

# CHAPTER 8

## MONEY LAUNDERING CONTROL IN SOUTHERN AFRICA

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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 sub-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...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.<sup>1</sup>

### **Introduction**

The statement above, made by the Honourable Majozi Sithole, Minister of Finance for Swaziland and President of the Council of Ministers of the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG), in a keynote address to the seminar on money laundering trends, summarises the emerging

perception of the challenge that money laundering control raises in the sub-region. While emphasising that it is no longer open to any economy in the world to turn a blind eye to, or encourage, money laundering, the Minister gave some indication of the approach to combating money laundering. Resorting to stringent regulation through legislation appears to be the common thread linking the more tangible responses. Inevitably, many variations, in terms of structure and detail, will be evident in legislative infrastructure dedicated to the objective.

This chapter sets out a broad overview of the nature of the problems that have prompted some of the visible responses. It explores the dimensions and key characteristics of money laundering trends in the sub-region.

## **The key challenges for money laundering control**

The most basic measure in combating money laundering is criminalisation. Developments in the international sphere, and in the sub-regional economic fabric, have rendered it almost obligatory to impose criminal sanctions on money laundering as a primary and not just a derivative offence.<sup>2</sup> It is, however, one thing to proscribe the activity, but quite another to create a viable enforcement system to give practical effect to such a measure. At the outset of establishing a regulatory regime, it is important to identify the core institutions on which to impose the onerous responsibility of detecting and combating money laundering. Recently adopted legislation in South Africa, for instance has tabulated 19 kinds of institutions.<sup>3</sup> It is anticipated that each institution will experience its own compliance challenges.

As that process occurs, it is also important to have a sense of the context in which these institutions operate, in order to determine their prospects for effectively discharging the new responsibilities while retaining viability. It is important to avoid setting up a system hamstrung by internal antagonisms.

Stretching from South Africa in the south to the Democratic Republic of Congo (DRC) in the north, and from Angola in the west to the island of Mauritius in the east, Southern Africa is a vast area of diverse economies at varying levels of development and sophistication. This chapter traverses developments in the Southern African member states of the ESAAMLG, namely Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Swaziland, Zambia and Zimbabwe. As the sub-region proceeds at a gingerly

pace towards a measure of harmonisation at multiple levels, the challenges emanating partly from the different stages of development come into sharp relief. It might be crucial to be aware of the most enduring of these challenges, as they will have a bearing on the effectiveness of the relatively new laws against money laundering.

### ***Money laundering trends***

A detailed exposition of the incidence of money laundering activities in Southern Africa is not yet feasible. The overview of the situation at this stage is based on anecdotal, rather than empirical data. To consider the patterns of money laundering within Southern Africa, one needs to view money laundering in its various dimensions. Three dimensions are evident:

- **internal money laundering**, characterised by the laundering of proceeds of, or assets derived from, crime within the country where the crime was committed;
- **incoming money laundering**, in which the proceeds or assets laundered are derived from crimes committed outside the country, and thereafter introduced into the country; and
- **outgoing money laundering**, wherein the proceeds of crimes committed within the country are laundered through exportation (to one or more countries).

Placement can occur in any of the three varieties of laundering. So can layering and integration of the laundered assets. It is clear that in the case of internal laundering, all three phases would occur in the same jurisdiction. Where laundering is incoming, the assets may have been kept out of the formal institutions until their introduction into the jurisdiction in which placement is to occur. The same could apply to outgoing laundering. Subsequent to acquisition of the proceeds of crime, the launderer may conceal them, with a view to smuggling them to a foreign jurisdiction. The concealment *per se* constitutes laundering, even though it precedes placement in any financial or commercial system.

#### *Internal money laundering*

The clandestine nature of money laundering makes it difficult to obtain accurate statistics on its scale and frequency. Commentators tend to rely on indicators and anecdotal evidence to draw conclusions about the incidence of laun-

dering. Some of the indicators identified include the extent of organised economic crime recorded by law enforcement authorities, the proceeds thereof, the proportion of the proceeds likely to be laundered, and where laundering is likely to take place. To these factors may be added the number of suspicious transactions identified by financial institutions (where such institutions exist), the prosecutions for money laundering activities and forfeitures of the proceeds of criminal activities, and trends in trade and the flow of funds.<sup>4</sup> The nature and incidence of organised economic crime are of particular utility, insofar as they highlight sources of proceeds to be laundered. The crime-economic simulation developed by Walker in 1995 appears to offer the most reliable methodology to estimate the magnitude of money laundering at national, regional and global levels.<sup>5</sup>

Drug trafficking is identified most readily with money laundering virtually everywhere in the sub-region. *Dagga* (marijuana) and mandrax (methaqualone) sales tend to feature prominently among the sources of illegal funds, but these narcotics are by no means the only ones familiar to crime syndicates. Significant sums are also generated from sales of cocaine, heroin and ecstasy. The drug industry is known to influence trends in 'downstream' crimes, notably motor vehicle theft, housebreaking and armed robbery. As it is an industry which involves a range of participants, it is necessary to identify the important role players for the purposes of money laundering. Studies of the *dagga* market in South Africa have identified a chain of entrepreneurs which includes small (subsistence) farmers, transporters, wholesalers, retailers, vendors (some operating off the street) and exporters. It appears that in the market chain:

the wholesaler makes the most money. Although his mark up (sic) is less than that of the retailer, the quantities in which he deals are much larger. Most poorly paid are the producer and the street dealer, who work for subsistence-level income. At no point in the domestic market chain is much money made, however, as the market is too diffuse and the unit cost too small. The real market is in export.<sup>6</sup>

Wholesalers are therefore best positioned to participate in significant money laundering from local *dagga* sales.

At its profitable levels, drug trafficking is cash intensive. Drug dealers usually rely on cash as a primary medium of exchange. Drug traffickers accumulate huge amounts of cash that must be hidden and converted to avoid detection of drug activity. They share at least three characteristics across the sub-region:

- they need to conceal the origins and often the ownership of the money;
- they need to control the money; and
- they need to change the form of the money.

Money laundering is therefore an attractive option. In Malawi, drug trafficking shows no significant decline. *Dagga*, technically referred to as 'Indian hemp', is mainly grown in the northern part of Malawi around the town of Nkhotakota. From Nkhotakota the drug is transported to the cities of Blantyre and Lilongwe. Some of it is sold there, and the funds are used to purchase basic and luxury commodities. Much of it, however, is exported to foreign jurisdictions, mainly Zimbabwe, Namibia and South Africa, for sale.

The drug market in South Africa is the largest in the sub-region. At the end of June 2002, two 'busts', in Douglasdale, north of Johannesburg, and in Roodepoort on the West Rand, yielded massive seizures of *dagga*, cocaine, ecstasy, mandrax, and chemicals for the manufacture of mandrax. The haul was valued at R2.7 billion (US\$270 million). More than 100 syndicates are known to be active in the drug trafficking industry in South Africa. It appears that most launder their assets locally, in the acquisition of motor vehicles, legitimate businesses and front companies, and residential properties. Asset seizures during the past twelve months give an indication of the scale of laundering of drug money. In June 2002, the Asset Forfeiture Unit of the National Prosecuting Authority reported that of the 150 cases in which assets had been seized,<sup>7</sup> 31% involved drug trafficking.

Drug merchants also use legitimate bank accounts of family members or third parties to de-link proceeds from underlying illegalities. In some schemes this is done with the connivance of the family member or third party, who allows the criminal to deposit and withdraw money from his or her account. In South Africa, the Centre for the Study of Economic Crime found that:<sup>8</sup>

Criminals sometimes deposit money into their own bank accounts, but more sophisticated criminals will often open accounts with false identification documentation or will open these in the names of front companies or trusts. There is also a trend of using legitimate bank accounts of family members or third parties. An arrangement would be made with a family member who will allow the criminal to deposit and withdraw money from his or her account. In subsequent investigations, the family member will invariably plead ignorance of the true nature of the funds that were deposited.

Zambia's Drug Enforcement Commission has recorded instances of drug traffickers who use fictitious identity documents, or the identity particulars of third parties without their consent, to open and operate bank accounts. The accounts can subsequently be used to fund further crime, or as repositories of funds for outward laundering.<sup>9</sup>

Drug traffickers also use business entities, notably shell companies and front companies, to legitimise dealings in illicitly obtained funds. Shell companies are distinct from front companies in that they do not trade, but they can be used to open and operate accounts with financial institutions, such as banks and insurance houses. In the sub-region, it is relatively easy to incorporate a shell company. In South Africa, the cost is as little as R450. Front companies, on the other hand, are identifiable trading concerns, used as a medium through which to infuse criminal proceeds into the financial system. They are frequently companies operating cash-based outlets such as *shebeens*, restaurants, cash loan businesses, and cellphone shops. In Namibia, South Africa and Zambia, commuter transportation fleets are a particular favourite.

The inclination of retail businesses in many countries to conduct transactions in cash facilitates the local laundering of funds. It is convenient for criminals to purchase commodities without fear that the source of the cash will be detected. Large amounts of cash, some of which are derived from drug trafficking, regularly change hands in the commercial districts of Mozambique and Zimbabwe. The advent of hyperinflation in Zimbabwe exacerbates the vulnerability of commerce to money laundering. Retailers involved in evading tax, for instance, are unlikely to report retail transactions involving tainted funds. It has been observed that retailers in Malawi generally do not issue receipts.<sup>10</sup>

Investment in motor vehicles is a common avenue for laundering illicit funds. Dealers in this industry in most of Southern Africa do not have to report any transaction to the police or anyone else, even when the source of the funds may be suspect. Any individual can buy a motor vehicle from a dealer with cash, whether legitimately or illegitimately acquired. In some cases, no identity particulars are required in motor vehicle purchasing,<sup>11</sup> which makes it possible to buy a vehicle under a fictitious name. Several motor vehicle dealers are not aware of what money laundering entails. Although figures are not available at this stage, it is probable that a significant proportion of motor vehicle sales in the sub-region involve dirty money.

#### **ARMED ROBBERY PROCEEDS**

Armed robbery is both a crime of violence and a serious economic crime, and it is frequently lucrative. It occurs with disturbing regularity in South Africa, but

in general it afflicts most countries in Southern Africa. Motor vehicles and cash account for the bulk of commodities stolen in armed robberies. Stolen motor vehicles have long been regarded in sub-regional criminal circles as an important form of currency, to be used to pay for other goods or exchanged for cash. Most of the vehicles are stolen in South Africa. Interpol statistics indicate that in 2001, between 96% and 98.7% of all vehicles stolen in the sub-region were stolen in South Africa.<sup>12</sup>

Some of the stolen vehicles are sold to people involved in supplying the domestic market, where they are re-registered and sold. However, since the mid-1980s an increasing number of these vehicles have crossed South African borders into neighbouring states, often to be exchanged for other illegal goods, such as *dagga*, firearms, or diamonds.

As with motor vehicle robbery, most of the armed robberies of cash-in-transit in the sub-region are committed in South Africa by relatively well-trained groups who have access to weaponry, including automatic firearms. Between 1996 and 1998, armed robbers seized more than R150 million (US\$15 million) in 854 violent cash-in-transit attacks.<sup>13</sup>

Evidence from other parts of sub-Saharan Africa shows that robbers find real estate particularly attractive. In Kenya, they usually buy real estate in downmarket Nairobi or in small towns on the outskirts of the city, avoiding investing in upmarket property in Nairobi, which might make them conspicuous. Typically, property is bought in the name of a female companion. If the property is residential, the companion might reside there; if not, she might be asked to manage it. One of the most notorious armed robbers in the history of Kenya held himself out to be a real estate developer in a small township 150 kilometres from Nairobi, where he had developed a complex of high-rise properties.

In addition, or as an alternative, robbers will establish retail businesses that generate a lot of cash. Popular businesses include bars, butcheries and dry-cleaning establishments, but by far the most favoured business enterprise among robbers is passenger transport, popularly called the *matatu* business.

#### **CURRENCY SPECULATION**

The exploitation of fluctuations in the availability, and consequently, value, of foreign currency has become a major source of income in parts of the sub-region afflicted by shortages. Illicit currency speculation has been rampant in Zimbabwe almost continuously since 1997. Its incidence in that country illus-

trates how what commences as a series of sporadic transactions for subsistence purposes can quickly become a species of syndicated economic crime.

Currency speculators range from street traders to bank officials to senior public officials, including government ministers. Part of the reason for the 'currency rush' is the vast disparity between the stipulated, lawful but artificial, rate at which the Zimbabwe dollar should trade and the real market rate. The example below highlights the potential of relatively simple transactions to generate large amounts of money. It encapsulates the operations of street currency traders in the city of Bulawayo, who claimed that the foreign currency in which they dealt was from local sources. Their experience is typical, and can be extrapolated to similarly placed traders in other centres.

### **Example 1: Informal currency trading<sup>14</sup>**

Foreign currency street traders use their personal savings to buy the South African rand, the Botswana pula, the British pound sterling and the United States dollar — the most popular currencies — which they sell to individuals, banks and companies in need of the scarce commodity.

The dealers position themselves on street corners to conduct their (illegal) transactions, but say business has been hit by a crackdown by police on illegal money changing in the past few weeks.

Many now engage sentries at various points of the city to look out for the police.

The foreign currency dealers quickly disappear each time the sentries alert them of suspicious people who might be plainclothes policemen. Making handsome profits through the illegal trade, however, seems quite easy for most of them. They buy the foreign currency at a cheaper rate and sell it at exorbitant rates to foreign currency-starved banks and companies.

"Apart from employing sentries, most of us now dress like shoppers in town to evade the police," Angie (a street trader) said. "But it is back-firing because they now know the trick."

If caught, the illegal foreign currency peddlers like Angie are fined Z\$500 (US\$10) on the spot but could face much stiffer sentences under the Exchange Control Act.

Police in Bulawayo denied that any of their officers could be taking bribes, as alleged by some of the moneychangers, to allow the illegal transactions of foreign currency. "Any member of the public who has paid anything to the police is free to report," said a police spokesman. "It is a crime for a police officer to take a bribe. Those who have done so in the past have been dealt with according to the laws."

Thembi, another dealer along the bustling Fort Street, said some of her colleagues had become instant millionaires because of the flourishing foreign currency exchange market.

"When the rates went mad about three weeks ago, most of the women made millions," she said, barely concealing her smile.

"The business is so lucrative that we don't mind being harassed by the police," said Thembi, one of the energetic women who sprint up and down to every car with foreign number plates driving along Fort Street.

Earlier this week, the dealers were buying the rand for \$55 and selling it for as much as \$70. They bought the Botswana pula for \$85 and sold it for \$110. The British pound was being bought at \$780 and sold for \$1 000 and the American greenback changed hands at \$800 after being bought for just \$590.

"This is good business. Why should the government want to make us poor?" protested Thembi, who said she studied commerce at high school. "We are not stealing from anyone; we are merely taking advantage of their poor economic policies." She said most dealers were in business because of large amounts of hard cash that was being sent into the country by Zimbabweans working abroad in countries such as Botswana, the United Kingdom, South Africa and the United States.

"This week, for instance, was a good one for some of us because of public holidays in Botswana," Thembi noted.

Asked how the dealers arrived at a particular exchange rate each day, she explained: "We liaise with some *bureaux de change* that we sell the foreign currency to. We also have friends at the banks. We work hand in hand with the financial institutions of this country. *The government should understand this and make sound economic policies.*" (Emphasis added.)

The difficulties confronting law enforcement authorities intent on combating currency speculation are captured in the final few paragraphs of the inset. The dispersal of nationals in the diaspora ensures a steady flow of foreign currency to the streets, and the participation of informants involved in the financial services sector secures both a source of information on market trends (availability of currency being an important factor determining price) and a market. Currency traders appear to have access to more reliable, up-to-date information on the state of the economy than state authorities.<sup>15</sup> The italicised words point a finger at government economic policies as the major catalyst of the currency speculation industry.

Cross-border traders swell the ranks of the informal currency traders. On account of greater access to foreign currency, as well as exposure to a variety of financial markets, these traders can do better than street currency dealers through currency interchanges. Until mid-2001, Zimbabwean currency could be traded in the Botswana financial market at a rate of Z\$10 to the pula (BWP). A trader could purchase 3 000 BWP for Z\$30 000 in Botswana. Once that currency was exported to Zimbabwe, however, it could be exchanged at a rate of Z\$60 units to the BWP, yielding Z\$180 000, six times its original nominal value. The trader could repeat the process by smuggling the Zimbabwean currency to Botswana, and using it to purchase a further amount of BWP. Z\$180 000 could be exchanged for BWP18 000. If taken back across the border, the Botswana currency could be sold for Z\$1 080 000. The process could be carried out in a day. Over a longer period and with repeated transactions, the returns would rival any successful business in the legitimate formal sector.<sup>16</sup>

Until the end of 2002, the flourishing street trading in foreign currency was replicated in the numerous bureaux *de change* dotted all over the commercial centres of the country. Bureaux operators were always aware of the competition from the streets. In spite of regulations requiring the display of applicable exchange rates and recording of transactions, the bureaux traded at flexible rates, which reflected market trends rather than the dictates of government, and rarely prepared transaction records.<sup>17</sup> Government officials had interests in some bureaux *de change* in Harare, Bulawayo, Victoria Falls and Beitbridge. Unlike street traders, operators of bureaux were not desperate to procure local currency by off-loading foreign currency received onto the market immediately. They were in a better position to 'warehouse' it for speculative purposes, or for outward laundering.

Some bureaux *de change* facilitated the externalisation of foreign currency without smuggling it out. On the pretext of assisting nationals living outside the

country to transmit money home,<sup>18</sup> Zimbabweans living abroad would be provided with external accounts into which to make deposits in hard currency. The Zimbabweans in turn provided accounts in Zimbabwe into which the local equivalent should be paid, at the parallel, bloated rate. No documents were exchanged, although reconciliation could later be effected. While this deprived the country of much-needed foreign currency, it enabled the expatriate Zimbabwean community to acquire funds for investment in high-return spheres, such as real estate<sup>19</sup> and the stock market.

Regulatory authorities estimate that since 2000, at least 70% of foreign exchange transactions in Zimbabwe have taken place on the streets or in bureaux *de change*.<sup>20</sup> Surveys reveal that *virtually all banks have, at some point, violated exchange control law* by selling or buying foreign currency at an unofficial exchange rate. In 2001, three commercial banks were fined by the Reserve Bank for dealing outside the controlled exchange rates. It is also a matter of record that government corporations like the National Oil Company of Zimbabwe (NOCZIM) and Air Zimbabwe procure foreign currency at the unofficial, parallel exchange rate, thereby breaking the law.<sup>21</sup> At the end of November 2002, bureaux *de change* in Zimbabwe were closed by government directive. In a statement to parliament, the Minister of Finance accused the bureaux of illicit dealings in foreign currency, which escalated inflationary tendencies.<sup>22</sup> Simultaneous with the closure, government ordered that all foreign currency accruals should be remitted exclusively through commercial banks. Indications are that the flow of foreign currency to banks in December 2002 was insignificant. Economists and market players appear to agree that the initial impact of the directive was to drive speculative activity related to foreign currency underground.

Currency speculation also occurs in Malawi and Kenya, albeit on a smaller scale.

#### **COMMERCIAL CRIME AND FRAUD**

Apart from being a species of commercial crime, internal money laundering feeds on predicate commercial crimes of all varieties. The greater the incidence of the predicate crimes, the more likely it is that proceeds for laundering will be generated. For the purposes of this report, 'commercial crime' is defined widely to encompass corruption, and 'fraud' is defined to include currency forgery.

#### **EVASION OF TAX AND DUTY**

The evasion of tax and of customs duty is a common problem in the sub-region and beyond. In Uganda, for instance, tax evasion, with or without the

collusion of revenue officials, is common. The Uganda Revenue Authority (URA), which is responsible for collecting and managing taxes, was reported in 2002 to be riddled with mismanagement and corruption, compromising its capacity to combat tax evasion. Officials from its Large Taxpayers Department have been suspended and detained for conniving with crooked exporters to lodge fictitious claims, resulting in losses estimated at USh20 billion (US\$14 million) between September 2000 and December 2001. A commission of enquiry, headed by Justice Sebutinde, was set up in July 2002 to probe the activities occurring within URA.<sup>23</sup>

The commission exposed a long list of big and powerful tax evaders and bribe payers, including business tycoons. The owner of Genesis, Classics and a chain of companies was directed to pay a bill of USh4 billion (about US\$2.5 million) for taxes evaded between the beginning of 2000 and April 2002.<sup>24</sup> URA successfully sued two companies for evading tax equivalent to US\$400 000.<sup>25</sup>

Fiscal coffers in Malawi, Kenya and South Africa have also been subjected to plunder, resulting in the accumulation of substantial funds for laundering.

Kenya has long been afflicted by corruption in many forms, resulting in monumental losses of public resources. In the period 1990–95, the government lost a total of KSh127 billion (US\$1.693 billion) through corruption. In the 1996–97 financial year alone, the loss amounted to over KSh12 billion (US\$160 million) through fraudulent payments. These figures represent the loss of one in every six shillings allocated by the Kenyan parliament. Kenya has experienced one corruption scandal after another, but the biggest is probably the Goldenberg scandal, which hit the headlines in the 1990s, but has yet to be buried.

### **Example 2: The Goldenberg Scandal**

What came to be known as the Goldenberg scandal or conspiracy comprised a series of financial scams, involving collusion between a young Nairobi entrepreneur, Kamlesh Pattni, and high-ranking state officials. The scams are believed to have cost the state an estimated US\$500 million. The actors in the scam included the country's vice-president, a governor of the Central Bank of Kenya, the Commissioner of Geology and Mines, a permanent secretary, the head of national security intelligence and Pattni (P), who appeared to be the mastermind behind the many schemes.

In 1990, the government accepted a proposal from P to export gold and diamond jewellery from Kenya for an initial five-year period. The entrepreneur also requested authority to set up a commercial bank to handle the trade transactions. The government agreed to pay P 35% of the value of his exports, as compensation. (At the time there was an export incentive in terms of which government subsidised emerging exporters to the extent of 20% of the value of exports.) It initially rejected the proposal to establish a bank. Kenya has no known deposits of diamonds which could be the subject of export trade.

In 1990 P incorporated Goldenberg International Limited, to handle the exports, with himself and JK, the head of national security intelligence. From 1991 P started sending invoices to the government for the subsidy as agreed. P's bankers, the First American Bank, produced records as evidence of export receipts. There were discrepancies between some of the receipts and the invoices, but with the intervention of the Governor of the Central Bank, P's claims were paid.

As time went on, P's claims were supported by evidence of payment in a cocktail of foreign currencies (dollars, sterling, deutsche marks and francs). Government paid them all. It was later to emerge that P was buying the assortment of foreign currencies in the local market and misrepresenting them as foreign exchange earnings from the sale of gold and diamonds. Occasionally this occurred with the collusion of his bankers. Moreover, Goldenberg's exports were over-priced. In June 1992, the government granted P's request to start his own commercial bank. He incorporated the Exchange Bank, with himself and JK as directors. He started using the bank in dealings with the Central Bank of Kenya.

When questions were raised about where the gold was being exported to, P named two Zurich-based consignees, Servino Securities and Solitaire. Enquiries revealed that these firms did not exist. P then claimed that exports, worth KSh13 billion (about U\$400 million), had been made to a company called World Duty Free based in Dubai. The company denied doing business with Goldenberg. Despite indications that money was being paid for non-existent exports, P's claims continued to be settled.

P also took advantage of the export-retention scheme introduced in 1992. The scheme allowed exporters to retain a portion of their foreign exchange earnings (50%) in special accounts. This would be available to them conveniently in subsequent transactions that needed foreign exchange.

Goldenberg claimed to be an exporter. The company received preferential treatment. Whereas other exporters of raw materials like coffee and tea were allowed to retain only 50% of their earnings, Goldenberg could retain its full 'earnings'. It is believed that Goldenberg amassed U\$75 million under the cover of this scheme. This money was put away in Exchange Bank, and laundered through various projects.

### **Laundering the proceeds of Goldenberg**

During the early 1990s, P built an hotel in Nairobi, the Grand Regency, reported to be the best hotel in Kenya. The movables within the hotel are valued at KSh2 billion (US\$26.67 million) and the whole investment is worth about KSh10 billion. (US\$133.33 million) P himself likened the hotel to the Taj Mahal. Uhuru Highway Development Limited, another of P's companies, owns the hotel.

The Exchange Bank, through which a vast number of Goldenberg's transactions were processed, went into voluntary liquidation, just before the Central Bank of Kenya commenced proceedings to recover KSh13.5 billion obtained fraudulently from the CBK.<sup>26</sup> It has been revealed that these funds were multiplied enormously through investment in government treasury bills. In 1995, CBK was allowed to sell the hotel to recover the KSh13.5 billion. To date the hotel has not been sold.

There is evidence that P engaged in outward laundering of cash from Kenya, using the Exchange Bank. P is believed to have acted for both himself and others, some of whom were in positions of authority.

Some of the money externalised through Goldenberg has since been repatriated to Kenya in the form of 'foreign' investment in equities in new ventures. A strong body of opinion in Kenya holds the view that the primary motivation for the Goldenberg Conspiracy was to raise funds for the erstwhile ruling KANU party in the wake of a competitive political playing field opened up by multipartyism in 1990. It was therefore inevitable that some of the illicitly procured funds would be laundered within Kenya, and even part of what was externalised would find its way back.

For the last seven years, P has been facing a charge of theft of a part of Goldenberg money. He is jointly charged with the former Permanent Secretary. The case has not made much progress, and not many people believe that it will ever be finalised. However, the defeat of KANU in

the December 2002 elections revived hope that the case would be resolved.<sup>27</sup> The new government established a commission to enquire into the scam, and hearings started in mid-March 2003.

In South Africa, fraudulent claims for the refund of value-added tax (VAT) for fictitious exports have been known to be a source of funds for laundering since the early 1990s. Their proliferation coincided with the re-establishment of commercial linkages with the rest of sub-Saharan Africa. Typical schemes involve companies that may be engaged in legitimate export of goods or services. A company could use a real or shell company in a foreign jurisdiction to create the false impression that goods have been exported and payment received. The export price includes VAT (currently pegged at 14%), which is subsequently claimed back from the South Africa Revenue Service. Invoices, delivery notes and export documentation may even support the false claim. Within a relatively short space of time, large sums of money can be generated virtually from nothing. This kind of fraud (involving what SARS officials describe as 'ghost exports') is usually quite difficult to detect without infiltrating one of the companies involved or securing the co-operation of law enforcement in the foreign jurisdiction. It underscores the importance of vigilance and international co-operation in combating money laundering.

### *Incoming money laundering*

There are many reasons why criminals consider it prudent to move the proceeds of economic crime across territorial borders. The desire to complicate the investigation trail is only one of them. Another factor might be the existence of better investment opportunities, or weaker law enforcement, in the destination jurisdiction. Competition for investment and the demands for foreign currency render many countries in the sub-region vulnerable to the infusion of tainted funds from abroad.

In Malawi, bureaux *de change* conduct casual foreign currency cash transactions without any due diligence enquiries. The same applies in Zambia and Tanzania.<sup>28</sup> In 2001, the Reserve Bank of Zimbabwe directed banks to accept foreign currency deposits without querying their sources. The importation of foreign currency ostensibly for investment tends to be encouraged by open-door policies promoted by state investment agencies. In some cases, complementary concessions are put in place to reinforce these policies. In a number of countries, a prospective investor with foreign funds above a certain thresh-

old can qualify for permanent residence.<sup>29</sup> Law enforcement agencies occasionally express exasperation with such an attitude. A Tanzanian police delegation to a sub-regional conference pointed out that the police encounter much difficulty in distinguishing between genuine and bogus investors. In a familiar lament, the delegation observed:<sup>30</sup>

Being a poor country which welcomes investments from all over the world, sometimes it is felt that if you start enquiries against the so-called investors you risk the possibility of chasing them away with their much wanted investments. As a result we are always in [a] dilemma not knowing the right course of action to take.

The sub-region is littered with examples of investments by shady characters. The nature and duration of such investments seems to depend on factors like the links between the launderer and the country, his or her perceptions about its political and economic stability, his or her estimation of the risk of detection, and the potential returns. Hence, where the launderer enjoys citizenship of both the country where the predicate crime was committed and the destination of the proceeds, and that destination has a stable economic environment, funds are likely to be transferred between the two countries.

### **Example 3: The Widdowson funds**

Although Widdowson was born in England, he had dual English and South African citizenship. During the period 1991 to 1997, he spent time working for Regent Security Services in England. He returned to South Africa in 1997, but continued to render services to the company on an intermittent basis.

The company discovered that between May 1995 and April 1999, £667 480.09 (US\$1 001 220) was stolen from its bank account and transferred to Widdowson's three bank accounts in England. There were subsequent transfers to a bank account in South Africa. Widdowson then left England and returned to South Africa. At no stage did he try to earn other income from employment in South Africa. He did, however, make various investments in South Africa, in both movable and immovable property.

Following the discovery of the theft, a successful application was made for the seizure and forfeiture of Widdowson's assets.<sup>31</sup>

### **INTERNATIONAL TRADE**

It was pointed out earlier that the more lucrative part of the drug industry generally, including the *dagga* trade, lies outside the sub-region. Drug smuggling from Southern Africa is a multi-million dollar business, exposed from time to time through high-profile police successes in countries such as the United Kingdom. In one operation in July 2002, the Lancashire Constabulary discovered a consignment of three tonnes of *dagga* with an estimated street value of £6 million (US\$9 million) at a warehouse in Chorley. The *dagga* was vacuum-packed in 1kg blocks and concealed in wooden crates. It appeared to have been imported from South Africa.

### **STOLEN MOTOR VEHICLES, CHEQUES AND ILLICIT DIAMONDS**

There is a thriving trade between Namibia and South Africa, involving the movement of stolen motor vehicles from South Africa to Namibia, and the payment of the suppliers with funds stolen from Namibia. The vehicles are sold in Namibia and payment is made to the criminals in South Africa through transfers of funds from bank accounts of Namibian third parties. The government of Namibia has been a major victim. A common *modus operandi* involves the theft of specimen signatures of authorised signatories to government accounts and the forging of letters instructing a banking institution to effect transfer of funds to an account in South Africa. The funds are thereafter withdrawn without trace, partly because the operators of the account in South Africa use forged identity documents to open and operate the account.

Some fraudulent transactions may go undetected even by the government authorities. In terms of such schemes, the criminals in Namibia receive the motor vehicles without paying a cent, while their South African counterparts receive payment for the stolen motor vehicles.

Motor vehicles stolen in Botswana, South Africa and Namibia itself have been smuggled to Angola through the Oshikango border post. Particular types include sports cars and luxury 4x4 station wagons. In roughly equal proportion, the stolen motor vehicles are exchanged for diamonds or paid for in hard currency, usually US dollars. The purchase price is repatriated to the source country. Angolans appear to be generally more liquid in US dollars than most other sub-regional residents. In Angola, the long-enduring civil war, with its associated economic and financial instability, has precipitated a calamitous lack of confidence in the Angolan monetary and banking system. Individuals and corporate entities generally do not convert their funds into the local cur-

rency. Neither do they entrust their liquid assets to the banking system. Only large companies and the government make use of the banking system for their transactions. Medium-sized and small companies open bank accounts only to comply with statutory provisions. Most maintain their monetary wealth in hard cash, with large volumes of cash circulating in the economy completely outside the banking system. Business transactions, such as US States dollars. It is probably unfortunate that Angola is outside the ESSAMLG.

#### **SECOND-HAND LUXURY MOTOR VEHICLES FROM JAPAN**

For many years, motor vehicles reportedly stolen from Japan have been traced to East and Southern Africa. Since September 2000, the Motor Vehicle Theft Unit of the Namibian Police has been aware that some second-hand luxury 4x4 motor vehicles stolen in Japan have been imported into Namibia for sale to affluent buyers.

#### *Outgoing money laundering*

The existence of ethnic, cultural or commercial linkages between the source of the proceeds of crime and a given country may determine whether proceeds of armed robbery are transferred outside or laundered locally. If the criminals are of foreign origin, it is likely that the proceeds will be externalised, at least initially. In December 2001, an armed robbery occurred at Johannesburg International Airport and a large amount of money was stolen. It transpired that most of the criminals involved were Zimbabwean nationals. Within a month of the crime, some of the proceeds were discovered in Zimbabwe.

The transfer of money from the jurisdiction in which the predicate crime is committed is the other side of the coin of incoming money laundering. Outgoing laundering is not always motivated by an intention to invest in the destination jurisdiction. It can involve a number of transient jurisdictions, if only to obscure the laundering trail. The initial decision the launderer will make is whether or not to involve the financial services network.

The most basic mode of transferring the proceeds of crime, circumventing the financial services network, is to carry it out of the country. Movement of cash in bulk is common within and across the sub-region. Reports from South Africa, Kenya and Tanzania provide ample illustrations of the movement of assets in the form of bulk cash within and across borders.<sup>32</sup> They also demonstrate the use of convertible assets as a mode of international laundering of funds.

A more insidious form of outgoing laundering, which partly sidesteps the banking system, involves a combination of tax fraud, currency speculation and resort to alternative remittance systems. It has been detected in the sub-region, although its scale has not been established. It is used to facilitate the externalisation of capital, for instance from the disposal of immovable property. Known cases involve South Africa and Zimbabwe. Its most common manifestation is the conduct of major real estate transactions in foreign currency. Transactions usually involve speculators on both sides, and often both the seller and buyer are nationals. A house with an asking price of Z\$30 million in April 2003, for instance, could be acquired for a South African equivalent price (at the non-official/parallel market rate of Z\$150 to the rand) of just R200 000. If the purchaser can afford to pay in US dollars, the price converts (at the rate of Z\$1500 to the US\$) to US\$20 000.<sup>33</sup> The transaction does not entail any transnational currency remission, and for that reason is attractive and relatively safe for the parties involved.

A survey carried out in real estate marketing circles in Harare in June 2002 revealed a definite preference by clients offering properties for sale to be paid in foreign currency. In all such cases, payment offshore was also preferred. Only one country in the sub-region, South Africa, featured among the likely destinations of funds thus externalised. Others were the United States, the United Kingdom and Canada. It appeared that in the destination countries, the foreign currency payments were made through the banking system. In Kenya, it was reported in July 2002 that a presidential aide had acquired immovable property valued at US\$6 million in London. In Tanzania the ubiquitous bureaux *de change* have been abused to externalise currency.

It is not always practical or prudent to completely outflank the banking system in an outgoing laundering scheme. Some funds are inevitably transferred through intermediaries in the financial services. A proportion of financial services intermediaries may facilitate transfer of illicit funds unwittingly, but some will do so knowingly, even as principal beneficiaries. Cases where institutions were found to bear corporate responsibility for outgoing laundering include the BCCI case, which exploded in 1991, and the 1997 European Union Bank of Antigua case. Between these cases, and within the sub-region, were cases involving the Meridian Biao Bank, whose collapse in the early 1990s impacted on both Zambia and Tanzania, and the United Merchant Bank, which had a short but disastrous existence.

**Example 4: The United Merchant Bank saga**

The United Merchant Bank (the bank) was incorporated in May 1995. In less than three years its license was revoked after it became known that it had a low capital ratio and inadequate liquidity to meet the claims of depositors and other liabilities. Police investigations subsequently revealed that many illegal activities had taken place.

**1. Fraud: Cold Storage Commission bills**

Following its commercialisation (a prelude to privatisation), the Cold Storage Commission (the commission) contracted the bank to raise funds on its behalf on the local money market. This was to be done through the floatation of commission bills. The commission required Z\$413 million (US\$7.5 million). Government issued guarantees to the value of Z\$855.16 million (US\$15.55 million) as security during the floatation of the bills. The bank raised the amount required by the commission and remitted it. Thereafter the bank sold further bills worth Z\$1.263 billion (US\$22.96 million) on the local money market, and converted the entire amount to its own use. The founder and chief executive of the bank, Roger Boka, was found to have been at the centre of the illicit activities, with the assistance of five others. Boka died on 21 February 1999, before he could stand trial. Up to the time of writing it was not clear how much of the converted money had been recovered.

**2. Conversion of depositors' funds**

Various persons and institutions deposited funds with the bank. Upon cancellation of its licence, the bank owed just over Z\$1.558 billion (US\$28.32 million) to depositors, which it was not in a position to repay. Some bank documents and computers could not be found. Money laundering charges were laid against Boka and his accomplices in terms of the Serious Offences (Confiscation of Proceeds) Act, but he died before standing trial. The investigation was transferred from the police to a special investigator appointed by the Minister of Justice, in terms of the Prevention of Corruption Act. The investigation does not seem to have moved much since. The then Minister of Justice was a known friend of Roger Boka and an acknowledged debtor of the United Merchant Bank.

### 3. Externalisation of funds—money laundering

In the short life of the bank, Roger Boka opened and operated several personal accounts at foreign banks in Botswana, South Africa, the United Kingdom, the United States of America, Germany, Luxembourg and France, as follows:

Botswana: First National Bank;

South Africa: Nedbank, Amalgamated Banks of South Africa (ABSA), First National Bank;

United Kingdom: Midland Bank plc, National Westminster Bank plc;

United States: Marine Midland Bank (New York), Merrill Lynch Bank (New York);

Germany: West Deutsche Landesbank;

Luxembourg: Hypo Bank;

France: Banque Société Général.

Acting personally and sometimes through his lawyer, GS, Boka externalised at least US\$21 million. GS, who was the senior partner in a law firm in Harare, was a director on the board of the bank and a signatory to the bank's account at the Zimbabwe Banking Corporation. The firm acted as corporate secretaries for the bank and as legal advisors to both the bank and the Boka Group of Companies. The main business specialities of the group were tobacco and gold marketing. GS disappeared from Zimbabwe shortly after the death of Roger Boka, by which time he had already been charged with violating the Prevention of Corruption Act and the Companies Act. It was later discovered that GS also operated a foreign bank account in England. None of the foreign funds appear to have been repatriated.

The Zambian Drug Enforcement Commission's investigations have revealed the use by drug traffickers of bank accounts opened with fictitious identity documents to facilitate outgoing laundering. The case of *The People v. De Souza and others* (unreported) (CCR. SSP/8/2001) revolves around the opening of several bank accounts using a false name, between 1 January 1999 and 28 February 2001. The prosecution alleged that, acting in concert, the accused opened several bank accounts in Kitwe and Ndola on the Copperbelt, using fraudulently obtained documentation. Using these accounts, the accused externalised a total of US\$1 158 533.20 to the USA and Taiwan.

In the first week of February, 2003, the First National Building Society in Harare, Zimbabwe, was closed down after an inspection by the Reserve Bank revealed a discrepancy of nearly Z\$3 billion (US\$54.55 million) between funds held and what the building society owed creditors and depositors. There is evidence that one of the officials arrested invested in real estate in Cape Town, South Africa. At the time of writing, a curator was investigating the extent of prejudice to creditors and tracing the destination of the funds.<sup>34</sup>

## **Southern Africa as a destination of laundered funds**

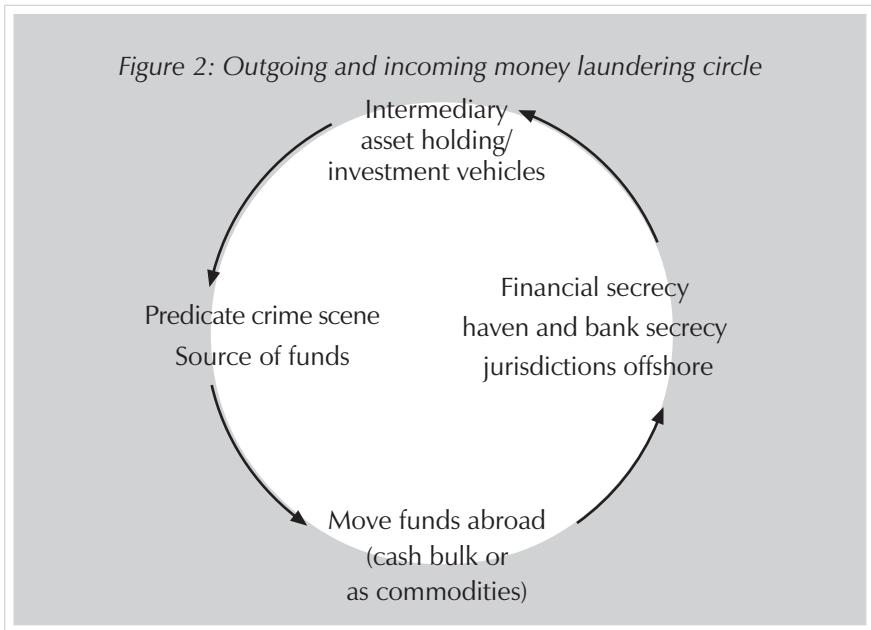
Insofar as the discussion above shows that laundered funds have tended to flow in certain directions, it raises two issues: firstly, what makes a country attractive to such funds, and secondly, does the sub-region attract laundered funds?

In a study prepared by Blum, Levi, Naylor and Williams, offshore financial systems were identified as being amenable to manipulation by money launderers.<sup>35</sup> Various components were found to be both characteristic and predisposing. The authors highlighted many factors, nine of which seem to be of particular importance. They are not necessarily listed in order of precedence:

- an environment in which banking institutions can easily be established, with the predominant focus being on basic capitalisation requirements at the expense of minimal due diligence investigations;
- availability of instruments and mechanisms to facilitate anonymous conduct of investment business, while allowing the creator to retain a beneficial interest—examples are trusts, bearer shares and international business corporations;
- prevalence of bank-like institutions with the capacity to transfer funds rapidly, such as brokerages and bureaux *de change*;
- banking secrecy laws, or laws that create formidable impediments to the discovery of beneficial holders of bank accounts;
- availability of mobile or walking accounts, these being accounts opened on the understanding that any funds above a certain amount credited to the account should be immediately transferred to another location. Funds can be transferred thereafter to one or more other accounts;
- proliferation of loosely regulated casinos;
- availability of free trade zones;

- facilitation by intermediaries in establishing corporate entities, opening accounts, dishonestly or without any kind of due diligence;
- permissibility of shell companies.

To these factors can be added a tenth, namely the existence of correspondent banking relationships linking banks in the source or intermediate countries with those in destination countries. The outgoing laundering trends can be graphically presented in the form of a circle, as shown in Figure 1 below.



No single member state of the ESAAMLG possesses all of the characteristics outlined. However, the sub-region includes countries in which some of these characteristics are prominent.

Viable markets in which to trade in securities are well established across the sub-region, particularly in Kenya, Zimbabwe, South Africa, Botswana, and Mauritius. In these countries, the law permits investors to deal in bearer securities and other negotiable instruments, including derivatives.<sup>36</sup> International trends show that these instruments can be abused in the setting up of laundering schemes. The involvement of shrewd intermediaries only increases the scope for such abuse. Lawyers have been used in outgoing laundering, as the Boka case shows.

There are indications that stockbrokers may be used as a conduit for money laundering. Shares can be issued in the names of nominees, to disguise beneficiaries. This disguises launderers engaged in criminal activities.<sup>37</sup>

Within the sub-region, Mauritius and the Seychelles, which have been classified by some experts as financial 'tax' havens, are regarded as particularly vulnerable. Mauritius' potential weakness stems from its offshore financial regime, which permits corporate institutions with no physical productive presence within Mauritius to open and operate bank accounts. From the standpoint of the offshore corporate, the rationale for establishing offshore is to take advantage of the lower rate of taxation in comparison to neighbouring jurisdictions. The primary incentive for the offshore jurisdiction is the revenue to be extracted through taxation and the potential to increase employment levels in the financial services sector. As a strategy to offset weaknesses in other areas of economic productivity, such as manufacturing and mining, offshore centres are likely to proliferate in the sub-region in the short to medium term. In 2001, Botswana took measures to diversify its tertiary services sector by establishing an international financial services companies (IFSCs) regime. Income tax legislation facilitates the establishment of an International Financial Services Centre to facilitate and regulate an offshore investment sector. The sector will benefit from a taxation rate of 15%, which is 10% lower than the prevailing average corporate rate.

An analysis of the offshore financial system in the sub-region indicates that one of its attractions is the relatively high level of confidentiality that it offers concerning the identity of shareholders of corporate entities operating in it. Although directors' and shareholders' names are filed with the government registry in Mauritius, the register is not accessible to the public. Mauritius has repeatedly expressed its commitment to maintain its status as a premier offshore financial centre, and its acknowledgment of the vulnerability to tainted funds that this entails.

## **Conclusion**

To conclude this chapter, one should underline the broad consensus that laundering is occurring in the sub-region on a significant scale. The statistics often cited are based on the results of the Walker model. According to the model, in 1998 a total of US\$22 billion was laundered through the financial systems of Southern Africa. Of this US\$15 billion was generated within the sub-region. It was estimated that US\$7 billion was infused from outside the sub-region, with East Asia accounting for US\$1 billion, North America for US\$5 billion and Europe for US\$1 billion. A recent estimate was that in the last six years money laundering

has cost Zimbabwe Z\$55 billion (US\$1 billion).<sup>38</sup> Although the estimate was not substantiated, the underlying predicate crimes were identified as fraud, theft, corruption, illicit dealings in precious metals, and currency speculation.

Table 1 gives estimates of the magnitude of money laundering activity in the southern Africa sub-region. The East African contingent of Kenya and Uganda is included. The total amount laundered internally and brought into the ESAAMLG region during 1999 was equal to just over US\$18,07 billion. It is conceivable that some of the internally laundered proceeds were subsequently externalised, and that some of the proceeds introduced into the region were taken out again within the year.

<b>Table 1: Amounts in US\$ millions</b>								
<b>Country</b>	<b>Internal</b>	<b>Out-going</b>	<b>Total Generated</b>	<b>In-coming</b>	<b>Total Laundered</b>	<b>% Internal</b>	<b>% Out-going</b>	<b>% In-coming</b>
Botswana	123.4	117.6	241.0	1722	1845.0	51.2	48.8	93.3
Kenya	734.8	140.0	874.8	77	811.8	84.0	16.0	9.5
Lesotho	0.9	0.1	1.0	458	458.7	86.4	13.6	99.8
Malawi	96.4	47.0	143.4	62	158.1	67.2	32.8	39.1
Mauritius	95.2	61.4	156.6	1129	1224.5	60.8	39.2	92.2
Mozambique	87.6	34.1	121.7	17	104.8	72.0	28.0	16.4
Namibia	114.6	84.3	198.9	489	603.5	57.6	42.4	81.0
Seychelles	68.1	4.8	73.0	1963	2031.5	93.4	6.6	96.6
South Africa	6143.7	4095.8	10239.5	566	6709.9	60.0	40.0	8.4
Swaziland	20.3	3.2	23.5	414	434.8	86.4	13.6	95.3
Tanzania	693.5	124.3	817.8	63	756.7	84.8	15.2	8.3
Uganda	611.4	130.6	742.0	54	665.9	82.4	17.6	8.2
Zambia	1098.0	427.0	1525.0	177	1274.6	72.0	28.0	13.9
Zimbabwe	726.6	354.7	1081.3	272	999.1	67.2	32.8	27.3

(Source: J Walker, Global money laundering estimates for 1999.)

## Notes

- 1 The Minister's remarks were made in a keynote speech at an ISS seminar on money laundering in East and Southern Africa, held at the Leriba Lodge, Centurion, South Africa, on 21 and 22 November 2002.
- 2 The two most prominent international instruments are the 1988 Vienna Convention (on illicit drugs and psychotropic substances) and the 2000 Palermo Convention (against transnational organised crime). In the wake of the terrorist atrocities of 11 September 2001, the United Nations Security Council followed up with a resolution targeting the funding of terrorist activities, numbered 1373/2001. In the sub-region, the ESAAMLG exerts a great deal of peer pressure towards formal money laundering control.
- 3 See the Financial Intelligence Centre Act, 38 of 2001
- 4 P Smit, *Clean money, suspect source: Turning organised crime against itself*, ISS Monograph Series, 2001, 51, p 18.
- 5 For a detailed explanation of the methodology see J Walker, Money laundering: Quantifying international patterns, *Australian Social Monitor* 2(6), 2000, pp 139-147.
- 6 T Leggett, Perspectives on supply: The drug trade in Johannesburg, Durban and Cape Town, in T Leggett (ed), *Drugs and crime in South Africa: A study in three cities*, ISS Monograph Series, 2002, 69.
- 7 Over a period of two years.
- 8 See L de Koker, *Money laundering trends in South Africa*, CenSec, 2002, p 19. Footnotes have been omitted from this quotation.
- 9 This was the basis of the allegation in the Zambian High Court case, *The People v. De Souza and others*, CCR SSP/8/01 (unreported at the time of writing).
- 10 J Banda, *Money laundering in Malawi*, ISS Monograph Series, forthcoming.
- 11 Ibid.
- 12 Interpol sub-regional report to the SARPCCO Annual General meeting, Mauritius, August 2001.
- 13 *African Security Review*, 8(6), 1999.
- 14 Adapted from *The Financial Gazette*, 18 July 2002.
- 15 Zimbabwe's Minister of Finance is quoted as having described Fort Street in Bulawayo as the 'World Bank' of the country.
- 16 This information emerged during an interview with an official attached to the Tender Board in Gaborone, Botswana. It was subsequently confirmed by sources within the banking sector in Zimbabwe.

- 17 B Fundira, *Money laundering trends in Zimbabwe*, unpublished paper. This was subsequently confirmed by the author's personal observation.
- 18 *Financial Gazette*, 11-17 April 2002.
- 19 The rapid upward movement in the price of residential premises has in large part been attributed to citizens outside the country who illegally change their money on the parallel market in order to boost returns. It is common for such premises to appreciate by as much as ten times in a period of a few years. A four-roomed garden flat bought for Z\$750 000 in 1998 was sold in 2002 for Z\$7 million!
- 20 A source in the currency exchange market puts the share of bureaux *de change* at 20%.
- 21 Fundira, op cit.
- 22 Budget statement presented to Parliament of Zimbabwe by Minister Herbert Murerwa, Harare, 14 November 2002.
- 23 *The Sunday Monitor*, 21 July 2002, quoting Maureen Owor, lead counsel to the commission.
- 24 The directive was set out in a letter from URA to Genesis, dated 10 July 2002.
- 25 *Sunday Monitor*, 21 July 2002.
- 26 The money had been obtained through a false declaration to the CBK by the Exchange Bank that Goldenberg had received US\$210 million from export activities, and deposited it into one of the CBK's foreign accounts. In return, Goldenberg received KSh13.5 billion.
- 27 Based on a report prepared by G Kegoro, *Money laundering in Kenya*, in this volume.
- 28 This finding has been personally verified by the author in Dar es Salaam and Lusaka on three occasions involving four bureaux.
- 29 The *Comprehensive investment guide to Zimbabwe* promises that an investor who invests not less than US\$1 million in a project approved by the Zimbabwe Investment Centre will qualify for permanent residence on application. An investor who invests at least US\$300 000 qualifies for a residence permit of three years, as do professional or technical persons investing US\$100 000 in their respective field, or in a joint venture with a permanent resident. In South Africa, an applicant for permanent residence who can invest at least SAR1.5 million (approximately US\$150 000 at the 2002 exchange rate), which includes a deposit in a bank or a residential property maintained for three years, will be regarded favourably.

- 30 Tanzanian delegation, 'Current situation and counter measures against money laundering: Tanzania's experience', paper presented at the First Southern Africa Regional Conference on Money Laundering, Johannesburg, 26-28 February 2002.
- 31 Based on a presentation by the investigating officer, given at a law enforcement conference on money laundering in southern Africa, Morningside, South Africa, 22 February 2002.
- 32 The South Africa study by the Centre for the Study of Economic Crime noted:

Evidence has been found that substantial amounts are transferred physically to and from destinations in South Africa, whether by the criminals themselves or by third parties who act as couriers. Cash can be transferred physically in many ways, but during the workshop specific examples were cited where cash was strapped to bodies of passengers in motor vehicles and aircraft or hidden in their luggage. Similar methods are used to convey cash across the borders of South Africa. While it is legitimate to convey cash physically within South African borders, substantial cash amounts can only be transferred across South Africa's borders legally if the exchange control requirements have been met. (A footnote reference has been removed from the quotation.)

See L de Koker, *op cit*, p 18.

- 33 This rate had fallen by the time of writing to ZAR1 = Z\$300, and US\$1 = Z\$4 000.
- 34 *Financial Gazette*, 13 February 2003.
- 35 JA Blum, M Levi, RT Naylor and P Williams, Financial havens, banking secrecy and money laundering: A study commissioned by the United Nations Office for Drug Control and Crime Prevention, 1998, accessible at <https://www.imolin.org/finhaeng.htm>
- 36 South Africa, Kenya, Mauritius and Zimbabwe.
- 37 *Motsi v. The Attorney General & others* 1995 ZLR 278 (H). In this case, nominee companies were used to conceal the proceeds of criminal activities that were perpetrated by a company chief executive and his accomplices.
- 38 *Herald*, 6 July 2002, quoting the government-aligned National Economic Consultative Forum.