

**Drug Trafficking and Organized Crimes (Amendment) Bill 2000**  
**International Dimensions on Combating Money Laundering**

At the Bills Committee on the Drug Trafficking and Organized Crimes (Amendment) Bill 2000 held on 3 January 2002, the Administration presented a paper which covered, among other things, the recent developments in the international arena which have affirmed the direction of the current proposals in respect of section 25 and section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap.405) and the Organized and Serious Crimes Ordinance (Cap.455). This paper highlights for the Committee's information a number of international initiatives specifically targeted at combating money laundering.

**Financial Action Task Force on Money Laundering**

2. The Financial Action Task Force on Money Laundering (FATF) is an inter-governmental organization established subsequent to the G-7 Summit held in Paris in 1989. Its purpose is to develop and promote policies, both at national and international levels, to combat money laundering. As a policy making body, its primary objective is to generate the political will necessary for bringing about national legislative and regulatory reform in the area of combating money laundering. It is given the responsibility of examining money laundering techniques, reviewing counter-measures and setting out enhancement measures at both national and international levels. To-date, the Forty Recommendations of the FATF, promulgated in 1990 and updated in 1996, are regarded as the most comprehensive standards and best practices to counter money laundering

3. The membership of FATF is currently made up of 29 jurisdictions and two regional organizations<sup>1</sup>. Hong Kong has been a member of the FATF since 1990. The FATF also works in close cooperation with a number of international bodies in combating money laundering. In fact,

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<sup>1</sup> The membership of FATF is currently made up of 29 countries and governments, and two regional organizations, they are: Argentina; Australia; Austria; Belgium; Brazil; Canada; Denmark; European Commission; Finland; France; Germany; Greece; Gulf Co-operation Council; Hong Kong, China; Iceland; Ireland; Italy; Japan; Luxembourg; Mexico; Kingdom of the Netherlands; New Zealand; Norway; Portugal; Singapore; Spain; Sweden; Switzerland; Turkey; United Kingdom and United States.

plenary meetings of the FATF are attended by the International Monetary Fund, World Bank, United Nations International Drug Control Programme, Interpol, World Customs Organization and other regional development banks which have observer status in the FATF.

4. In February 2000, the FATF launched the “Non-cooperative Countries and Territories” (NCCTs) initiative to identify jurisdictions which are vulnerable to money laundering. In the exercise, the anti-money laundering regimes of the jurisdictions concerned are assessed against a set of 21 criteria formulated in accordance with the FATF Forty Recommendations. The purpose of the exercise is to encourage and assist the NCCTs to introduce and/or enhance measures in combating money laundering even though any NCCTs so identified will be subject to counter-measures under Recommendation 21 of the FATF Forty Recommendations<sup>2</sup>. The FATF has so far reviewed the anti-money laundering regimes of 46 jurisdictions in two rounds of exercises. As of December 2001, 19 jurisdictions are listed as NCCTs.

5. At the FATF plenary meeting held in June 2001, three of these NCCTs, namely Nauru, Russia and the Philippines were considered to have made insufficient progress in addressing the serious deficiencies identified. The FATF decided that they should be subject to further counter-measures unless their governments enacted significant legislation that addressed FATF – identified money laundering concerns. The Philippines and Russia have since implemented significant anti-money laundering legislation and avoided further counter-measures. Due to the lack of progress made by the Nauru Government, the FATF has implemented additional counter-measures<sup>3</sup> against Nauru with effect from 1 November 2001. A detailed

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<sup>2</sup> Financial institutions should give special attention to business relations and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply these Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.

<sup>3</sup>

- Stringent requirements for identifying clients and enhancement of advisories, including jurisdiction-specific financial advisories, to financial institutions for identification of the beneficial owners before business relationships are established with individuals or companies from these countries;
- Enhanced relevant reporting mechanisms or systematic reporting of financial transactions on the basis that financial transactions with such countries are more likely to be suspicious;
- In considering requests for approving the establishment in FATF member countries of subsidiaries or branches or representative offices of banks, taking into account the fact that the relevant bank is from an NCCT;

report on the NCCT exercise is at Annex I.

## **The United Nations Dimension**

### (a) The United Nations Conventions on Illicit Drugs and Psychotropic Substances

6. In 1988, the international community reacted to the threats posed by drugs and drug money by adopting the United Nations Convention on Illicit Drugs and Psychotropic Substances in Vienna (the Vienna Convention). The purpose of the Convention is to promote co-operation among the parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic drugs with an international dimension.

7. This Convention is the first international instrument to require states to specify money laundering of proceeds of drug trafficking as a criminal offence in their national legislation. The Convention also provides for domestic and international confiscation of narcotics, equipment or other instrumentalities used in the commission of narcotic offences and the proceeds derived from such offences. A copy of the Convention is attached at Annex II.

### (b) The United Nations Convention on Transnational Organized Crime

8. In December 2000 at Palermo, Italy, 124 countries signed the United Nations Convention on Transnational Organized Crime (the Palermo Convention). 81 of these countries also signed the supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and 79 signed the Protocol against the Smuggling of Migrants by Land, Sea and Air. The number of countries signing the Convention set a UN record for number of signatories during the initial signing period. The Convention will come into force when 40 countries ratify each document.

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- Warning non-financial sector business that transactions with entities within the NCCTs might run the risk of money laundering.

9. The Palermo Convention is the first legally binding international instrument to specifically address the issue of transnational organized crime. In particular, it extends money laundering offences beyond drug trafficking, as set out in the Vienna Convention, to a range of serious crimes and also contains provisions on the prevention of money laundering.

10. Apart from other tools against organized crimes, the Convention includes confiscation/anti-money laundering measures in order to attack the proceeds of crime. Activities relating to money laundering must be criminalized. This extends to any form of property that is the proceeds of crime. These provisions expanded the scope of the predicate offences and proceeds of crimes as contained in the Vienna Convention.

11. The Convention also provides for the confiscation of properties and proceeds derived from crimes and the transfer of such proceeds and the adoption of legal and administrative measures to regulate financial activities in such a way as to make concealing proceeds more difficult, to facilitate the detection, investigation and prosecution of money laundering and to provide international assistance or co-operation in appropriate cases. The relevant extract of the Convention is attached at [Annex III](#).

### **The U.S. Dimension**

12. The U.S. Government publishes an annual list of countries which it considers to be major producers of illicit drugs entering the U.S. or whose territories are considered as a transit route for such drugs (the Majors List). Indeed, Hong Kong had been included in the Major List since 1987 and was only removed from the list in November 2000. It is also noted from the 2001 World Fact Book published by the Central Intelligence Agency that Hong Kong is described as “a hub for Southeast Asian heroin and regional stimulants trade, transshipment and money-laundering centre”. While efforts have been made to refute such claims, Hong Kong should be vigilant in maintaining an efficient and effective anti-money laundering regime.

## **Consideration**

13. The Committee is requested to note the international anti-money laundering dimensions outlined in this paper.

Security Bureau  
January 2002