

Dr Sandro Calvani
UN Representative for Drug Control and Crime Prevention
for East Asia and the Pacific

**PRESENTATION AT THE APG TRAINING WORKSHOP
FOR
EVALUATORS OF ANTI-MONEY LAUNDERING MEASURES**

Bangkok, 20 March 2001

SESSION I (ii)

**Introduction to the International Anti-Money Laundering Standards
and Important Documents**

Dear participants,

On behalf of the Under-Secretary General of the United Nations, Mr. Pino Arlacchi, I would like to congratulate you for making this workshop possible and to wish you good success.

The prevention and control of money laundering activities serves essentially two purposes: **First**, to protect the stability of the international financial system and **second**, to facilitate law enforcement activities in their battle against organized crime, and for better health, human security, and quality of life.

**The United Nations legal and
institutional framework against drug-
related crime:**

- ◆ **Commission on Narcotic Drugs (CND):**
the principal UN policy-making body on drug control;
- ◆ **United Nations International Drug Control Programme (UNDCP):**
the main focus for concerted multilateral action;
- ◆ **International Narcotics Control Board (INCB):**
an independent monitoring authority, as set out in the international drug control treaties.

We do share the same vision with you, in our common desire to defeat criminal organisations. Our common strategy is to develop to perfection powerful global tools in order to make this victory possible.

“Transnational Crimes Inc.” commit their offences for the big money involved. Like businessmen, they calculate the risk against the prospect of profit, before they decide to go ahead. Therefore, touching their pockets might be touching them where it hurts most.

In fact, the idea of introducing anti-money laundering strategies and measures was first conceived and pursued by the United Nations. The most important tools generated by this crusade are the following:



The UN Vienna Convention (1988)

It was negotiated in a spirit of mutual understanding and genuine desire to adopt an instrument that would strike a serious blow against the scourge of drug trafficking. That is why the content of the provisions, compared to previous instruments, are more precise and comprehensive. The purpose of the Convention, according to Article 2 (1), is "to promote co-operation among Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances having an international dimension".

In many ways, the 1988 Convention represents a significant departure from the basic thrust of the 1961 and 1971 Conventions. It has greatly widened the scope of anti drug measures and concentrated less on the regulation of drugs themselves and more on the criminal activity surrounding the drug trade.

When it comes to money laundering, Article 3 of the 1988 Convention includes it as one of the offences (or category of offences) to be criminalised.

More specifically, this Article distinguishes between conversion, transfer, concealment, or disguise of property derived from a drug-related offence (paragraph b), and acquisition, possession, or use of such property (paragraph c). In both cases the perpetrator should possess previous knowledge of the origin of the property, but in the cases of paragraph (c) the act shall be considered as an offence only if this is allowed by the constitutional principles of the country concerned.

This Convention also approaches the subject of money laundering (with regard to drug-related offences) indirectly, in Article 5, which deals with domestic and international confiscation:

The UN Vienna Convention (1988) **Article 5 (domestic measures):**

- a) Each party shall adopt measures for confiscation of both narcotic drugs and equipment intended for use in Convention offences as well as proceeds derived from convention offences (para. 1)
- b) Each party shall take measures to identify, trace, and freeze or seize the proceeds (para. 2)
- c) Bank secrecy shall not be a reason for declining to take measures (para. 3)

The UN Vienna Convention (1988) **Article 5 (international co-operation):**

- a) A party shall submit a request of confiscation made by another party to its authorities in order to obtain an order of confiscation [para. 4 (a) (i)]
- b) A party shall submit an order of confiscation issued by another party to its authorities with a view to giving effect to that order [para. 4 (a) (ii)]
- c) A party shall take measures to identify, trace, and freeze or seize proceeds of Convention offences if another party which has jurisdiction over the offence requests [para.4 (b)]

Moving money through different jurisdictions is per se very beneficial to money launders, because it slows down law enforcement. This is a significant difficulty from the point of view of the institutions involved in anti-money laundering measures.

The high standard of proof required from the prosecutor poses another problem area. Article 5 of the Vienna Convention recognizes this and suggests a solution: the property of a person, who has been convicted for serious crimes, shall be subject to confiscation if he/she maintains a standard of living above that which is commensurate with his/her present or past known sources of income or assets or is in control or possession of pecuniary resources or property disproportionate to his present or past known sources of income if he fails to give a satisfactory explanation in this regard.

Three subjects of interest to APG

The UN has played a global facilitation and coordinating role in the field of control of Money Laundering.

I wish to draw your attention to three subjects of interest to APG.

1. IMoLIN /AMLID
2. UN offshore forum
3. Computer Based training for East Asia and the Pacific

Control of Money Laundering

- 1. IMoLIN/AMLID**
- 2. UN Offshore Forum**
- 3. Computer Based Training for East Asia and the Pacific**

1. IMoLIN/AMLID

The International Money Laundering Information Network (IMoLIN) is a multi-faceted web site which serves to provide information on national money laundering laws and regulations, and contacts for inter-country assistance, for the benefit of law enforcement, prosecution and related personnel in countries worldwide, and inter alia to identify areas for improvement in domestic laws, countermeasures and international cooperation.

- 1.1 The IMoLIN system consists of three principal features. First, the Anti-Money Laundering International Database (AMLID) is a compendium of analyses of national anti-money laundering laws and regulations, contemplating two general classes of money laundering control measures (domestic laws and international cooperation) as well as information on national contacts and authorities. This multi-lingual, secure database is an important reference tool for law enforcement officers involved in cross-jurisdictional work. The other two features, within IMoLIN, include an electronic library of publications, convention documents, model laws, legislation, research and other information relating to money laundering, and a calendar of events in the anti-money laundering field, including training events and conferences at the national, regional and international level

IMoLIN System

- **AMLID**
- **Electronic library**
(publications, convention documents, model laws, legislation, research, etc.)
- **Calendar of events**
(training events, conferences, etc.)

IMoLIN: International Money Laundering Information Network
AMLID: Anti-Money Laundering International Database

⇒ 1. IMoLIN/AMLID
2. UN Offshore Forum
3. Computer Based Training

- 1.2 IMoLIN/AMLID continues to go through many changes and face-lifts. IMoLIN/AMLID is a joint project between the Financial Action Task Force, Commonwealth Secretariat, Interpol, the Organization of American States, and the United Nations. We are happy to announce the addition of the Asia Pacific Group contribution to the website. With APG's assistance, we will be able to provide infor-

mation and guidance needed on a regional level, which will be available 24 hours a day, 7 days a week.

Discussions have been held to expand IMoLIN and AMLID. We believe that it may be used to assist more countries on a variety of issues. Currently, AMLID has over 100 users from different parts of the world, from Presidential offices to domestic law enforcement agencies to international anti-money laundering organizations. Visits to the website have multiplied since its inception. In 1997-98, the average number of visits to the site was 100 per month. Currently, the site has over 2,000 visitors per month and continues to grow.

IMoLIN System (cont.)

Partners

- Financial Action Task Force
- Commonwealth Secretariat
- Interpol FOPAC
- Organization of American States
- United Nations
- Asia Pacific Group

→ 1. IMoLIN/AMLID

2. UN Offshore Forum

3. Computer Based Training

2. United Nations Offshore Forum

Experts from a broad spectrum of financial markets came together in the Cayman Islands 30-31 March 2000 to review for adoption the findings of a select group of experts convened in Vienna in 1999. Those comprise the Minimum Performance Standards embodied in the newest GPML program known as the UN Offshore Forum (UNOF).

The three core elements of UNOF are: (1) political commitment, (2) training and technical assistance, and (3) research. We are seeking a commitment to the UN Offshore Forum's framework of basic performance standards by way of a ministerial letter of commitment.

UN Offshore Forum

Core elements:

- **Political commitment**
- **Training and technical assistance**
- **Research**

1. IMoLIN/AMLID
- ➔ 2. UN Offshore Forum
3. Computer Based Training

2.1 UNOF advocates that all jurisdictions with active and growing cross-border financial services sectors have a basic and achievable program in place that commits them to:

- the 1988 UN Convention, The Forty Recommendations of the Financial Actions Task Force,
- the Basle Committee's "Core Principles for Effective Banking Supervision" and supplementary guidelines for cross-border banking;
- the Ten Key Principles adopted by the G-7 for the improvement of international cooperation;
- the IOSCO norms on securities regulation; and
- the IAIS principles for supervision of the international insurance industry.

If we are going to build an international regime capable of overcoming the threat money laundering poses to all our countries, we need to support these political commitments with concrete, goal-oriented actions. The UN for its part will provide the training and technical assistance needed to enable jurisdictions to do this. Our goal is for the UN to serve as the "junction box" where the political commitment of the various jurisdictions comes together into a coherent international strategy.

UN Offshore Forum (cont.)

Commitments:

- The 1988 UN Convention, The Forty Recommendations of the Financial Actions Task Force
- The Basle Committee's "Core Principles for Effective Banking Supervision" and supplementary guidelines for Cross-border banking
- The Ten Key Principles adopted by the G-7
- The IOSCO norms on securities regulation
- The IAIS principles

1. IMoLIN/AMLID

→ 2. UN Offshore Forum

3. Computer Based Training

3. Computer Based Training to counter Money Laundering (Training and Technical Assistance)

The United Nations Global Programme against Money Laundering has created a manual for financial investigators, which will be available shortly for distribution in hard copy to law enforcement officers in member states. This manual will also serve as a basis for a development project we are undertaking with colleagues at ODCCP's Regional Center in Bangkok. The UNDCP Regional Center for East Asia and the Pacific based in Bangkok is delivering training to the drug law enforcement community in 6 countries in East Asia. Front line staff are being taught knowledge and skills in a whole range of drug related topics through computer-based training. The topics include

- Risk assessment, profiling and selection methods at border crossings, inland check points, airports and seaports;
- Risk management techniques
- Search techniques;
- Investigation techniques
- Intelligence methods;
- Drug identification and testing;
- Controlled deliveries; and
- Money Laundering

Computer Based Training

- Risk assessment, profiling and selection methods
 - Risk management techniques
 - Search techniques
 - Intelligence methods
 - Drug identification and testing
 - Controlled deliveries
 - Money Laundering
1. IMoLIN/AMLID
 2. UN Offshore Forum
 - 3. Computer Based Training

The UN Political Declaration and Action Plan Against Money Laundering (1998)

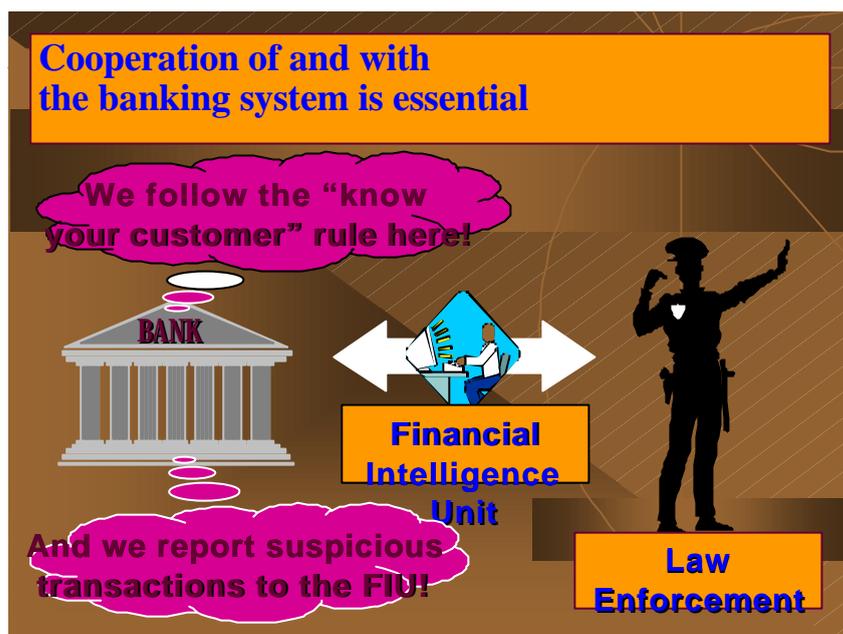
The General Assembly, through its political declaration (resolution A/RES/S-20/2 of 10 June 1998), committed the United Nations “to make special efforts against the laundering of money linked to drug trafficking and, in that context, [to] emphasize the importance of strengthening international, regional and subregional cooperation”. In the same instrument it is recommended that “States that have not yet done so adopt by the year 2003 national money-laundering legislation and programmes in accordance with relevant provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, as well as the measures for countering money-laundering, adopted at the present session” (paragraph 15). – In its next paragraph (16), this declaration also commits the United Nations “to promote multilateral, regional, sub-regional and bilateral cooperation among judicial and law enforcement authorities to deal with criminal organizations involved in drug offences and related criminal activities, [...] and, where appropriate, to strengthen by the year 2003 the implementation of those measures”

Pursuant to this spirit of intensifying international co-operation as a means to counter-act money laundering, the General Assembly adopted yet another resolution at the end of the same year (1998), on “International Co-operation against the World Drug Problem” (A/RES/53/115, of 9 December 1998).

In the preamble of this resolution, the General Assembly expressed its deeply alarming feelings because of “the growing and spreading violence and economic power of criminal organizations and terrorist groups engaged in drug-trafficking activities and other criminal activities, such as money-laundering”. This resolution calls upon States to promote effective co-operation at the in-

ternational and regional levels, and to strengthen national judicial systems as necessary steps in the fight against such criminal activities.

If we are going to build an international regime capable of overcoming the threat of money laundering, we need to substantiate these political commitments with concrete, goal-oriented actions. The UN for its part will provide the training and technical assistance needed to enable jurisdictions to do this. Our goal is for the UN to serve as the “junction” box, where the political commitment of the various jurisdictions come together into a coherent international strategy.



The UN Convention on Transnational Organised Crime (2000)

On 15 December 2000 the UN Convention against Transnational Organised Crime was adopted, after several international conferences had been drafting its text. Symbolically, this new Convention was signed in Palermo, Sicily, previously known as the epicenter of the activities of the Italian Mafia.



Apart from other powerful tools against organised crime, the TOC Convention includes confiscation/anti-money laundering measures in order to hit right into the pocket of the criminals (Article 4): Conversion or transfer of property, concealment or disguise, acquisition, possession or use of property, participation, association, conspiracy, and accessory are all criminalised.

It should be noted, that these provisions are almost identical with those in the 1988 Convention (see above), except the expanded scope of the “predicate offence” and “proceeds of crime.”

The Convention also provides for the confiscation of properties and proceeds derived from crimes, and the transfer of such proceedings (Article 16).

Criminalisation of laundering of proceeds of crime (Article 4 of the T.O.C. Convention)

- (a) Conversion or transfer of property,**
- (b) Concealment or disguise,**
- (c) Acquisition, possession or use of property,**
- (d) Participation, association, conspiracy, and accessory**

*** Almost identical to 1988 Convention except the expanded scope of the “predicate offences” and “proceeds of crime.”**

The United Nations Convention against Transnational Organized Crime is accompanied by the following Protocols; the Protocol against the Illicit Manufacturing of and Trafficking in Firearms; the Protocol against the Smuggling of Migrants by Land, Air and Sea; and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

THANK YOU

<http://www.undcp.un.or.th>