

Stop Crime

The Ninth United Nations Congress on
the Prevention of Crime and the Treatment of Offenders

The United Nations vs. Transnational Crime

Powerful international criminal groups now work outside national or international law. They include traffickers in drugs, money laundering, the illegal trade in arms — including trade in nuclear materials — and the smuggling of precious metals and other commodities. These criminal elements exploit both the new liberal international economic order and the different approaches and practices of States. They command vast sums of money, which they use to suborn State officials. Some criminal “empires” are richer than many poorer States. These problems demand a concerted, global response.

— Secretary-General Boutros Boutros-Ghali

“Organized crime has become predominantly transnational in character”, according to recent reports from the United Nations. But law enforcement worldwide remains predominantly local and national.

Without international cooperation, it is impossible for law enforcement agencies to obtain a clear picture of criminal operations that span countries and continents. A crime organization based in one country, for instance, may be smuggling valuables out of a different country and into several overseas markets. The proceeds are likely to be invested in front businesses in entirely different countries, which in turn become staging grounds for new operations.

Some of the steps in this process may not be illegal in and of themselves, and the wide range in severity and scope of national crime codes means that some activities that are illegal in one country may be permissible in another. Even if national

authorities shut down syndicate operations inside their borders, that component of the modular operation is easily replaceable. As one analyst puts it: “Global conglomerates dealing in illicit activities survive and flourish because unilateral enforcement efforts by a single country generally disable only small segments of such operations.”*

Transnational crime is also facilitated by economic globalization:

- Passenger volume on international commercial flights soared from 26 billion passenger miles in 1960 to 152 billion in 1974 and to more than 600 billion in 1992.

- Global imports rose from \$330 billion in 1960 to \$2,050 billion in 1980 and \$3,500 billion in 1990; completion of the Uruguay Round of trade talks and the proliferation of free-trade agreements are likely to spur an even larger transnational flow of goods and services.

- Major currencies — primarily the dollar, and secondarily the deutsche mark and yen — are nearly universally exchangeable, smoothing the transition from illicit profit in one part of the world to apparently legitimate investment elsewhere.

- Trillions of dollars are exchanged through electronic transfers every day; in one New York-based bank network alone, \$2 billion races through digital channels each minute. Furthermore, an expert estimates that “perhaps half of the industrialized world’s stock of money resides in or passes through tax havens”.*

- Increasing migration, combined with a general resurgence of ethnic loyalties and the hostility and economic hardship which migrants often face in new homelands, creates fertile



grounds for cohesive, hard-to-penetrate crime networks spanning many borders.

Syndicates also take advantage of centuries-old obstacles to international law enforcement cooperation: language and cultural differences, variations in crime codes and criminal justice practices, the desire to protect national sovereignty, and reluctance to share scarce resources or share credit for successes.

Development of the UN programme

1975 — Discussion of organized crime at the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Geneva focused on “crime as business” at the national and transnational levels. Similarities were drawn between crimes of corporations and those of organized crime, both of which might involve the corruption of law enforcement and political authorities and tended to operate in secrecy, committing crimes which were difficult to detect.

While “crime as business” was a serious problem in many developed countries, crimes such as bribery, price-fixing, smuggling and currency offences were said to be especially severe problems for developing countries, since the national welfare and economic development of the whole society might be drastically affected by them. Governments acknowledged that terms relating to those types of crime were often vague and ambiguous, posing an obstacle to meaningful international cooperation in combating them.

1980 — Discussion of an agenda item on “offences and offenders beyond the reach of the law” at the Sixth United Nations Crime Congress in Caracas added new elements to the international perception of organized crime. Emphasis was placed on the concept of “abuse of power” in its various forms — political, economic and social — that were often interlinked. Among offences cited were activities which were legally defined as crimes but against which law enforcement agencies were relatively powerless, either because of the involvement of high-placed individuals or because of circumstances reducing the likelihood of their being reported or prosecuted.

Concern was expressed about the abuse of economic power by transnational corporations, since the victimized countries were often unable to deal with that problem effectively and individual countries were not always in a position to cope with transborder offences by corporations.

1985 — Evidence presented to the Seventh United Nations Crime Congress in Milan indicated the escalating activities of organized crime worldwide. Congress participants emphasized that national boundaries no longer constituted effective barriers against those criminal activities. By exploiting the discrepancies in the legislation of various countries, organized crime was achieving a high degree of impunity. At the same time, alarm was growing in many parts of the world at the global impact of drug trafficking by criminal groups.

The “Milan Plan of Action” recognized the international dimensions of crime and the need for a concerted response on the part of the community of nations. It saw a significant role to be played by the United Nations in fostering multi-lateral cooperation in combating transborder organized crime.

1988 — The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances was adopted by a high-level international conference held in Vienna. The Convention is perhaps the most important international binding instrument aimed at combating organized transnational organizations and one of their most lucrative activities — international drug trafficking. Among the changes which States parties agree to work towards under the new treaty are criminalization of money laundering and increased cooperation in extradition, mutual legal assistance and transfer of criminal proceedings.

1990 — Within the framework of a discussion of action against organized crime and “terrorist criminal activities” at the Eighth United Nations Crime Congress in Havana, it was stressed that the increase in the number of independent countries, together with a true internationalization of criminal activities, had created a need for new international institutions. Countries’ ad hoc cooperative activities of the past were now seen as inadequate.

In view of the frightening implications of criminal dealings in large sums of money, participants called for new legislative initiatives to curb money laundering.

Later that year, the General Assembly welcomed the recommendations of the Eighth Congress on the subject and took a substantive step towards international cooperation in combating transnational organized crime when it adopted four model treaties developed at the Congress, covering extradition, mutual assistance in criminal

* Malcolm Anderson, *Policing the World: Interpol and the Policies of International Police Cooperation* (Oxford, Clarendon Press, 1989), page 26.

** Richard Barnet and John Cavanagh, *Global Dreams* (New York, Simon & Schuster, 1994), pages 385-389.

ters and transfer of supervision of offenders conditionally sentenced or conditionally released.

1991 — Two events organized in response to the General Assembly's appeal for cooperation in combating organized transnational crime, an **Ad Hoc Expert Group Meeting on Strategies to Deal with Transnational Crime**, held in Smolenice, the Slovak Republic, and an **International Seminar on Organized Crime** in Suzdal, Russian Federation, formulated recommendations covering national, regional and international action.

In the meantime, a General Assembly-mandated **Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme** in Versailles resolved stepped-up international cooperation against crime. It was recognized that only the United Nations could effectively coordinate such action, by developing and implementing a concerted strategy directed at providing practical help. In following up the recommendations of that Meeting, the General Assembly moved to establish a Commission on Crime Prevention and Criminal Justice under the Economic and Social Council (replacing the UN's Committee on Crime Prevention and Control).

1992 — At its first session in Vienna, the new **Commission on Crime Prevention and Criminal Justice** set as one of the priorities for the United Nations crime programme the question of "national and transnational crime; organized crime; economic crime, including money laundering; and the role of criminal law in the protection of the environment". It called for further analysis by the United Nations of the impact of organized crime upon society at large and for an examination of the possibility of coordinating multilateral efforts against money laundering.

1994 — The **International Conference on Preventing and Controlling Money Laundering** drew approximately 250 participants from 45 countries, as well as relevant organizations, international financial institutions and criminology institutes, to Courmayeur, Italy, from 18 to 20 June to examine trends in money laundering and devise a global counter-strategy.

The meeting, organized by the International Scientific and Professional Advisory Council and held under the auspices of the United Nations Crime Branch, urged strong regulatory and law enforcement provisions to make it difficult for financial and investment services to be used for

criminal purposes. Limitation of financial secrecy was called an "absolute *sine qua non* of serious money laundering control and of sincere international cooperation". Participants called for application of the "know your customer" rule advocated by some international bodies, particularly with respect to abolishing anonymous bearer accounts and to identifying the real party represented by a "nominee". They also urged laws to require the reporting of suspicious transactions, and the expansion of existing reporting requirements to cover funds derived from a wider range of crimes.

The Conference further recommended identification of new kinds of businesses which are acting as launderers and determination of the feasibility of extending present regulations beyond banking and traditional financial institutions, with a view to preventing rather than simply attempting to prosecute money laundering.

Recommendations from the Courmayeur meeting were submitted to the 21-23 November **World Ministerial Conference on Organized Transnational Crime**, held in Naples, Italy.

"Crime multinationals pose a threat to the international democratic order", UN Secretary-General Boutros Boutros-Ghali warned ministers of justice and interior, 142 national delegations and representatives of international development and crime-fighting agencies at the highest-level global meeting ever to be convened against transnational crime.

Noting that wide variations among criminal codes obstruct international cooperation and allow international syndicates safe havens from which to operate, participants agreed on the value of "closer alignment of legislative texts concerning organized crime". They also endorsed greater use of bilateral and multilateral agreements on extradition and exchange of witnesses and evidence; personnel exchanges between national law enforcement agencies; and international assistance to criminal justice systems in developing countries. States "should consider" making money laundering a crime, whether or not an illegal origin of the funds can be proven; requiring greater transparency of banks and other financial enterprises; and establishing laws providing for the seizure of organized crime assets, the Naples Declaration said.

The Conference also took a step towards realizing the idea of a legally binding international convention on transnational crime: national Governments will be asked their viewpoints on the

Governments will be asked their viewpoints on the advisability of establishing such a convention. In another resolution, the Conference welcomed the offer of Italy to host an international task force

charged with examining the possibility of establishing an international centre for training law enforcement personnel to combat transnational crime.

This archiving project is a collaborative effort between United Nations Office on Drugs and Crime and American Society of Criminology, Division of International Criminology. Any comments or questions should be directed to Cindy J. Smith at CJSmithphd@comcast.net or Emil Wandzilak at emil.wandzilak@unodc.org.