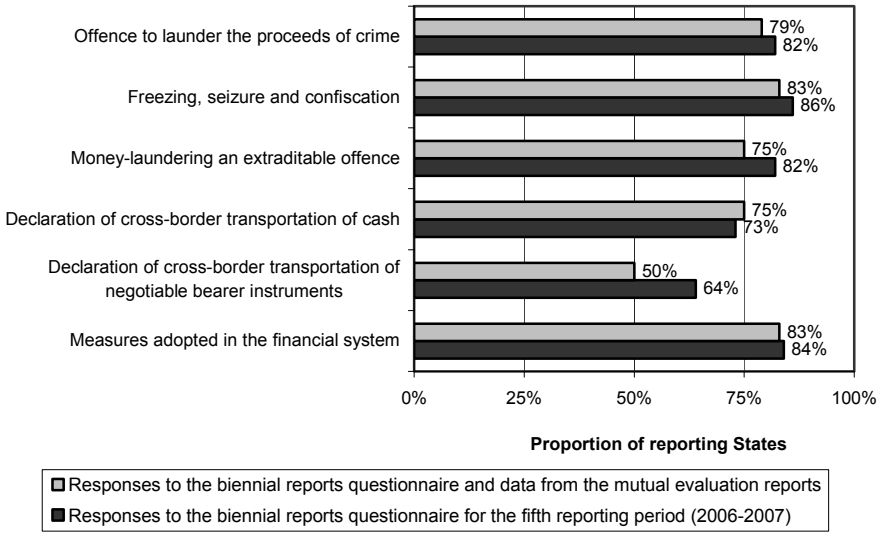
52. At the subregional level, the analysis is more detailed, and some discrepancies are evident. For Central, South and South-West Asia, the two sets of data, when compared, yield a similar implementation rate for most actions (see figure XIII). Only in relation to the questions on the declaration of cross-border transportation of negotiable bearer instruments and on legislation on freezing, seizure and confiscation of the proceeds of crime do the responses to the biennial reports questionnaire indicate a slightly different implementation rate from that yielded by the merged database.

Figure XIII
Central, South and South-West Asia: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007
(Percentage)



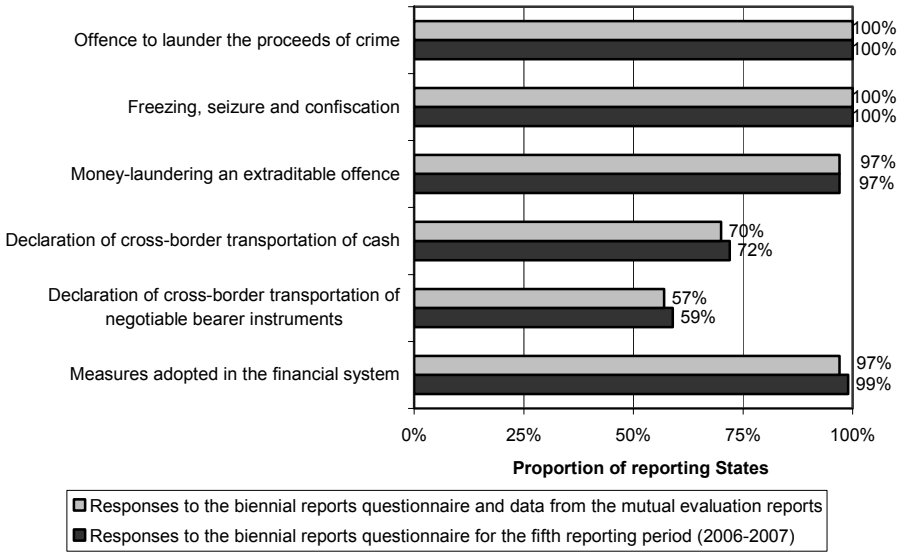
53. With respect to East and South-East Asia, the merged data show that, if more countries are included in the analysis, the implementation rate is, in most cases, slightly lower in the subregion (see figure XIV). For example, the percentage of States where money-laundering is an extraditable offence, is 7 percentage points lower in the merged database (82 per cent). The percentage of States requiring the declaration of cross-border transportation of negotiable bearer instruments is 14 percentage points lower in the merged database. Those results could reflect an overestimation by Member States. However, the fact that more countries were included in the merged analysis could have led to a decreased rate.

Figure XIV
East and South-East Asia: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007
(Percentage)



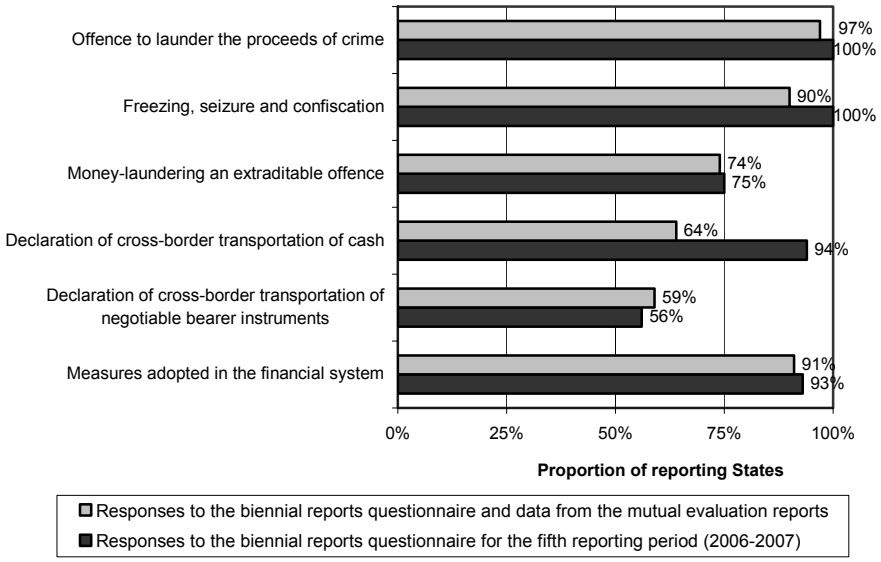
54. The comparison of the two data sets for Central and Western Europe shows a similar trend (see figure XV). The differences are small and statistically insignificant (2 percentage points).

Figure XV
Central and Western Europe: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007
(Percentage)



55. The analysis of the two data sets for Latin America and the Caribbean is the most comprehensive one, because the merged database contained data from the mutual evaluation reports of 27 countries of that subregion (see figure XVI). The rates yielded by the two data sets were the same or similar on most questions. However, on the questions on legislation on freezing, seizure and confiscation of the proceeds of crime, the data from the biennial reports questionnaire show full implementation rates, while the merged data indicates that only 90 per cent of analysed countries are compliant with respect to that issue. An even higher discrepancy is noted regarding the question on the declaration of cross-border transportation of cash: the biennial reports questionnaire indicates a high implementation rate in the subregion (94 per cent), while the merged data indicate an implementation rate of 64 per cent among the countries of the subregion. A possible explanation for the discrepancy can be found in the complementary data provided by CFATF, which cover mainly small island States that did not respond to the biennial reports questionnaire and may have taken less measures than the larger, South American States.

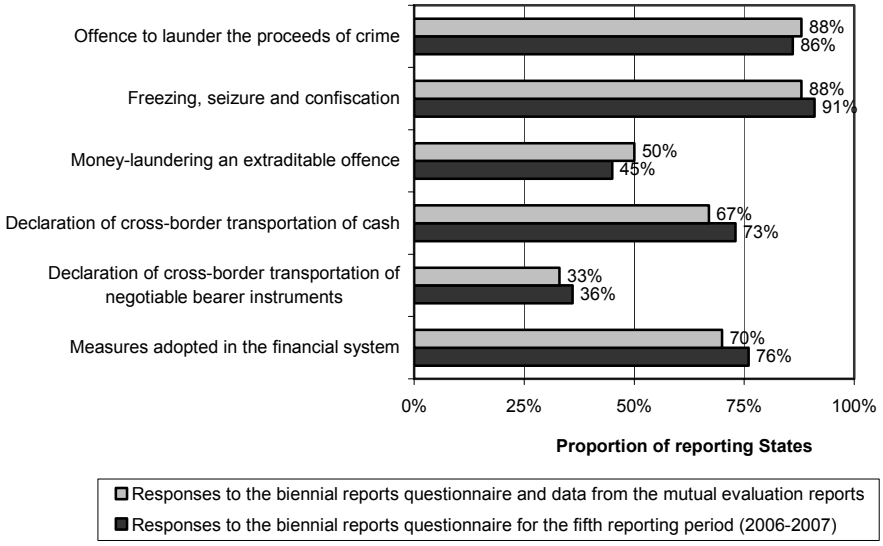
Figure XVI
Latin America and the Caribbean: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007
(Percentage)



56. The comparison of data on North America reaffirms the good quality of data provided by Member States through the biennial reports questionnaire, as very similar results are yielded on all issues except one. The United States of America reported non-compliance with respect to putting into practice the "know-your-client" principle, while the mutual evaluation report declared that the country fully complied with that requirement. That discrepancy indicates inaccurate reporting in the biennial reports questionnaire and lends support to the idea of including complementary data in the assessment.

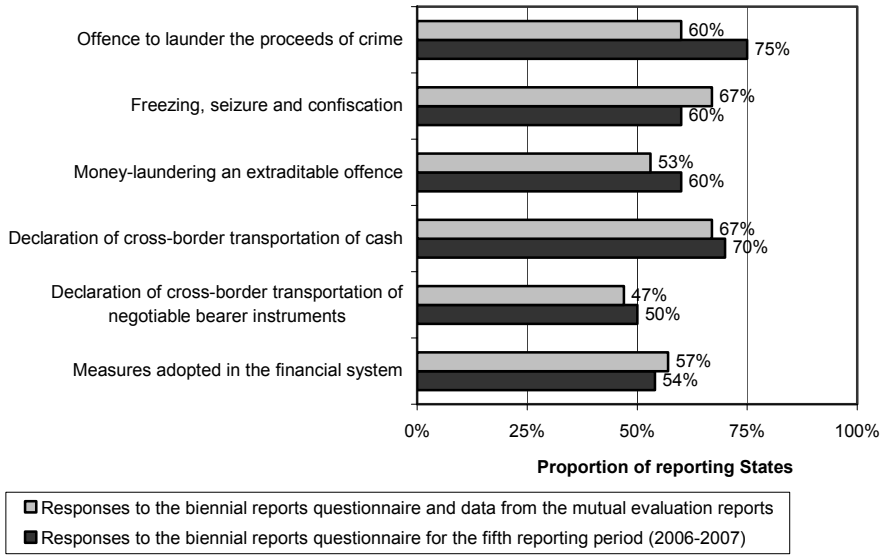
57. For the subregion of North Africa and the Middle East, the merged data yields a lower rate of compliance on most issues (see figure XVII). On two issues, making money-laundering an extraditable offence and the criminalization of the laundering of the proceeds of crime, the merged data show a slightly higher implementation rate. However, the differences between the rates are insignificant and can be explained by the inclusion of additional States in the merged database.

Figure XVII
North Africa and the Middle East: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007
(Percentage)



58. The implementation rate for Sub-Saharan Africa remains below 75 per cent on all issues and indices in both databases (see figure XVIII). The differences between the rates yielded by the data from the biennial reports questionnaire and that from the merged database are marginal and can be explained by the inclusion of additional States in the merged database. However, the implementation rate of legislation to criminalize the laundering of the proceeds of crime is lower in the merged database (a difference of 15 percentage points). Given the above analysis, it can be concluded that some Member States overestimated their actions in their responses to the biennial reports questionnaire.

Figure XVIII
Sub-Saharan Africa: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007
(Percentage)

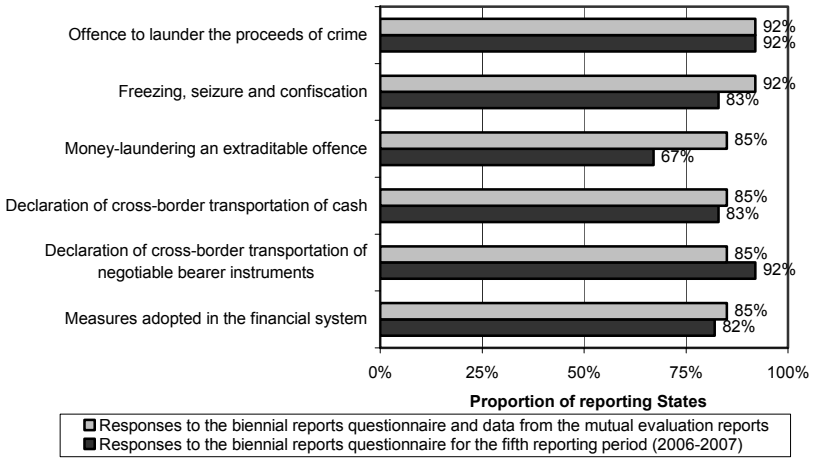


59. With respect to Eastern and South-Eastern Europe, implementation rates yielded by the merged database, which includes data from the mutual evaluation reports, were, in most cases, slightly higher (see figure XIX). The only exception was the percentage of countries that consider money-laundering an extraditable offence, an issue on which the merged data indicate a higher implementation rate (18 percentage points higher) than that yielded by the data provided by Member States through the biennial reports questionnaire. That indicates an underreporting in the biennial reports questionnaire of measures taken by Member States or a wrong interpretation of the question.

Figure XIX

Eastern and South-Eastern Europe: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007

(Percentage)

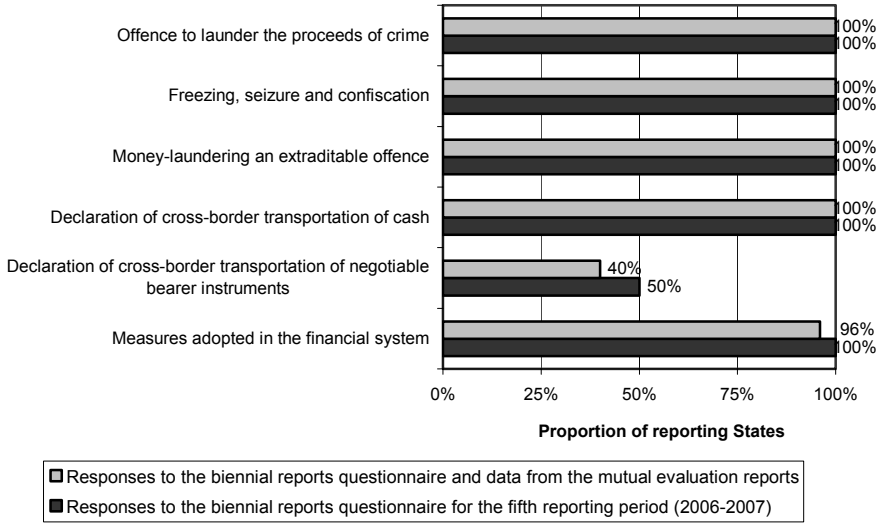


60. With respect to Oceania, the merged database includes data on five countries in the subregion, while only two Member States responded in the fifth reporting period of the biennial reports questionnaire. However, the two databases mainly indicate the same rates of implementation (see figure XX). The percentage of States indicating in the biennial reports questionnaire that they require the declaration of cross-border transportation of negotiable bearer instruments was higher (10 percentage points higher) than the percentage yielded by the merged database.

Figure XX

Oceania: comparison of the responses to the biennial reports questionnaire and data from the mutual evaluation reports, 2006-2007

(Percentage)



61. The comparison of the data received from Member States through the biennial reports questionnaire with that of the merged database, which also incorporated the data of the mutual evaluation reports, validated, in most cases, the responses to section V, on money-laundering, of the biennial reports questionnaire. In some cases, it became evident that Member States had overestimated their actual compliance with the goals and targets set by the General Assembly at its twentieth special session, while in a few other cases, Member States underestimated their compliance.

VII. Conclusions and recommendations

62. Money-laundering continues to be a global problem that threatens the security and stability of financial institutions and systems, undermines economic prosperity and weakens governance systems. Ten years after the adoption of the Political Declaration by the General Assembly at its twentieth special session, the laundering of money derived from trafficking in narcotic drugs and psychotropic substances and from other serious crimes remains a global threat to the integrity, reliability and stability of financial and trade systems, and needs to be addressed in a comprehensive manner.

63. The present report presents the analysis of the responses of Member States on their compliance with the international standards to counter money-laundering and on the implementation of the requirements with respect to national legislation. As underlined in the report, the trends, as demonstrated by the responses to all the questions analysed, indicate real progress by Member States on the implementation of those requirements. Nevertheless, some subregions are strongly encouraged to enhance their efforts to comply with the full implementation of the standards.

64. In order to give a broader and more accurate overview of the situation in all subregions, especially given that not all Member States replied fully to the questionnaire in every reporting period, and in order to complement the information obtained through the responses to the biennial reports questionnaires from Member States, supplementary information, such as mutual evaluation reports for a number of countries, was used in the present report. In Commission on Narcotic Drugs resolution 49/1, entitled “Collection and use of complementary drug-related data and expertise to support the global assessment by Member States of the implementation of the declarations and measures adopted by the General Assembly at its twentieth special session”, the Commission called upon UNODC to engage with national and regional experts from all geographical regions on the collection and use of complementary drug-related data and expertise to support the global assessment by Member States of the implementation of the declarations and measures adopted by the General Assembly at its twentieth special session. Accordingly, two expert consultations were organized, and experts on countering money-laundering provided UNODC with contributions to the recommendations and conclusions of the report, in order to allow the Commission to examine such recommendations at its fifty-first session.

65. In order to effectively combat money-laundering, and building on the recommendations contained in the fourth biennial report of the Executive Director on the world drug problem (E/CN.7/2007/2 and Add.1-6), the following legislative measures are recommended:

(a) All Member States that have not already done so should ratify and adhere to the relevant United Nations conventions;

(b) All Member States that have not already done so should adopt and implement the FATF recommendations and other relevant international standards;[6]

(c) All Member States that have not already done so are strongly urged to establish legislative frameworks to criminalize the money-laundering of proceeds derived from drug trafficking and other serious crimes in order to ensure the prevention, detection, investigation and prosecution of the crime of money-laundering;

(d) In that regard, Member States that have not already done so should adopt legislative measures to identify, freeze, seize and confiscate the proceeds of crime;

(e) Member States that have not already done so should introduce measures to keep centralized statistical data on legal action taken to combat money-laundering, including investigations, prosecutions and convictions;

(f) Member States that have not already done so are urged to consider measures to detect the cross-border transport of cash and negotiable bearer instruments exceeding a specified value;

(g) Member States that have not already done so should endeavour to remove all legal and other obstacles that unnecessarily affect the effectiveness of their systems for countering money-laundering. In particular, they are encouraged to review:

(i) The applicability of the fundamental principles of domestic legislation that has a prohibitive effect on criminalizing money-laundering committed by the author of a predicate offence;

(ii) The applicability of the fundamental principles of domestic legislation that prevents the introduction of corporate criminal liability.

66. It is recommended that Member States that have not already done so should implement the following measures to prevent and detect money-laundering in financial entities as well as in other vulnerable entities:

(a) Member States that have not already done so should adopt measures to enable and facilitate the reporting and investigation of suspicious and/or unusual transactions that may be linked to money-laundering activities. They should also require financial institutions to put into practice the principles of "know-your-client" and "customer due diligence";

(b) Member States that have not already done so should establish financial intelligence units to counter money-laundering and, where applicable, to participate in relevant regional and international mechanisms for countering money-laundering.

67. Cooperation between Member States should be strengthened in order to combat money-laundering more effectively. Thus, it is recommended that the following measures be taken:

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[6] Member States should also ratify and implement regional instruments, for example, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (United Nations, *Treaty Series*, vol. 1862, No. 31704).

(a) Member States should enhance international cooperation and mutual legal assistance, particularly in cases involving the confiscation of illicit proceeds;

(b) Member States should implement law enforcement and other measures to provide for effective action against money-laundering and for information-sharing mechanisms among relevant competent authorities.

68. In addition, in the light of the finding of the present report, which incorporates supplementary data, that approximately 77 per cent of Member States consider money-laundering an extraditable offence, Member States that have not already done so should implement extradition procedures relating to the offence of money-laundering.

69. In general, Member States should also consider revising their legislation and, when necessary, reform and simplify their procedures with respect to extradition, in particular with respect to dual criminality (to be interpreted as criminalizing the conduct underlying the offence) and the definition of political offences and consider simplifying surrender procedures.

70. Member States are encouraged, where possible, to contribute to the costs of the delivery of technical assistance to prevent money-laundering. They should also consider sharing expertise with other Member States in the global effort to comply with international treaty obligations and to implement the measures for countering money-laundering adopted by the General Assembly at its twentieth special session.

71. The mandate of UNODC emphasizes the role of the Global Programme against Money-Laundering in assisting Member States to implement measures to counter money-laundering. In that regard, the following measures are recommended:

(a) Member States should consider contributing extrabudgetary resources to the Programme in order to continue its important technical assistance work at the national and regional levels;

(b) The work of the Programme against money-laundering should be strengthened, in cooperation with multilateral and regional institutions and organizations engaged in relevant activities, by providing training and advice with a view to building the capacity of institutions and to give effect to international standards in the area of countering money-laundering;

(c) Member States should participate actively in regional approaches to counter both money-laundering and the financing of terrorism and should route technical assistance requests through the Programme or through regional bodies for countering money-laundering, including FATF-style regional bodies, in order to ensure compliance with international standards.

72. Member States should consider consulting with the Global Programme against Money-Laundering and other relevant entities when drafting, and prior to adopting, legislation against money-laundering in order to ensure that such legislation meets international standards.

73. In conclusion, it must be underlined that this report on measures adopted by Member States to counter money-laundering cannot be considered to be fully comprehensive, and it does not take into account the most recent trends in countering money-laundering and the financing of terrorism. The biennial reports questionnaire is considered a useful instrument that, over the past 10 years, has

allowed many States to assess their compliance with the Political Declaration and action plans adopted by the General Assembly at its twentieth special session. However, that instrument has been shown to have the following limitations:

(a) The lack of reporting Member States in all five reporting periods;

(b) The inconsistency of data: some Member States did not respond in all reporting periods;

(c) The lack of infrastructure and resources in some countries, which prevented those States from replying and analysing their measures and, especially, from reporting in all reporting periods;

(d) The absence of cooperation between the different agencies within some countries, which resulted in a lack of, or incomplete, information for some sections of the questionnaire: for example, the biennial reports questionnaire was sent to national drug control agencies by the permanent missions to the United Nations in Vienna, and, in most instances, the financial intelligence units that are in charge of money-laundering issues did not have the opportunity to complete section V;

(e) The self-assessment carried out by some Member States was not necessarily accurate;

(f) The difficulty of utilizing the existing biennial reports questionnaire to evaluate the impact of countering money-laundering.

74. Moreover, some of the issues that were not included in the Political Declaration, which was adopted 10 years ago, have now become an essential part of the comprehensive approach to combating money-laundering, and that evolution should be taken into account in the report on the world drug problem. Such issues include the following: asset forfeiture and recovery; a comprehensive and efficient analysis framework for financial intelligence units; effective reporting systems in financial and non-financial entities; and customer due diligence procedures; as well as the issue of the financing of terrorism, which is now a major component of an effective regime to counter money-laundering and the financing of terrorism, because the international standards were extended to encompass the countering of the financing of terrorism.[7]

75. A future process might be introduced to measure the impact of money-laundering. Any future reporting instrument has to be improved and expanded to address the lessons learned from monitoring progress in achieving the goals of the twentieth special session of the General Assembly, the limitations outlined above and the relevant requirements. The model of the mutual evaluation reports implemented by FATF and international financial institutions, through the evaluation visits of experts on money-laundering, should be used to complement the reports of the Executive Director on the world drug problem and to give a more accurate view of regional trends. Thus, reliable supplementary data of this kind should be included in future evaluations of the implementation of measures on countering money-laundering and the financing of terrorism. The AMLID database of IMoLIN, which analyses the regimes to counter money-laundering and the financing of terrorism in place in Member States, could be a valuable tool in such a process.

[7] The FATF nine special recommendations on terrorist financing, which include, for example, the regulation of non-profit organizations.