



# Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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## Fourth session

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Item 2 (h) of the provisional agenda\*

**Review of the implementation of the United Nations  
Convention against Transnational Organized Crime  
and the Protocols thereto: expert consultation on  
money-laundering**

## Money-laundering within the scope of the United Nations Convention against Transnational Organized Crime

Note by the Secretariat

### I. Introduction

1. In recognition of the fact that efforts to counter money-laundering form a crucial component of the fight against transnational organized crime, provisions on the criminalization of money-laundering and measures to prevent that activity figure prominently in the United Nations Convention against Transnational Organized Crime.<sup>1</sup>
2. Pursuant to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988,<sup>2</sup> parties to that Convention were to criminalize money-laundering in the context of drug trafficking (art. 3). In the Organized Crime Convention, article 6 (Criminalization of the laundering of proceeds of crime) broadens that obligation to encompass a wide range of predicate offences, including at least all serious crime<sup>3</sup> and offences covered by the Convention.
3. Under article 6 of the Organized Crime Convention, the parties are required to adopt measures to criminalize the following acts, when committed intentionally:

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\* CTOC/COP/2008/1.

<sup>1</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.

<sup>2</sup> *Ibid.*, vol. 1582, No. 27627.

<sup>3</sup> "Serious crime" is defined in article 2 of the Organized Crime Convention as "conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty".



(a) the conversion or transfer of property for the purpose of concealing or disguising its illicit origin; (b) the concealment or disguise of, inter alia, the true nature, source, location and rights of ownership with respect to property of illicit origin; (c) the acquisition, possession or use of property with knowledge at the time of receipt that such property is the proceeds of criminal activities; and (d) participation (aiding, abetting, facilitating or counselling) in any of the foregoing acts.

4. Under article 7 (Measures to combat money-laundering) of the Organized Crime Convention, the parties are required to institute a domestic regulatory and supervisory regime for the deterrence and detection of all forms of money-laundering; and to ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering cooperate and exchange information at the national and international levels. Article 7 also included a reference – for the first time in a binding international instrument – to the establishment of financial intelligence units to serve as national centres for the collection, analysis and dissemination of information regarding potential money-laundering.

5. Also noteworthy for their relevance to money-laundering are the provisions of the Organized Crime Convention on the confiscation and seizure of proceeds of crime (arts. 12-14), as money-laundering offences are likely to be detected during the process of tracing the proceeds of crime.

6. It should be noted that article 14 (Measures to prevent money-laundering) of the United Nations Convention against Corruption<sup>4</sup> expands on measures provided for under article 7 of the Organized Crime Convention, in particular by broadening the scope of application to cover natural and legal persons that provide formal and informal services for the transmission of money or value and by encouraging parties to require financial institutions, including money remitters, to obtain accurate and meaningful information on the originators of electronic transfers of funds.

## II. Background information

7. At its first session, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided, in its decision 1/2, to include in the programme of work for its second session the examination of criminalization legislation of States parties to the Convention. At its second session, the Conference, in its decision 2/1, included in the programme of work for its third session the consideration of money-laundering within the scope of the Convention. The questionnaires developed by the secretariat to collect information relevant to those programmes of work accordingly included questions on the implementation of articles 6 and 7 of the Convention. The responses received from States parties and signatories to those questions are reflected in the reports of the Secretariat on the implementation of the Convention (CTOC/COP/2005/2/Rev.2 and CTOC/COP/2006/2/Rev.1).

8. The Conference may find it useful also to refer to work done pursuant to the Political Declaration adopted by the General Assembly at its twentieth special session (Assembly resolution S-20/2, annex) and the measures for countering

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<sup>4</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

money-laundering (Assembly resolution S-20/4 D). In this regard, States have reported to the Commission on Narcotic Drugs, through the biennial reports questionnaire, on their efforts to counter money-laundering. The analysis contained in those reports (E/CN.7/2008/2 and Add.1-6) indicates that most States have criminalized the laundering of proceeds derived from drug trafficking and serious crime in general; adopted legislation to enable the freezing, seizure and confiscation of proceeds of crime; removed bank secrecy impediments to the investigation of money-laundering; adopted measures to ensure the reporting of suspicious or unusual transactions, establish “know-your-client” practices and require the identification of the beneficial owners of accounts; and established financial intelligence units to collect and analyse financial intelligence data.

9. These indications of progress in implementing measures to counter money-laundering are corroborated by data collected in the framework of the mutual evaluation process undertaken by the Financial Action Task Force on Money Laundering (FATF) and the FATF-style regional bodies to monitor the implementation of the FATF Forty Recommendations on Money-Laundering and Nine Special Recommendations on Terrorist Financing.<sup>5</sup> It should be noted that, under that process, the criminalization of money-laundering is evaluated using as a standard the provisions of article 6 of the Organized Crime Convention, and adherence to the Convention is considered an essential criterion of compliance with international standards to counter money-laundering.

### III. Questions for possible discussion by the Conference

10. With a view to exploring areas where action to counter money-laundering could be further strengthened within the scope of the Convention, the Conference may wish to discuss the following questions:

- (a) With regard to the emergence of new trends in money-laundering:
  - (i) What are the current trends in the methods used to launder proceeds of crime?
  - (ii) What measures need to be taken for the timely detection and countering of emerging money-laundering methods and techniques?
- (b) With regard to the criminalization of money-laundering:
  - (i) Are emerging forms of serious crime, such as cybercrime, identity-related crime and trafficking in natural resources, adequately established as predicate offences of money-laundering?
  - (ii) What experience is available with regard to dealing with money-laundering committed by the author of the predicate offence (i.e. laundering of one’s own criminal proceeds)?

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<sup>5</sup> The FATF Forty Recommendations on Money-Laundering were adopted in 1990 and revised in 1996 and 2003 to reflect new trends in countering money-laundering and, in particular, to address the vulnerability of non-financial businesses and professions to money-laundering. Eight special recommendations to address the financing of terrorism and a ninth special recommendation, on cash couriers, were later adopted. While not United Nations standards, those recommendations have gained wide international acceptance.

- (c) With regard to measures to combat money-laundering:
    - (i) What are the main challenges in establishing financial intelligence units, and how can technical assistance best address those challenges?
    - (ii) What are the main challenges in strengthening domestic cooperation among authorities dedicated to combating money-laundering? What good practices exist in this area?
    - (iii) What are the challenges in detecting cross-border smuggling of cash and negotiable instruments? What good practices exist in this area?
    - (iv) How can the number of successful money-laundering prosecutions be increased?
  - (d) With regard to technical assistance, what are the priority technical assistance needs in the area of preventing and combating money-laundering?
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