

H. Summing-up of the Discussions of Panels 3 and 4 by the Scientific Rapporteur

Scientific Rapporteur:²⁹ Can I have the PowerPoint, please? Thank you very much. Thank you, Chair, and thank you, Moderator. I will move straight into this as I have only a few minutes to try and bring together the very interesting discussion that has gone on this morning.

What we have seen in terms of the discussion is that there is quite a lot that we know about money-laundering. We know that it is an important part of criminal activity, that is used to avoid tax, prosecution, and increase the profits of criminals who are involved in this activity.

We have also seen from the case study and from the various comments that have been made that in fact money-laundering is becoming more transnational and therefore requires international cooperation. It is also quite a complex activity and so it requires specialist financial and investigative units in order to deal with the problem.

However, as has been raised from the floor in particular, in a number of countries there in fact is a major cash economy and therefore this also needs to be dealt with, and we had a very informative presentation from UAE on how they are trying to deal with this issue.

We have also seen that legislation varies across countries, and in particular the issue of how different countries deal with the predicate offences.

There was a very interesting presentation going over the various UN conventions which contain within them various norms and standards to deal with money-laundering, and these conventions involve or cover drugs, terrorism, transnational organized crime and corruption.

We also heard from the members that in fact there is a range of technical assistance that is already available, as well as model legislation that has been developed which we can access.

And in addition, a number of the speakers pointed out that effective tools for dealing with money-laundering include measures such as asset forfeiture and mutual legal assistance.

However, what this panel did not provide a lot of information on was, in fact, on the nature of research that is being done in this field. The case study raised a number of practical issues and many of these actually related to yesterday in terms of economic crime and dealing with that problem, for example, governance issues in terms of how institutions, in particular financial institutions, provide policies and procedures within their own institutions to protect both their integrity and to ensure that they are not inadvertently becoming involved in money-laundering, and in particular undertaking customer due diligence requirements.

As part of governance procedures, a very important aspect of that is having external and internal audit processes, and many countries offer very extensive internal and external audit plans which can be located on their websites.

An important part, or an important aspect of identifying money-laundering, which came out of the case study was in fact the need to have mechanisms for reporting of suspicious activities, and in particular for educating employees who work in key sectors on how they might go about reporting those activities.

It was also raised, and this was also raised yesterday with economic crime, the important role of key professionals in the process and the need to have regulatory and educational regimes in order to ensure that those professionals are also not becoming unwittingly involved in this activity.

We also, I saw from the case study, that it's very important to be able to identify when a money-laundering crime occurs and to be able to determine that the offender had knowledge of the origins of the money. And an important part of that is a need to enable access to banking documents, in other words, to legislate against certain kinds of banking secrecy.

It's very important for law enforcement to focus on collecting the documents and the evidence, and although this work is often tedious and takes a considerable amount of time, it is actually very important to prosecuting a successful case.

²⁹ A PowerPoint presentation by the Scientific Rapporteur is attached at the end of this section.

And of course, as we saw, money-laundering is transnational quite often in its nature and therefore there needs to be extensive coordination with other countries. And that requires countries to invest in building relationships and strategic alliances across countries so that those are in place when an incident happens, so that you already have those relationships and alliances that you can draw upon.

And another important aspect of that, at a more formal level, is developing mutual legal assistance arrangements.

And finally, two important other issues raised from the case study were the need for asset forfeiture, and the tricky issue of victim restitution was highlighted and that there may in fact be increasing requirements on countries to deal with the issue of victims and their restitution.

As I mentioned, one of the gaps that I noticed in a lot of the presentations was that I didn't get any sense of the scale and the trend in the incidence of money-laundering, where is it occurring, who is doing it, how are they doing it, and providing an overview of this kind of activity. In particular, it would be very interesting to understand better about the networks, how they are organized and how they link into the alternative remittance systems that operate, because we saw how what one might call a more formal money-laundering system actually leads into an informal money-laundering system.

And an important issue that was raised was about harmonization, but I didn't get any sense of how we might go about that and I think from the floor the suggestion was made for a need to perhaps provide some sort of model, norms and standards of how that might be achieved.

And finally, it would be useful to know about the cost-effectiveness of different criminal justice interventions.

The big emerging issue I saw was that most people were talking about cooperation and this involved a range of different aspects, developing financial intelligence units that are working across countries, the need for mutual assistance programmes, the assets seizure and freezing of assets, in particular through international forfeiture cooperation activities, and customer due diligence cooperation there in terms of the government working with the private sector, the need for harmonization of laws where appropriate across countries, and of course cooperation across countries in terms of technical assistance.

There are a range of key issues that were dealt with from the floor. People raised or countries raised issues about the changes that are required in the criminal code to deal with this crime, as well as the issue of harmonization.

Two other aspects that were raised in terms of criminal code was the problem of dual criminality in terms of dealing with mutual legal assistance, and then also an issue that was raised yesterday as well was identity theft and the role that it also plays in this activity.

There was also, again, this issue of the predicate offences was raised, and also a member from the floor spoke about reaching out to young people. And that was also touched on yesterday where it was suggested that one of the important things that we needed to do was to actually have in place education programmes with young people to teach them about ethical behaviour and developing a culture of ethics amongst young people.

There was also raised from the floor the ability of how to deal effectively with the banking sector, in particular how to deal with banking security but also the way in which banks operate together. And then a number of other issues were raised about, again, the need for cooperation, international forfeiture of assets, mutual legal assistance, the issue that was raised yesterday about the reversal of the burden of proof, the need to enforce laws, it's just not enough to pass laws, the problem again of dealing with the cash economy, and the need for high level training both domestically and internationally.

How can we move forward? There are a range of areas that we can move forward in terms of research and intelligence issues, in terms of collecting data through using consistent norms and standards and effectively disseminating that data both internally within our own countries but also across countries. There are a range of prevention and deterrence measures, in particular education and regulatory structures for private sector and key professionals, the important need which was raised yesterday as well for whistle-blowing legislation, the range of legislative changes that we can make. Again, the issue we need to have in place, effective enforcement if we are

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to have a deterrent effect, the importance of building long-term relationships between law enforcement agencies so that law enforcement agencies can call upon each other when they need them, and also of course developing pro-active investigative measures.

Technical assistance, we have already a lot of packages available, we have also model laws that can be drawn upon, so there is a lot of technical assistance out there that can be drawn upon. And this is very important because money-laundering is a complex issue. So it's important to know what tools are available and where you can get them.

Of course, the need to engage the private sector, as much of the financial transactions occurs through this sector, and the sharing of trends and intelligence of suspicious transactions and activity among law enforcement agencies.

Finally it would be, it is important also in terms of moving forward, efficiency and effectiveness, making sure that our interventions are based on evidence and that we identify the best practice and we promulgate that best practice.

In terms of the priorities, these would vary across countries, but what I took away from the workshop this morning was, again, the need to improve our evidence base to ensure that interventions and technical assistance are more likely to succeed, that we put them in the right place at the right time, that we utilize the latest analytical tools to assist intelligence at policing and build specialist units to deal with this issue, to invest in preventive measures, particularly with the private sector, by developing regulatory regimes to govern their activities, as well as to provide them with norms and standards so that they know what is required, including the sharing of data between the private sector and government agencies.

We, of course, I think need always to improve our legislation so that we have the tools to respond to money-laundering, including asset forfeiture.

Finally, two final measures, one is that quicker action is needed to effectively monitor remittances and cross-border movements of cash. And finally, support capacity-building through technical assistance.

I would just like to end by thanking all of the Delegates here for listening to my scientific rapporteur report. I would like to thank my colleagues from UNAFEI and from Sweden for inviting me to do this. They didn't mention to me that I'd have to do this twice, as I'm not sure whether this was an offence, but it has been a great pleasure to be able to do that and I'm very pleased to have been able to be up here with you on two different days with so many distinguished speakers. Thank you.

Moderator: Thank you very much, Toni. I think that you have become a recidivist this morning in terms of giving a very neat presentation of what we have done in the workshop. Now I suddenly understood what we have been doing here this morning, and I'm looking forward to the publication where you will make the report.

Now I would just like to thank everybody, but in particular I would like to thank the interpreters, and I would also like to extend my apologies to them for having taken off your time. The interpretation has been excellent, as always I should say, and I would like all of us here to join in applause to the interpreters. Thank you very much. I now hand over to the Chairman.

Chairman: Thank you, Mr. Nilsson.

(Spoke in French) Just 30 seconds more, one minute maybe. I would like to join others and thank the organizers of this workshop, and I'd like to remind you, this afternoon we'll begin at 3:00 with Workshop 4, "Measures to Combat Terrorism with Reference to Conventions and Protocols".

Before adjourning I'd like to give the floor to the Secretariat for some announcements.

[SECRETARIAT]

Chairman *(spoke in French)*: The workshop is adjourned



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Scientific rapporteur's technical overview of Workshop on Economic Crime and Money Laundering

Session 2: Money Laundering

Toni Makkai
Director

What do we know?

- Money laundering is an important part of criminal activity
- Used to avoid tax, prosecution, increase profits
- Becoming more transnational requires international cooperation
- Complexity requires specialist financial and investigative units
- Simple system for monitoring cash transfers for UAE
- Legislation is variable across countries -- dealing with predicate offences
- Various UN Conventions (Drugs, Terrorism, TOC, and Corruption) provide norms and standards
- International and regional standards/recommendations as well as model legislation are available
- Effective tools include asset forfeiture, mutual legal assistance
- Relatively little high quality research

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Case studies – practical issues

- Governance issues – chief executive instructions (CEIs)/policies and procedures to protect the integrity of the financial institution and customer due diligence
- External and internal audit procedures
 - Education and training of employees – ethics/corruption
 - Locating technical assistance
- Reporting of suspicious activities is key (STR)
- Understand the role of key professionals in the process
 - Regulatory and educational regimes
- Identify when a money laundering crime occurs and the offender has knowledge of the origins of the money
 - (problem of predicate crimes and double jeopardy – focus on similar type of criminal activity)
- Need to legislate against banking secrecy
- Law enforcement response is focused on collecting the documents
- International network so requires co-ordination with the other country
 - Need to be investing in building relationships and strategic alliances
 - Increasing use of mutual legal assistance provisions
- Assets forfeiture and victim restitution
 - Variable laws – criminal and non-criminal forfeiture
 - Some countries there are victims of fraud funds
 - Goes to the state
 - Transnational cases there have increasing legal frameworks for international sharing

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What don't we know

- Data sources are limited
- The scale and trend of the problem
 - Where?
 - How?
 - Who?
- Who are the victims and offenders?
- Networks – organised/transnational
- Alternative remittance systems/Underground banking/Informal funds transfer systems
- How do we harmonise criminal laws across countries?
- What works?
 - Cost effectiveness of criminal justice interventions

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Emerging issues – cooperation

- Development of financial intelligence units
- Mutual assistance
- Asset seizure and freezing of assets
- Customer due diligence
- International forfeiture cooperation
- Harmonisation of laws
- Technical assistance

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Key issues

- Changes in the criminal code and harmonisation (dual criminality)
- Identity theft
- Problem with dealing with predicate offences
- How do we reach out to young people
- How to deal effectively with the banking sector (banking security)
- Cooperation across countries
- International forfeiture asset agreements
- Developing mutual legal assistance, particularly in regard to evidence and repatriation of money
- Reversal of the burden of proof/democratic principles/human rights
- Enforcement of laws
- Dealing with the cash economy
- High level of training -- domestic and international

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How can we move forward?

Research/intelligence issues

- Develop norms and standards on the collection of data
- Effective dissemination of timely research/data through a knowledge management system

Prevention and deterrence

- Education and regulatory structures for private sector/key professionals
- Whistle-blowing legislation
- Legislative changes including broadening the basis of predicate crimes for money laundering, asset seizures and freezing of accounts, mutual legal assistance
- Effective enforcement
- Building long-term relationships between law enforcement agencies
- Proactive investigative measures – interceptions, undercover policing

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...moving forward

Technical assistance

- Packages including model laws, investigative skills
- Managing complex cases, knowing what tools are available, where you can get them
- Engage the private sector
- Sharing of trends/intelligence on suspicious transactions and activity among enforcement agencies
 - Where assistance is available from both the workshop and other people at the congress
 - Identify where the assistance is available
 - Type of assistance
 - Ensure the assistance is of a high standard

Efficiency and effectiveness

- Interventions should be informed by evidence
- Need to identify best practice and promulgate

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Priorities

- Improve the evidence base to ensure that interventions and technical assistance are more likely to succeed
- Utilize the latest analytical tools to assist intelligence lead policing and build specialist units
- Invest in preventive measures especially with the private sector including development of regulatory regimes including sharing of data
- Develop appropriate legislation to provide the CJS with the tools to respond to money laundering, including asset forfeiture
- Quicker action through effective monitoring of remittances and cross border movement of cash
- Support capacity building through technical assistance

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