Group of 20

Topic Area A: Promotion of Free Trade Regimes and Money Laundering

MESSAGE FROM THE EXECUTIVE BOARD

We would like to take this opportunity to formally welcome you to G20, the group of 20 of the Utopia Model United Nations. A group of finance ministers and central bank governors from 19 of the world's largest economies, and the European Union. The G-20 was formed in 1999 as a forum for member nations to discuss key issues related to the global economy. The mandate of the G-20 is to promote growth and economic development across the globe.

On our behalf, we assure you that our sole endeavour shall be to try and make this experience worth remembering for each one of you. We shall especially ensure that while the highest quality of debate is ensured, our intervention in the committee's proceedings is restricted to the process of facilitation, and that the substance of debate is solely left to the committee's judgment. However, before you begin reading further, please note a couple of crucial points that we wish to bring to your notice.

The background guide is only the starting point of your research. We advise you to undertake much more detailed research so that you are aware of the committee's proceedings, and are able to gain an edge over other head of states.

Secondly, you must ensure that you gain a fair understanding of the Rules of Procedure. While the Executive Board shall be as supportive as possible when it comes to explaining to the committee various procedures and protocols while we are in session, it goes without saying the fact that you are the ambassadors of your respective countries which merits that you understand the basic tenets of diplomatic conduct and courtesy.

Besides, please note that only reports, facts and articles available through Governments' sources, UN sources and The Reuters shall be accepted in the committee. You may provide other forms of evidence, but its acceptance shall be at the sole discretion of the Executive Board. Here's hoping for three days full of vigorous debate yet lots of fun. Feel free to approach any one of us in case you have doubts or clarifications.

May the force be with you! Happy researching!

Executive Board
Group of 20

INTRODUCTION TO THE COMMITTEE

The Group of Twenty (G20) is the premier forum for international cooperation on the most important issues of the global economic and financial agenda.

The objectives of the G20 refer to:

1. Policy coordination between its members in order to achieve global economic stability, sustainable growth;
2. Promoting financial regulations that reduce risks and prevent future financial crises;
3. Modernizing international financial architecture.

The G20 brings together finance ministers and central bank governors from 19 countries: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, the Republic of Korea, Mexico, Russia, Saudi Arabia, South Africa, Turkey, the United Kingdom, the United States of America plus the European Union, which is represented by the President of the European Council and by Head of the European Central Bank.

The G20 was formally established in September 1999 when finance ministers and central bank governors of seven major industrial countries (Canada, France, Germany, Italy, Japan, the United Kingdom and the United States) met in Washington, D.C. in the aftermath of the financial crisis of 1997-1998, which revealed the vulnerability of the international financial system in context of economic globalization and showed that key developing countries were insufficiently involved in discussions and decisions concerning global economic issues.

AGENDA: PROMOTION OF FREE TRADE REGIMES AND MONEY LAUNDERING

WHAT IS TRADE?

Trade also called goods exchange economy is the transfer of ownership of goods from one person or entity to another by getting something in exchange from the buyer. Trade is sometimes loosely called commerce or financial transaction or barter. A network that allows trade is called a market.

WHAT IS LIBERALIZATION OF TRADE?

The removal or reduction of restrictions or barriers on the free exchange of goods between nations. This includes the removal or reduction of both tariff (duties and surcharges) and non-tariff obstacles (like licensing rules, quotas and other requirements). The easing or eradication of these restrictions is often referred to as promoting "free trade."

WHY IS IT NECESSARY?

Free trade policies have created a level of competition in today's open market that engenders continual innovation and leads to better products, better-paying jobs, new markets, and increased savings and investment. Free trade enables more goods and services to reach consumers at lower prices, thereby substantially increasing their standard of living.

FREE TRADE DISSEMINATES DEMOCRATIC VALUES.

Free trade fosters support for the rule of law. Companies that engage in international trade have reason to abide by the terms of their contracts and international agreed-upon norms and laws. The World Trade Organization, for example, compels its member countries to honor trade agreements and, in any trade dispute, to abide by the decisions of the WTO's mediating body.

WHAT ARE THE DISADVANTAGES OF FREE TRADE REGIMES?

Despite many advantages, free trade policy has never been completely adopted by all the countries of the world. Particularly after the World War II, the policy was abandoned even by those who had previously adopted it. The following arguments are given against free trade policy.

1. Economic Dependence:

Free trade increases the economic dependence on other countries for certain essential products such as food, raw materials, etc. Such dependence proves harmful particularly during wartime.

2. Political Slavery:

Free trade leads to economic dependence and economic dependence leads to political slavery. For political freedom, economic independence is necessary. This requires abandonment of free trade.

3. Unbalanced Development:

Free trade and the resultant international specialisation lead to unbalanced development of national economy. Under this system, only those sectors are developed in which the country has a comparative advantage. Other sectors remain undeveloped. This results in lop-sided development.

WHAT IS WTO?

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business.

The WTO agreements are lengthy and complex because they are legal texts covering a wide range of activities. But a number of simple, fundamental principles run throughout all of these documents. These principles are the foundation of the multilateral trading system.

The WTO is run by its member governments. All major decisions are made by the membership as a whole, either by ministers (who usually meet at least once every two years) or by their ambassadors or delegates (who meet regularly in Geneva).

TAX HAVENS:

A **tax haven** is a state, country or territory where certain taxes are levied at a low rate or not at all.

Individuals and/or corporate entities can find it attractive to establish shell subsidiaries or move themselves to areas with reduced or nil taxation levels relative to typical international taxation. This creates a situation of tax competition among governments. Different jurisdictions tend to be havens for different types of taxes, and for different categories of people and/or companies.

States that are sovereign or self-governing under international law have theoretically unlimited powers to enact tax laws affecting their territories, unless limited by previous international treaties. There are several definitions of tax havens

The Organisation for Economic Co-operation and Development (OECD) identifies three key factors in considering whether a jurisdiction is a tax haven:

1. Nil or only nominal taxes. Tax havens impose nil or only nominal taxes (generally or in special circumstances) and offer themselves, or are perceived to offer themselves, as a place to be used by non-residents to escape high taxes in their country of residence.

2. Protection of personal financial information. Tax havens typically have laws or administrative practices under which businesses and individuals can benefit from strict rules and other protections against scrutiny by foreign tax authorities. This prevents the transmittance of information about taxpayers who are benefiting from the low tax jurisdiction.

Lack of transparency. A lack of transparency in the operation of the legislative, legal or administrative provisions is another factor used to identify tax havens. The OECD is concerned that laws should be applied openly and consistently, and that information needed by foreign tax authorities to determine a taxpayer's situation is available. Lack of transparency in one country can make it difficult, if not impossible, for other tax authorities to apply their laws effectively. 'Secret rulings', negotiated tax rates, or other practices that fail to apply the law openly and consistently are examples of a lack of transparency. Limited regulatory supervision or a government's lack of legal access to financial records are contributing factors.

WHAT IS MONEY LAUNDERING?

Money laundering can be defined in a number of ways. Most countries subscribe to the definition adopted by the ***United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988) (Vienna Convention)*** and the ***United Nations Convention Against Transnational Organized Crime (2000) (Palermo Convention):***

- The conversion or transfer of property, knowing that such property is derived from any [drug trafficking] offense or offenses or from an act of participation in such offense or offenses, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offense or offenses to evade the legal consequences of his actions;
- The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offense or offenses or from an act of participation in such an offense or offenses, and;
- The acquisition, possession or use of property, knowing at the time of receipt that such property was derived from an offense or offenses or from an act of participation in such offense...or offenses.

The **Financial Action Task Force on Money Laundering (FATF)**, which is recognized as the international standard setter for anti-money laundering (AML) efforts, defines the term "money laundering" as "the processing of...criminal proceeds to disguise their illegal origin" in order to "legitimize" the ill-gotten gains of crime.

Money laundering predicate offense is the underlying criminal activity that generated proceeds, which when laundered, results in the offense of money laundering. By its terms, the *Vienna Convention* limits predicate offenses to drug trafficking offenses. As a consequence, crimes unrelated to drug trafficking, such as, fraud, kidnapping and theft, for example, do not constitute money laundering offenses under the *Vienna Convention.* Over the years, however, the international community has developed the view that predicate offenses for money laundering should go well beyond drug trafficking. Thus, FATF and other international instruments have expanded the *Vienna Convention's* definition of predicate offenses to include other serious crimes. For example; the *Palermo Convention* requires all participant countries to apply that convention's money laundering offenses to "the widest range of predicate offenses."

In its 40 recommendations for fighting money laundering (The *Forty Recommendations),* FATF specifically incorporates the technical and legal definitions of money laundering set out in the Vienna and Palermo Conventions and lists 20 designated categories of offences that must be included as predicate offences for money laundering.

WHAT IS TERRORIST FINANCING?

The United Nations (UN) has made numerous efforts, largely in the form of international treaties, to fight terrorism and the mechanisms used to finance it. Even before the September 11th attack on the United States, the UN had in place the **International Convention for the Suppression of the Financing of Terrorism (1999)**, which provides:

1. Any person commits an offense within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willingly, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:
    1. An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or
    2. Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking any active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing an act.

2. For an act to constitute an offense set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offense referred to in paragraph 1, subparagraph (a) or (b).9

The difficult issue for some countries is defining terrorism. Not all of the countries that have adopted the convention agree on specifically what actions constitute terrorism. The meaning of terrorism is not universally accepted due to significant political, religious and national implications that differ from country to country.

FATF, which is also recognized as the international standard setter for efforts to combat the financing of terrorism (CFT), does not specifically define the term financing of terrorism in its nine *Special Recommendations on Terrorist Financing* (Special *Recommendations)* developed following the events of September 11, 2001. Nonetheless, FATF urges countries to ratify and implement the 1999 United Nations International Convention for Suppression of the Financing of Terrorism. Thus, the above definition is the one most countries have adopted for purposes of defining terrorist financing.

THE LINK BETWEEN MONEY LAUNDERING AND TERRORIST FINANCING

The techniques used to launder money are essentially the same as those used to conceal the sources of, and uses for, terrorist financing. Funds used to support terrorism may originate from legitimate sources, criminal activities, or both. Nonetheless, disguising the source of terrorist financing, regardless of whether the source is of legitimate or illicit origin, is important. If the source can be concealed, it remains available for future terrorist financing activities. Similarly, it is important for terrorists to conceal the use of the funds so that t
he financing activity goes undetected.

For these reasons, FATF has recommended that each country criminalize the financing of terrorism, terrorist acts and terrorist organizations, and designate such offenses as money laundering predicate offenses. Finally, FATF has stated that the nine *Special Recommendations* combined with *The Forty Recommendations* on money laundering constitute the basic frame- work for preventing, detecting and suppressing both money laundering and terrorist financing.

Efforts to combat the financing of terrorism also require countries to consider expanding the scope of their AML framework to include non-profit organizations, particularly charities, to make sure such organizations are not used, directly or indirectly, to finance or support terrorism. CFT efforts also require examination of alternative money transmission or remittance systems, such as *hawalas.* This effort includes consideration of what measures should be taken to preclude the use of such entities by money launderers and terrorists.

As noted above, a significant difference between money laundering and terrorist financing is that the funds involved may originate from legitimate sources as well as criminal activities. Such legitimate sources may include donations or gifts of cash or other assets to organizations, such as foundations or charities that, in turn, are utilized to support terrorist activities or terrorist organizations. Consequently, this difference requires special laws to deal with terrorist financing. However, to the extent that funds for financing terrorism are derived from illegal sources, such funds may already be covered by a country's AML framework, depending upon the scope of predicate offenses for money laundering.

THE MAGNITUDE OF THE PROBLEM

By their very nature, money laundering and terrorist financing are geared towards secrecy and do not lend themselves to statistical analysis. Launderers do not document the extent of their operations or publicize the amount of their profits, nor do those who finance terrorism. Moreover, because these activities take place on a global basis, estimates are even more difficult to produce. Launderers use various countries to conceal their ill-gotten proceeds, taking advantage of differences among countries with regard to AML regimes, enforcement efforts and international cooperation. Thus, reliable estimates on the size of the money laundering and terrorist financing problems on a global basis are not available.

With regard to money laundering only, the International Monetary Fund has estimated that the aggregate amount of funds laundered in the world could range between two and five per cent of the world's gross domestic product. Using 1996 statistics, these percentages would approximate between US $590 billion and US $1.5 trillion. Thus, by any estimate, the size of the problem is very substantial and merits the complete attention of every country.

THE PROCESSES

The initial concern over money laundering began with its early connection to illegal trafficking in narcotic drugs. The objective of drug traffickers was to convert typically small denominations of currency into legal bank accounts, financial instruments, or other assets. Today, ill-gotten gains are produced by a vast range of criminal activities—among them political corruption, illegal sales of weapons, and illicit trafficking in and exploitation of human beings. Regardless of the crime, money launderers resort to placement, layering, and integration in the process of turning illicit proceeds into apparently legal monies or goods.

1. Placement

The initial stage of the process involves placement of illegally derived funds into the financial system, usually through a financial institution. This can be accomplished by depositing cash into a bank account. Large amounts of cash are broken into smaller, less conspicuous amounts and deposited over time in different offices of a single financial institution or in multiple financial institutions. The exchange of one currency into another, as well as the conversion of smaller notes into larger denominations may occur at this stage. Furthermore, illegal funds may be converted into financial instruments, such as money orders or checks, and commingled with legitimate funds to divert suspicion. Furthermore, placement may be accomplished by the cash purchase of a security or a form of an insurance contract.

2. Layering

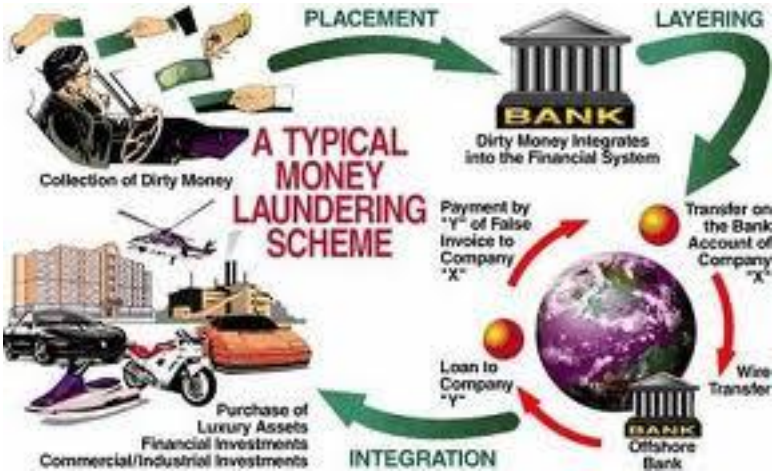
The second money laundering stage occurs after the ill-gotten gains have entered the financial system, at which point the funds, securities or insurance contracts are converted or moved to other institutions, further separating them from their criminal source. Such funds could then be used to purchase other securities, insurance contracts or other easily transferable investment instruments and then sold through yet another institution. The funds could also be transferred by any form of negotiable instrument such as check, money order or bearer bond, or the may be transferred electronically to other accounts in various jurisdictions. The launderer may also disguise the transfer as a payment for goods or services or transfer the funds to a shell corporation.

3. Integration

The third stage involves the integration of funds into the legitimate economy. This is accomplished through the purchase of assets, such as real estate, securities or other financial assets, or luxury goods.

These three stages are also seen in terrorist financing schemes, except that stage three integration involves the distribution of funds to terrorists and their supporting organizations, while money laundering, as discussed previously, goes in the opposite direction—integrating criminal funds into the legitimate economy.

WHERE DO MONEY LAUNDERING AND TERRORIST FINANCING OCCUR?



Money laundering and the financing of terrorism can, and do, occur in any country in the world, especially those with complex financial systems. Countries with lax, ineffective, or corrupt AML and CFT infrastructures are also likely targets for such activities. No country is exempt.

Because complex international financial transactions can be abused to facilitate the laundering of money and terrorist financing, the different stages of money laundering and terrorist financing occur within a host of different countries. For example, placement, layering, and integration may each occur in three separate countries; one or all of the stages may also be removed from the original scene of the crime.

METHODS AND TYPOLOGIES

Money can be laundered in a number of ways, ranging from small cash deposits in unremarkable bank accounts (for subsequent transfer) to the purchase and resale of luxury items such as automobiles, antiques, and jewelry.

Illicit funds can also be transferred through a series of complex international financial transactions. Launderers are very creative—when overseers detect one method, the criminals soon find another.

The various techniques used to launder money or finance terrorism are generally referred to as *methods* or *typologies.* The terms, methods or typologies, may be referred to interchangeably, without any distinction between the two. At any point in time, it is impossible to describe accurately the universe of the different methods criminals use to launder money or finance terrorism. Moreover, their methods are likely to differ from country to country because of a number of characteristics or factors unique to each country, including its economy, complexity of financial markets, AML regime, enforcement effort and international cooperation. In addition, the methods are constantly changing.

Nevertheless, various international organizations have produced excellent reference works on money laundering methods and techniques. FATF has produced reference materials on methods in its annual reports and annual typologies report.

Note- Kindly refer to the bibliography for more detailed research.

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