

# CHAPTER 1

## TAKING ACTION AGAINST MONEY LAUNDERING

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The issues of money laundering and underlying criminal activities, including the financing of terrorism, are real, as they affect our day-to-day socio-economic and political lives across the whole region. In fact, both of these things pose a threat to the quality and substance of our physical, social and economic well-being.

This publication, as part of the fight against money laundering, comes at a time when there are increased demands for review of the economic and commercial relationship between developed and developing countries, as the levels of poverty in the latter continue to worsen. It also comes at a time when there is perceived growth of organised crime, and a noticeable increase in the incidence of terrorist activities.

As we all know, 'money laundering' refers to the processing of criminal proceeds in order to disguise their illegal origin. The problems that stem from money laundering apply regardless of the type of underlying criminality. Money laundering comes in all forms and shapes. You have to recognise it early on. Dirty money is most visible when it is first introduced into the financial system. Once it is already in the system, it is more difficult to identify. An analogy would be the introduction of a drop of ink into a glass full of water.

While it is difficult to be sure exactly how large the problem is in the regional context, all recent estimates suggest that it involves billions of dollars annually. The Financial Action Task Force on Money Laundering (FATF) estimates the extent of global money laundering at two to five percent of world economic output. The interim findings of the ISS research project suggest a significantly large scale of money laundering in the ESAAMLG region (around US\$22 billion in 1998). We have yet to hear the final figures arrived at by the researchers.

I believe it would be in order to briefly recount some of the significant reasons why it is important to effectively fight money laundering and the financing of terrorism.

We all know that 'profit' (or the quick buck) is the prime motive of all serious crime. Money is also an effective tool for all serious organised crime, including terrorism. Failure to prevent money laundering and the financing of terrorism will allow criminals and terrorist organisations to further carry out their activities.

The events of September 11 2001 in the US emphasise, more than ever, the need for all nations to work together to implement effective measures against serious crimes such as money laundering and the financing of terrorism, and to prevent the misuse of the national and international financial system by such criminals. The recent killing of about 200 foreign tourists and the injuring of more than 300 others at the Indonesian resort of Bali should leave no doubt that no place in the world is now safe from terrorists acts.

The proceeds of serious crime have to be traced and prevented from falling into the hands of criminals and terrorists in order to deal a serious blow to the power of the enemies of humanity, thus reducing their ability to act. We must, therefore, stop money laundering and the financing of terrorism if we want to stop serious crime and global terrorism.

Money laundering has serious consequences if allowed to occur without preventive action being taken. The integrity of financial markets depends heavily on both the reality and perception that high legal, professional and ethical standards apply. If the proceeds of crime are laundered through a financial institution, or employees of the institution are corrupt or turn a blind eye to the criminal origin of funds, the reputation of the institution will be seriously damaged. This could affect the willingness of law-abiding customers and other institutions to deal with that institution, and could also affect the market as a whole.

Let me also caution our citizens about another form of money laundering, which can aptly be referred to as willful blindness. This arises when people, aware that a situation should be investigated, do not follow through, for fear of facing reality. For example, a salesperson has a customer who wants to buy a car for E100,000 (about US\$12 000). The customer produces a gym bag with

€100,000 in €20, €50 and €100 bills. Although this is unusual, and the salesperson's suspicion is aroused, the opportunity for a quick sale and hefty commission silences any questions that should be asked. By ignoring the key indicators of money laundering, an individual may have directly participated in such a scheme through willful blindness.

There are potentially serious negative economic consequences for a country and its government if it appears to allow itself to be used by money launderers. Studies conducted by the IMF have shown that money laundering can lead to inexplicable changes in money demand, increased prudential risks to the safety and soundness of the banking sector, a contaminating effect on legal financial transactions, and increased volatility of international capital flows and exchange rates. It can also lead to reduced levels of foreign direct investment if the country's commercial sectors are perceived to be subject to the control and influence of organised criminal syndicates.

There are also significant social costs if efforts are not made to counter money laundering. Money laundering, organised crime and economic crime are often integrally linked, and criminal organisations will use their profits to infiltrate or acquire control of legitimate businesses, and to bribe individuals and even governments. Over time, this can seriously weaken the moral and ethical fabric and standards of society, and damage the principles underlying democracy. One cannot rule out the possibility of criminals installing puppet governments by deploying the proceeds of crime to rig and win elections.

In today's open and global financial world, characterised by rapid mobility of funds and the introduction of new payment technologies, the fight against money laundering needs to be globally coordinated in a comprehensive manner. Money launderers seek the weak links in the chain, and the consequences for developing economies like ours can be extremely detrimental. Confronting the menace of money laundering becomes even more challenging in our region, with its largely cash-based economies, its less developed and loosely regulated financial, business and intermediary sectors, its underground banking or money-remitting services, and the gaps in its legal and law enforcement infrastructures and operational capacities.

Money laundering is something that can only be fully addressed on an international scale. Criminals operating without regard to national boundaries will always try to exploit the weaker links in the anti-money laundering chain.

Thus, countries and institutions which have not yet put into place the necessary protective measures may find themselves attracting the sort of businesses that prudentially regulated financial centres have turned away.

Seriously addressing these gaps to contain the adverse impact of money laundering is no longer an option for us, but a real necessity. We cannot afford to ignore or sideline these daunting issues without suffering the resultant consequences.

I would like to briefly share with you the ground we have been able to cover in the past three years of ESAAMLG's existence and the important tasks and challenges that lie ahead.

Our operating strategy involves a work programme that is reviewed and revised by the Council of Ministers as is deemed necessary. The first tasks of the group were as follows:

- setting up a register of national contact persons responsible for co-ordinating initiatives against money laundering and the financing of terrorism among stakeholders (legal, financial and law enforcement agencies);
- updating information on member countries' anti-money laundering (AML) systems and controls;
- completing self-assessment questionnaires on the 40 FATF recommendations on money laundering and the additional eight special recommendations on combating the financing of terrorism (CFT);
- collecting all national laws of member countries relevant to the AML effort;
- establishing standing subgroups on legal, law enforcement and financial issues;
- developing an internet website to publish information on AML within the group;
- developing links with local universities and research institutions;
- identifying research areas in AML/CFT;
- setting national targets on AML/CFT activities, with time frames; and
- co-ordinating technical assistance for the group.

In August 2002, the Council met and set the following targets for the year ahead:

- Complete the collection of the anti-money laundering laws and regulations for all members of the group and make them available in electronic form; review the laws and regulations to establish any gaps and develop a programme to consolidate them into comprehensive AML regimes for all jurisdictions.
- Complete the self-assessment forms for all members of the group and prepare reports for consideration by the Task Force and Council. The result of the self-assessment will form the input for initiating a process of mutual evaluation.
- Develop a programme of mutual evaluation, including selection and training of mutual evaluators; set the roster for mutual evaluation of all members; complete the mutual evaluation of two volunteer countries and prepare a report for consideration by the Council of Ministers.
- Initiate work of the regional legal, financial and law enforcement standing subgroups; form the subgroups and appoint their members; instruct the groups to hold their first meetings and report to the March 2003 Task Force meeting.
- Complete the signing of the MOU by those countries that have not signed, and collect contributions from all members.
- Launch the ESAAMLG quarterly newsletter in both hard and electronic form.
- Develop a profile of the training and technical assistance needs of member countries.
- Make the combating of financing of terrorism a permanent part of the agenda of the ESAAMLG.

To a very large extent, all the issues in the work programme have been implemented with varying degrees of success. Some of the issues in the programme are recurrent and those that had definite timeframes have been accomplished according to the timetables. The website has finally been launched and can be viewed at [www.esaamlg.org](http://www.esaamlg.org). The Secretariat is now on the internet and some of this dialogue information was shared by e-mail. The most interesting development, in our view, was our interaction with the ISS, which is doing research on money laundering in the SADC region. The ISS and the funding agency

NORAD have kindly agreed to include Kenya and Uganda (non-SADC countries) in their research and share the results with us. NORAD has also agreed to fund an additional study on money laundering typologies as part of the same research project, in order to tie in with our mandate, for which we thank both the ISS and NORAD most heartily. The Secretariat is also in touch with the Rand Afrikaans University and has found some of the work done there on money-laundering typologies in South Africa very interesting.

The Secretariat has had very good co-operation from donors, supporters and co-operating nations.

The challenges ahead of us are many but my hope is that we shall be able to resolve all or some of them. The challenges include the following:

- We need to raise awareness on AML/CFT among the politicians, legislators and the broad masses, and not just among the technocrats.
- We need more comprehensive laws on ML/CFT, as part of the same legislation, if possible.
- We need uniform regulations on ML/CFT.
- We have to strengthen the capacity of institutions other than banks that are regulated/designated for AML/CFT purposes.
- Payment systems in the region must be modernised to reduce the role of cash in transactions by developing alternative instruments.
- With enabling legislation we need to establish financial intelligence units to collect information on AML/CFT, analyse it, and pass it on to law enforcement for action.
- There is a need to develop a mechanism for the monitoring and reporting of suspicious transactions.
- Training and capacity building in the areas of law enforcement, finance and justice must be encouraged.
- International co-operation must be enhanced.

I hope I have been able to add my voice to a long and complex agenda of issues in the region. The seminar comes near the end of a study of the nature and scope of money laundering in most of the member countries of the region. The main objective of the seminar is to highlight and discuss the findings.

The study should go further than that. It is easy to identify the problems arising from and connected to money laundering. It is, however, more useful to think of ways of resolving these problems. It is therefore envisaged that out of the study and the seminar will emerge recommendations to assist the relevant functionaries in overcoming the various challenges that have been identified in this address. Our researchers may take up some of the issues and raise some policy and operational issues necessary for protection of our jurisdictions from abuse by money launderers and terrorist financiers, especially those from more advanced countries, where there are better legal and regulatory regimes. My real worry is that criminals will seek to avoid these and come to hide in our unprotected regimes.