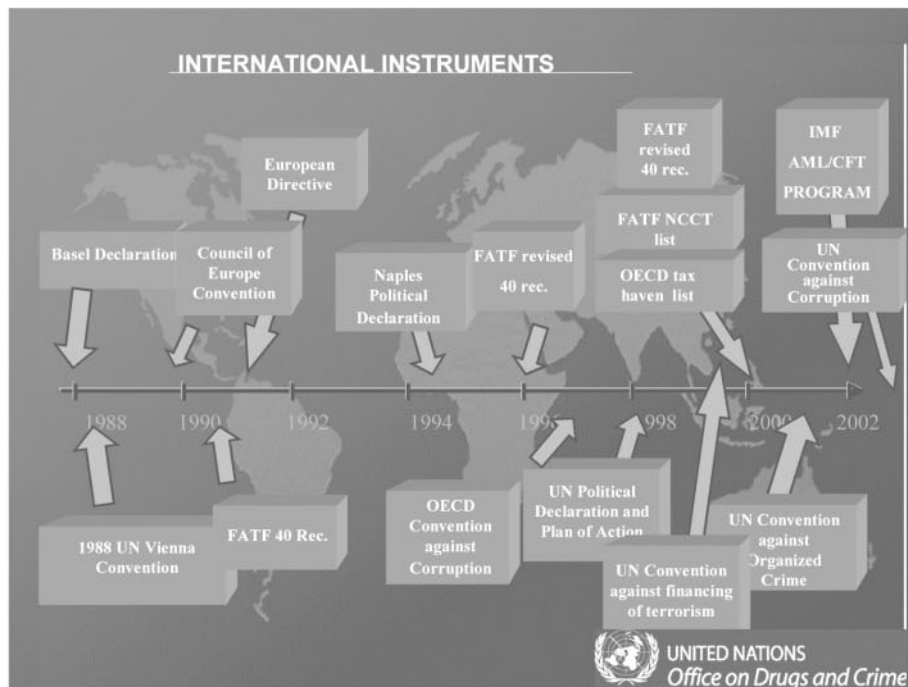


“International Standards and Norms to Combat Money Laundering”

Mr. Timothy Lemay

Chief, Rule of Law Section, Human Security Branch, United Nations Office on Drugs and Crime



1988 U.N. Convention (1)

From the Preamble > taking the profit out of crime

“... determined to deprive persons engaged in illicit traffic of the proceeds of their criminal activities and thereby eliminate their main incentive for so doing.”



1988 U.N. Convention (2)

- Criminalise laundering (drugs offences as predicates)
- Measures to identify, trace, freeze, seize & confiscate proceeds of crime
- Access to bank, financial records
- Override banking secrecy
- Mutual legal assistance
- Sharing of confiscated assets (parties “may consider”)
- Reversing onus of proof (parties “may consider”)

FATF Recommendations

Legal Systems

- Scope of criminal offence of money laundering (R.1-2)
- Provisional measures and confiscation (R.3)

Preventive measures - financial institutions and non-financial businesses & professions

- Customer due diligence and record-keeping (R.4)
- Reporting of suspicious transactions and compliance (R.5-12)
- Other measures to deter ML and FT (R.13-16)
- Measures – where countries not complying with recommendations (R.17-20)
- Regulation and supervision (R.23-25)

FATF Recommendations

Institutional and other measures necessary in systems for combating ML & TF

- Competent authorities - powers & resources (R.26-32)
- Transparency of legal persons & arrangements (R.33-34)

International co-operation (R.35)

- Mutual legal assistance and extradition (R.36-39)
- Other forms of co-operation (R.40)

Interpretative notes

U.N. Convention against Transnational Organised Crime

Key provisions for Parties:

- Criminalise laundering on “all serious crimes” basis
- for offences committed in or outside State’s territory
- comprehensive financial sector regulatory regime, including
 - customer identification
 - record-keeping
 - transaction reporting



UNITED NATIONS
Office on Drugs and Crime

U.N. Convention against Transnational Organised Crime

- Internal regulatory co-operation and information exchange
 - Financial Intelligence Unit (FIU) recommended
- Detect cross-border currency
- International co-operation - confiscation
- Corporate criminal liability
- Seize/freeze, confiscate proceeds of crime or equivalent value
- financial records - no bank secrecy



UNITED NATIONS
Office on Drugs and Crime

U.N. Convention against Corruption (*Not yet in force*)

- Criminalise money laundering derived from acts of corruption
- Co-operation with law enforcement authorities; between national authorities; between national authorities and private sector
- Asset recovery – prevention and detection of transfer of proceeds of crime; measures and mechanisms for recovery
- International co-operation – mutual legal assistance; extradition; law enforcement co-operation

Legal provisions

PREVENTION OF LAUNDERING

1- Identification of customers : CDD principles and record keeping

- Promote good governance and help maintain the integrity of the financial and non financial institution
- Verify customers' identity and addresses
- Threats through new technologies
- Correspondent banking



UNITED NATIONS
Office on Drugs and Crime

Legal provisions

PREVENTION OF LAUNDERING

2- Identification of customers : Due diligence

- Management of high risk customers and accounts
- Due diligence measures for politically exposed persons
- Maintain and hold at the disposal of the authorities records of customer identification and transactions
- Key role of supervisors



UNITED NATIONS
Office on Drugs and Crime

Legal provisions

DETECTION OF LAUNDERING

1- Reporting of suspicions

- Report to the FIU transactions involving money which appears to be derived from an offence linked to a crime / organized crime / offenses
- Report the transactions carried out:
 - not feasible to defer their execution
 - became clear after completion that transaction involved suspect money
- Report information confirming or invalidating the suspicion



UNITED NATIONS
Office on Drugs and Crime

Legal provisions

DETECTION OF LAUNDERING

2- Exemption from liability for bona fide reporting of suspicious transaction

- No proceedings for breach of banking or professional secrecy against directors or employees having acted in good faith in accordance with the provisions of the law
- Whether or the report gave rise to an investigation, judicial decisions or prosecution
- No tipping off



UNITED NATIONS
Office on Drugs and Crime

Legal provisions

DETECTION OF LAUNDERING

3- Financial Intelligence Units

- Responsible to receive, analyse & process reports
- May request information and records within the scope of investigations conducted following the report of a suspicious transaction
- Keeps information confidential, relationships of trust with financial institutions.
- Information can not be used for any other purpose
- Role in international co-operation
- Various structural models



UNITED NATIONS
Office on Drugs and Crime

Legal provisions

DETECTION OF LAUNDERING

4- Egmont Group

- Informal group for financial information sharing comprising 84 members, mentioned in interpretative notes of FATF Recommendations
- Statement of purposes and Principles for Information Exchange between FIUs for ML cases
- Working groups including legal, training, outreach
- Egmont Secure Web
- Model MOU



UNITED NATIONS
Office on Drugs and Crime

Model Legislation

- UN Model Legislation on Laundering Confiscation and International Cooperation in Relation to the Proceeds of Crime (1999) (Civil Law Systems)
- UN Model Money Laundering, proceeds of Crime and Terrorist Financing Bill (2003) (Common Law System)
- New model legislative provisions for Civil law systems currently being drafted



UNITED NATIONS
Office on Drugs and Crime

IMoLIN / Amlid

- Website and database managed By GPML on behalf of various international Organisations.
- Provides information on national money laundering laws and regulations and contacts for inter-country assistance.
- Also UN Model Legislation, Conventions and International Legal Instruments.
- Over 1000 visitors per week
- AMLID analyses countries' anti-money laundering legislation.



GPML Internet Access

www.imolin.org

