CURRENT SITUATION AND COUNTERMEASURES AGAINST MONEY LAUNDERING - A GERMAN AND EUROPEAN PERSPECTIVE

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I. PRELIMINARY REMARKS

I would like to attempt to describe as exhaustively as possible both the problems and the potential solutions related to this very broad topic, without at the same time losing sight of the needs of legal practitioners and of those who must contribute towards legislation.

It is clear to me here that I am running the risk of repeating many matters already dealt with exhaustively in the course of the seminar so far, and that the specific questions on which you expect me to comment may not be covered until the discussion. On the other hand, as a German and a European, I naturally see the topic from the point of view of my continent, and hope that this reveals at least something which is new and interesting for you, and that I can perhaps provide new details and facets.

II. WHAT ACTUAL AND LEGAL PHENOMENA ARE WE DEALING WITH?

Undoubtedly money laundering is closely linked to organized crime. Actually, it is the area where organized crime can best be attacked and hurt. So, the primary goal in suppressing organized crime must be to optimise the siphoning off of the proceeds of crime. This is because crime, and organized crime in particular, depends on making major profits. According to estimates by the United Nations, the turnover of the worldwide illegal drug trade is much higher than that of the oil industry (some authors even speak of USD 1 trillion per year). Thus, organized crime is most vulnerable at this "nerve centre"; and conversely, any criminal law policy, however repressive it may be, is of little use unless it addresses the question of funding and flows of money. What is of particular importance here is to prevent "dirty" assets being disguised and converted into apparently "legal" money, being "washed white". The legal term that has entered into English usage is "money laundering" - which is by the way a term that sometimes causes difficulties when translated into the specialist legal terminology of other languages. [*e. g.*, *Chinese*].

Today, we are able to take as a basis a secure definition of the term "money laundering": This refers to the systematic disguising of illegal assets by smuggling them into the legal financial markets in order to remove them from access by the criminal prosecution organs and to retain their economic value. The simplest case can consist of cash or non-cash transfer of illegally obtained money - mostly cash, frequently in small monetary units. The more refined forms are shown by cross-border transactions and/or by transformation of illegal assets into "legal" company holdings, real estate, etc. Many authors distinguish between the first stage, the "placement stage", and the second, the "placement stage" where the money, once being in the "circuit", will be confusingly

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transferred hence and forth. (I will return later to the specific risks connected with electronic banking.)

Even if criminal law is always to be used only as a last resort, there is no doubt that measures embodied in criminal law must be the focus of the suppression of such grievous, menacing phenomena as money laundering. The primary measure targeting the suppression of money laundering must therefore be to criminalise disguising the origin of the proceeds of crime, as well as the third party acquisition, possession or use of articles obtained as a result of criminal offences.

Here, the first question to arise is (even if this may appear to you to be "typically German"): What is the legal interest protected by the element of the criminal offence targeting money laundering? Firstly, it is the state's administration of justice, and secondly it is the legal interest protected by the element of the criminal offence targeting the crime that preceded it, which is otherwise known as the "predicate offence". Some researchers feel that this is too narrow; they consider the interests to be protected by the element of the offence to be constituted by the legal economic and financial markets, or internal security as a whole. One German author ironically states that the legal interests protected are just "global interests" that cannot be defined more exactly; another holds that money laundering is just an "investigation concept commuted into a criminal offence". This uncertainty, which is unusual in criminal law, is connected to the highly preventive characteristic of the element of the offence that aims less to sanction the wrong done in the specific individual case than it aims to address the general, primarily preventive, impact of the suppression of general economic and social phenomena. To say it with another German author's words: Money laundering means a double strategy combining criminal punishment of an offender - *in personam* - with siphoning off of proceeds of crime - *in rem* - (I will return later to the preventive measures outside criminal law.)

What are the actions that must be threatened with punishment? Once more, a distinction must be made between two aims: Firstly, disguising articles resulting from specific predicate offences, disguising their origin through misleading activities, preventing or hindering the identification of their origin or their finding and confiscation. Secondly, criminal law means must be used to prevent third parties obtaining, storing or using such articles (for themselves or for others). Once more, we are in the border area of prevention since this alternative is intended to isolate offenders from their environment financially: If no one purchases the illegal proceeds from the offenders, and they are thereby prevented from employing them in genuine legal transactions, those profits become useless and valueless; the offence becomes "not worthwhile" for the offenders.

To what "articles" can such actions refer? To put it briefly: To all moveables and immoveables, as well as to rights and receivables. To be more specific: to money, either as cash or deposits, precious metals and stones, real estate, securities, receivables, shares in companies and other holdings. No limits are set to the (criminal) imagination.

These articles must originate from a suitable "predicate offence". It goes without saying that this must be a criminal offence; but not every criminal offence qualifies as predicate offence (although in international fora, there is a growing tendency towards recognition of the broadest possible concept, the "all crime principle").

Only those specific criminal offences that are typical of organized crime are relevant. The question of how these are to be described within the legal framework can be answered in a variety of ways: Parliament can enumerate all suitable predicate offences or categories of predicate offence in laws (thereby running the risk of needing to amend the law should new forms or fields of crime arise), or it may address the amount of the punishment imposable in abstract terms (with the dual risk of setting the threshold either too high, and omitting to cover some typical predicate offences, or too low, and wrongly covering some predicate offences that are atypical).

The best solution probably lies somewhere in the middle, meaning in a combination of abstractly encompassing all grievous criminal offences above a certain threshold of imposable punishment, individually supplemented by some predicate offences which are less grievous, but which are typical of organized crime. Criminological research has shown that typical predicate offences to money laundering are all property crimes, and in particular fraud, breach of trust, theft, blackmail, corruption, crimes committed on a commercial basis, the forging of documents, drug offences, smuggling, trafficking in human beings, "red-light" crime, computer and environmental crime, terrorism and membership of a criminal association (opinions are however divided as to the last two categories).

It has proven advantageous, especially in cases in which the participation of the money launderers in the predicate offence cannot be detected, to cover not only predicate offences committed by a third party, but also those committed by the money launderers themselves, what can be regarded as proof of the theory that, in fact, the laundering offence aims at criminalizing the predicate offence - the "front criminality" - rather than the laundering act as such. (If, however, the offender is sanctioned for the predicate offence, there will be no additional sanction for the laundering offence.) Because of the strong international connections in this area, there is a real need also to include predicate offences that have been committed abroad.

In practice, the main problem does not consist in proving the predicate offence as such, but in proving that the article "originates" from the predicate offence. In contrast to the classical element of the offence of fencing, the term "to originate" is to be given a broad interpretation so that the "chains" of exploitative activities, which are typical of money laundering, are also covered, i.e. activities where the original article is replaced by a second and then a third, etc., whilst retaining its value. As long as only the relationship to the original article is retained, each surrogate is to be involved; a border should only be drawn where an article is "transformed" by the separate performance of a third party, or if it was obtained in good faith. The question, which remains unresolved in most cases in the statutory provisions, is that of how one can proceed if a surrogate originates only partly from the unlawfully obtained asset.

Attempted money laundering should be punishable in the same manner as the completed crime. In addition to intentional commission, negligent, or at least reckless commission should be punishable, i.e. cases where the offender omits to recognise because of gross carelessness what should actually be obvious to anyone, namely that the article originates from a criminal offence. Practitioners repeatedly issue calls to go further, and to formally reverse the burden of proof, i.e. always to presume that the offender knew or should have known that the article originates from a criminal

act unless the offender proves the opposite. Such statutory evidentiary rules that place the accused at a disadvantage would naturally meet the needs of practitioners; however, they give rise to considerable problems, partly constitutional in nature, concerning their compatibility with the principle of guilt and the requirements of criminal proceedings based on the rule of law.

As money laundering constitutes serious criminality, the level of sanctions to be inflicted must be rather high (in Germany, there is a minimum sanction of 3 months of prison which theoretically excludes the application of fines and which - more important - means that a lot of procedural measures can be taken the use of which is limited to cases of serious crimes only.)

More important, and something to which offenders are frequently more vulnerable than to their punishment, is to deny them the benefits of the assets that they have acquired. Hence, the substantive law and processorial legal institutions that facilitate the seizure of such assets (and the important provisional measures like freezing and securing that precede it) is of central significance, some authors call this area the "third dimension of combating crime" - "crime must not pay"! Again we observe an important shift from measures "*in personam*" to measures "in rem", and it is not for nothing that a major part of the international regulations (which I will be describing later) concerns this area.

It is also practical to alleviate the punishment of anyone who voluntarily reports an offence that has not yet been detected and makes possible the confiscation of the article, or who by voluntarily disclosing their knowledge contributes to the detection of the offence or of another's contribution to the offence of (such alleviation, under certain preconditions, ranging up to waiving punishment) and to offer them an incentive to withdraw or to file a report by virtue of such regulations.

A problem that has been much discussed recently is the question of whether members of legal, tax and economic consulting professions (lawyers, notaries, tax auditors, auditors) should be able to fulfil the element of the offence of money laundering or whether, in the interest of the administration of justice, precedence is given to the highly-protected relationship of trust with their clients, especially since, at least according to academic studies that have been implemented in Germany, there are no indications in this respect of criminal policy activity being needed. I will be coming back to this question in the context of the EU directive.

As I have mentioned, there is a need for a series of non-criminal law measures in addition to criminal law measures. They pursue the aim of, firstly, preventing the commission of criminal offences of money laundering and, secondly, providing the criminal prosecution authorities with a means of suppressing money laundering:

What is needed for this purpose is to create a traceable "papertrail" to enable one to identify the join between the illegal and legal markets, thus enabling the criminal prosecution organs to reconstruct the financial flows and to access the centres of the organisations.

Firstly, therefore, financial institutions and other enterprises (e.g. financial service institutions, casinos, people in commerce, persons managing third party funds for a fee) must be obliged, when opening accounts and managing cash transactions greater than a certain amount, to require their clients to identify themselves, to record the individual transactions and to

make these records available to the competent authorities. Furthermore, they must be obliged to inform the criminal prosecution authorities when they have suspicions and in cases of transactions reaching a certain amount, and to interrupt the transaction until the authorities have taken a decision. Here, the interruption period must be long enough to allow a check, but also short enough not to place the legitimate interests of the enterprise at a disadvantage. Finally, special security and verification measures must be imposed on enterprises that can be particularly easily misused for the purposes of money laundering.

All these duties need in turn to be reinforced by means of criminal or at least administrative law sanctions.

III. WHAT REQUIREMENTS FOR NATIONAL CRIMINAL LAW EMERGE FROM THE TOOLS AVAILABLE UNDER INTERNATIONAL LAW?

I have already mentioned the fact that the areas of organized crime and money laundering are characterised by particularly strong international connections. Hence, it is appropriate in these areas for particular emphasis to be attached to drafting international legal instruments and implementing them in national legislation and practice. All major international and regional organisations have addressed this material, and have drafted tools that are worthy of note on the one hand because of their quality, and on the other because of their high degree of agreement.

A. United Nations

The efforts to create an obligation under international law to criminalise money laundering were launched by the United Nations. It is a pleasant duty for me to remind you of this at an event organized by an organisation belonging to the United Nations family.

The Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, accepted in Vienna on 20 December 1988, is concerned, as its name suggests, only with the area of drug offences. However, its Article 3 contains a duty to establish as criminal offences not only the illicit trade in drugs (para 1 (a)), but

- correctly recognising that drug trafficking, as well as organized crime as a whole, would be largely bereft of its economic basis if it were unable to launder its proceeds
- in accordance with para 1 (b) also for
  - "the conversion or transfer of property, knowing that such property is derived from any (drug offence), for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions" and
  - "the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from a (drug offence)".

This definition, accepted after lengthy, difficult negotiations, was intended, as I will explain later, to become the "mother" of all money laundering regulations drafted in the ensuing period in various international fora; it hence demonstrates a unique United Nations "success story".

It is appropriate to the abovementioned special significance attached to siphoning off the proceeds of crime and their surrogates in this area that a whole, extensive Article of the Convention (Art.

5) is devoted to the "confiscation of proceeds". It places an obligation on the Member States to make this possible under national law, and on request by a foreign state. Art. 6 et seqq. of the Convention contain obligations in the area of criminal law cooperation (extradition, mutual legal assistance, transfer of proceedings).

The "success story" of the United Nations in the area of the suppression of organized crime and money laundering does not end with the drafting of this Convention: The UN Convention against Transnational Organized Crime (with two Additional Protocols) was recently signed in Palermo, on 12 December 2000 - based on a Polish initiative - marking a further milestone on the path towards world-wide suppression of organized crime. Its area of application covers, on the one hand, a series of enumerated criminal offences, including money laundering, as well as all criminal offences that are transnational by nature and in respect of which a maximum penalty of four or more years may be imposed.

Article 6 of the Convention obliges the signatory states to the criminalize "the laundering of proceeds of crime"; it is based on the fundamental structure of the corresponding Article of the Drug Convention, and contains in para 2 detailed instructions on including a "widest range of predicate offences".

Article 7 of the Convention also provides for an obligation, outside criminal law, to take "measures to combat money-laundering", containing above all: a "comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering ... in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions".

In this Convention, too, the significance of siphoning off the proceeds and their surrogates is stressed in that three Articles (12 - 14) are devoted to "Confiscation and Seizure" - including international cooperation in this area. Article 16 et seqq. in turn contain regulations for criminal law cooperation.

B. Council of Europe

For the European region, but also for those states outside Europe that are able to accede to the "open" Conventions of the Council of Europe, the work of the Council of Europe in this area is as significant as that of the United Nations. You will not, I hope, therefore accuse me of "Eurocentrism" if I allot a similarly broad span of attention to this field.

The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime was opened for signature on 8 November 1990, following a Resolution adopted by the 15th Conference of the European Ministers of Justice (1986) stressing the need for "the formulation, in the light inter alia of the work of the United Nations, of international norms and standards to guarantee effective international cooperation between judicial (and, where necessary police) authorities as regards the detection, freezing and forfeiture of the proceeds of illicit drug trafficking. The Convention, however, goes far beyond this mandate by facilitating international cooperation with regard to all types of criminality, in particular those generating large profits.

For that purpose, the Convention provides a complete set of rules for international cooperation, including

securing evidence about instrumentalities and proceeds, freezing of bank accounts, seizure of property and similar provisional measures, and executing foreign confiscation orders.

The draftsmen of the Convention recognised that, in order to render these tools effective, the national substantive penal law systems which could realistically not be fully harmonised had at least to be put on an equal footing and that, in particular, the successful fight against serious criminality required the introduction of a laundering offence in states which had not already introduced such an offence. Article 6 of the Convention obliges Parties to criminalize money laundering under their domestic law. The catalogue of offences listed in paragraph 1 is mainly based on the UN Drug Convention of 1988. Paragraphs 2 and 3, however, go beyond the UN Convention by making it clear that the Convention is intended to cover extraterritorial predicate offences, and by also criminalizing negligent and other behaviour. The rest of the Convention mainly contains rules on international cooperation. A whole Chapter (Articles 13 through 17) is dedicated to confiscation.

For the past two years, the Council of Europe has been considering drawing up an **Additional Protocol** to the 1990 Convention in order to adapt it to the rapidly changing money laundering situation. This Protocol could, in particular:

(i) elaborate explicit provisions for asset-sharing arrangements, possibly also for exchanging information concerning the assets and lifting bank secrecy,
(ii) create a follow-up procedure supplementing the Convention by making it subject to periodic review and elaborating recommendations to facilitate its application and giving guidance to Parties in disputes arising out of its implementation,
(iii) create a clear, institutionalised, legally-binding multilateral mechanism for enabling the Financial Intelligence Units to cooperate with each other,
(iv) lower the standard of proof in respect of predicate offences,
(v) overcome legal differences between civil law-based forfeitures and criminal law-based confiscations,
(vi) limit the available grounds for refusal by eliminating harmful tax competition and restricting exceptions, such as the fiscal offence exception.

Whether, when and with what content an additional protocol will be drafted cannot be forecast at present.

C. European Union

In contrast to Council of Europe Conventions that create obligations only for the states acceding to them, directives of the European Union are binding on all EU States; they must be transposed into national law with no restrictions.

On 10 June 1991, the Council of the European Union issued Directive 91/308/EEC "on prevention of the use of the financial system for the purpose of money laundering". Its preamble starts by stating that, when credit and financial institutions are used to launder proceeds from criminal activities, the soundness and stability of the institution concerned and confidence in the financial system as a whole could be seriously jeopardized, thereby losing the trust of the public, and that therefore coordinated measures at Community level are necessary. As money laundering is usually carried out in an international

context, measures had to be adopted at an international level as well.

Article 2 of the Directive obliges Member States to ensure that money laundering, as defined in Article 1, is prohibited. Articles 3 through 12 concentrate on preventive and administrative measures to be taken by credit and financial institutions. They must in particular:

(i) require identification of their customers when entering into business relations or conducting transactions,
(ii) keep for at least five years copies or references of the identification documents and the documents relating to transactions,
(iii) examine with special attention certain suspicious transactions,
(iv) make records of examinations available to the competent authorities,
(v) report suspicious transactions notwithstanding banking secrecy,
(vi) establish procedures of internal control and training.

Article 12 of the Directive obliges Member States to ensure that its provisions are extended to other professions and categories of undertakings that engage in activities that are particularly likely to be used for money-laundering purposes. In order to fulfil this mandate, the Council recently (November 2000) adopted a Common position with a view to the adoption of a Directive amending the 1991 Directive.

The text approved by the Council is intended, firstly, to expand the list of predicate offences to money laundering. Secondly, the obligations from the 1991 directive are to be expanded to cover further financial institutions and professional groups. It is primarily noticeable and politically disputed because it is intended not only to include real estate and precious metal agents and casino operators, but also lawyers, notaries, accounting experts and balance sheet auditors. The Federal Government, which had pleaded to remove the legal consulting professions as a whole from the area of application of the directive because of the abovementioned fundamental reservations - that is, concerning collision with the relationship of trust between a lawyer and his/her client, was successful to a degree, in that it was possible to remove out-of-court legal advice ("ascertaining the legal position of their client") from the obligation to report suspicion for legal and economic consulting professions.

The "Common position" is now before the European Parliament for a decision; it remains to be seen whether it will insist on amendments being made to the text. Other EU instruments related to money laundering I will not treat in detail here are the following:

(i) Second Protocol to the Convention on the Protection of the European Communities' Financial Interests dated 19.6.97
(ii) Action Plan of the EU heads of state and government to combat organized crime dated 15.8.97 (exchange of information between EU States)
(iii) Joint Action dated 3.12.98, 98(699/JI) and connected Framework Decision (aiming in particular at reaching better and faster mutual assistance in confiscation matters, as well as advanced training of law enforcement officials in the area of confiscation of proceeds of crime)
(iv) Draft Framework Decision on money laundering, etc.
(v) EU Mutual Assistance Convention

D "G 7 / G 8" States' Co-operation / "Financial Action Task Force on Money Laundering" (FATF)

The "G 7" group of states deserve to be emphasised at this event because they form a link between the European region, from which I come, and your region. In 1989 at its Paris summit, it set up a Financial Action Task Force on Money Laundering (FATF) that submitted a list of 40 recommendations in 1990. This list was revised in 1996; its update is currently being examined.

The list is accompanied by useful interpretative notes, it may be regarded as one of the most complete and distinct inventories of repressive and preventive items aiming at combating money laundering, containing in particular:

(i) legal measures in the field of criminal law (criminalization, extension of criminal liability, confiscation, identification, tracing, freezing and seizing, of proceeds of crime, criminal procedural law, banking secrecy law),
(ii) rules on the role of the financial system, such as duties to customer identification, keeping, maintaining and making records available to competent authorities, paying attention to new technologies, applying increased diligence in cases of complex, unusual and suspicious transactions, developing internal policies and training programmes against money laundering,
(iii) measures to cope with the problem of countries with insufficient anti-money laundering measures,
(iv) other measures, such as detecting or monitoring the physical cross-border transportation of cash etc.,
(v) rules on the role of regulatory and other administrative authorities,
(vi) and last, but not least, the duty to broaden, strengthen and simplify international co-operation in the administrative and criminal law areas, displaying a detailed catalogue of mutual assistance measures, starting from classical tools like extradition and not ending with modern and sophisticated ones like those aiming at avoiding conflicts of jurisdiction and asset-sharing.

The establishment of Contact Points between FATF states, via which a regular exchange of information is carried out, has proven to be of particular value. By evaluating a questionnaire campaign, a comprehensive compendium of the law and practice of the individual states was drawn up, providing a unique service to practitioners.

The G 7 summits in Birmingham and Cologne appointed the FATF to address the topic of "offshore centres / non-cooperative jurisdictions". Certain offshore areas (there are still more than 80 such oases) are especially attractive to money launderers and endanger the efforts of those states that recognise and implement the international standards, in some cases hindering the world-wide suppression of money laundering. Permit me to insert, word-for-word, a quote from the communiqué of a G 7/G 8 summit (Moscow, October 1999) in order to describe the problem:

"Jurisdictions with inadequate financial regulation and supervision, as well as excessive bank and corporate secrecy, play a significant role in laundering the proceeds of serious crime. A number of jurisdictions are also characterized by the absence of compulsory financial supervision over the activity of banks and

other providers of financial services, and by the absence of obligations on rendering international legal assistance in the seizure and confiscation of the proceeds of illegal origin. This allows criminal groups to create and make use of offshore financial institutions, trusts, shell companies, and nominee accounts to hide the identity of the beneficial owners for the purpose of laundering the proceeds of crime. These practices should not be allowed to continue."

In a first step, the FATF 25 drafted characteristics by which to identify non-cooperative jurisdictions, and is currently concerned with identifying such jurisdictions, and where appropriate with enacting suitable sanctions against them.

IV. HOW AND HOW SUCCESSFULLY HAS GERMAN LAW IMPLEMENTED THE INTERNATIONAL REQUIREMENTS?

In 1992, the Federal Republic of Germany inserted a separate element of the criminal offence of money laundering (section 261 Criminal Code [StGB]) into its Criminal Code, which has been expanded several times since then (mainly in its list of predicate offences, which covers in addition to all major crimes, a list of minor crimes which have a special relation to organized crime). As mentioned above, certain instruments under the General Part of the Criminal Code are equally important for combating money laundering. Here, German law has created new and more effective types of confiscation measures.

For the non-criminal law area, in 1993 the Money Laundering Act (Geldwäeschegesetz - GWG) was adopted (and amended in 1998); in particular the Act defines duties to require identification and report suspicion for financial transactions by specific enterprises (bureaux de change were later included here). The duty to require identification is concerned with amounts from DM 30,000 upwards (previously DM 20,000). The obligation to report suspicion can also apply to smaller amounts.

In 1998, amongst other things securing suspicious amounts of money in criminal proceedings was made easier, and it was ensured that financial authorities are informed as early as possible of information that is of fiscal relevance. Furthermore, cash checks were carried out on crossing borders.

In order to avoid repetitions, I would like to refer in other respects to the general information that I provided at the beginning, in which in each case I took German law as a basis, and from which you can therefore obtain the gist of the German provisions.

From 1994 to 1999, German police crime statistics show an increase in the number of cases investigated by the police in accordance with section 261 of the Criminal Code from 198 to 481 annually; in accordance with the court criminal prosecution statistics, 25 persons were convicted in 1998 because of violations of section 261 of the Criminal Code (cases are not included here, however, in which a sentence was also handed down in respect of an element of an offence for which a higher punishment was imposable). Assets were secured in 1999 worth roughly DM 50 million. Approximately the same amount is accounted for by additional tax revenue based on tax investigations in cases related to money laundering.

These figures appear to be disappointingly low in a country with 80 million inhabitants and a highly-developed

economy, in a country in which according to a plausible estimate the Italian Mafia alone has invested DM 70 billion in Eastern Germany in the ten years following German Reunification. (In fact, the "Reunification criminality" has unfortunately proved to be one of the most important features of organized crime in Germany during the last ten years.) Thus, the obvious conclusion to reach is that there is a gross disproportion between the legislative and practical effort and the efficiency of the measures.

On the other hand, we need to recognise that weighing up effort and proceeds in this area is highly problematic because of the large number of measurement criteria and the database, which of necessity is riddled with gaps. This also applies to the evaluation of suspicion reports submitted by the financial institutions: Whilst it is true that suspicion only became concrete in 7 % of cases regarding the element of the criminal offence of money laundering, it must be regarded as a success that links with existing knowledge held by the criminal prosecution authorities is revealed in 2/3 of all cases of suspicion that are reported, and that additional knowledge of groups of offenders, basic crimes and money laundering activities was obtained and that in 1/4 of cases. Finally, it must be pointed out once more that much of the success of money laundering suppression measures lies in the preventive area, and that it hence cannot be quantified.

However, it is necessary at the same time to admit that the efficiency of the regulations can still be improved. Since one of the main problems is said to lie in confirming suspicion and providing evidence, a central file of suspicion reports has now been created at the Federal Criminal Police Office (BKA) in order to gain information on structures spanning more than one case. (The problem is rooted in Germany's federal structure, the consequence of which is that suspicion reports are accepted and evaluated not at Federal level, but at Land level.)

Since, as I have already mentioned several times, in the set of legal tools for the seizure of articles concerned with crimes and of their proceeds is particularly significant, efforts are being made in order to increase efficiency here. Project groups that have been formed at Land level, in which specially-trained investigators advise criminal prosecutors, have already led to a considerable increase in the application of mechanisms for the siphoning off of proceeds (just one examples: the new Financial Investigation Units in two of the 16 German Läender alone have confiscated values of more than 50 millions of $ in 1998), this being fresh proof of the theory that, sometimes, thorough basic and further training of persons acting is more effective than tightening the statutory provisions.

It is unlikely that Germany will be able in future to avoid making amendments to the legal provisions altogether. The abovementioned amendments to the provisions in the context of the European Union could lead to a new need for transposition - be it in the area of the list of predicate offences, or be it in the area of the group of offenders addressed. However, other developments might also require legislative measures (it is only necessary to offer as an example the increased use of the Internet for economic transactions) - a development that has already led to the sceptic question by some authors whether, under the conditions of the new electronic age, the criminalization of money laundering still makes sense at all. Another smaller example: There could be a new need for action (but probably not for Parliament) on the basis of new incentives and opportunities to commit crimes in

connection with the introduction of the EURO.

In any case, Parliament and the administration should make efforts to avoid actionism, to restrict its encroachment to a level of what is absolutely indispensable, and also always to include in the "cost-benefit analysis" the burdens imposed by the new regulations on the non-criminal part of the population and on the economy.

V. CLOSING WORDS - ON INTERNATIONAL COOPERATION

I have already mentioned that, in light of the material, primarily concerned as it is with overcoming cross-border crime, the creation of duties to criminalise and to harmonise or approximate substantive criminal law or other law is only one side of the coin of all international tools, even though it is an important one. These tools are accompanied by provisions aiming at optimising international cooperation, which are at least equally important.

Here we find the greatest potential for optimising the world-wide suppression of money laundering: It is a matter of applying the classical tools of extradition and legal assistance as broadly as possible, i.e. especially in foregoing as far as possible the lengthy, bureaucratic procedures and grounds for refusal, which in some cases still reflect ideas of sovereignty that belong in the Middle Ages.

Above all, there is a need to implement and apply the new legal assistance tools for the cross-border "searching, seizing, freezing and confiscating of assets" that have been developed over the past few years - especially by the new Conventions that I have presented. Until these tools have found their way into the legislation of all states and have been internalised by the practitioners who must apply them, the bitter motto with which the author once described the suppression of international crime will remain valid: The criminals are travelling in supersonic aircraft, whilst the criminal prosecution organs are chasing them in a post coach and have to stop at each national border. I would like to ask all of you to contribute in your own workplaces and by your own efforts to soon making this situation truly a thing of the past.