

CONFERENCE REPORT

SADC/ESAAMLG/UNODC/ISS REGIONAL CONFERENCE ON ANTI-MONEY LAUNDERING STRATEGIES AND COUNTER-MEASURES WITH PARTICULAR REGARD TO DRUG CONTROL

WILLOW PARK CONFERENCE CENTRE

BENONI, SOUTH AFRICA

21-23 OCTOBER 2003

1. Introduction

The Southern African Development Community (SADC) Secretariat, in conjunction with the United Nations Office on Drugs and Crime (UNODC), the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) Secretariat, and the Institute for Security Studies (ISS), Cape Town Office, conducted the “SADC Regional Conference on Anti-money Laundering Strategies and Counter-measures with particular regard to Drug Control”, at the Willow Park Conference Centre, Benoni, South Africa on 21-23 October 2003.

The conference was well attended by experts and researchers from within the region and abroad, as well as by professionals from all SADC Member States representing the following departments in their countries:

- One investigator from the police Anti-Drug Unit responsible for money laundering cases;
- One officer from the Central Bank who deals with money laundering issues;

- One public prosecutor with experience in anti-money laundering cases; and
- One officer from the Ministry of Finance/ National Treasury who is responsible for combating money laundering.

The Conference consisted of a number of topical presentations on the legal provisions/requirements, law enforcement and monetary control components of money laundering by international and regional experts, followed by open group discussions. On the third day, delegates broke into three groups, i.e. law enforcement, prosecution and financial sector representatives, respectively, for recommendations on the way forward for the combating of money laundering in the SADC Region.

2. Objectives

The key objectives of the conference were:

- To highlight the impact of money laundering and illicit drugs in the region;
- To explore and discuss strategies and measures against money laundering within and beyond the SADC region; and
- To provide a forum for developing links among key institutions involved in combating money laundering in the SADC region.

3. DAY ONE

- 3.1 **Welcoming Statements and Opening Address.** The opening session comprised of three welcoming statements by Dr. Johnny Strijdom, Drug Control Officer, SADC Secretariat, Mr. Rob Boone, Representative, UNODC Pretoria, and Mr. Charles Goredema from the ISS Cape Town office. Ambassador Michael Lake, Head of the Delegation of the European Commission in South Africa officially opened the Conference. The opening address was delivered by the ESSAMLG Executive Secretary, Mr. Charles Lengalenga, who highlighted the challenges in ascertaining the occurrence and impact of money laundering in the Eastern and Southern African region. He emphasized that only through deliberate efforts on the part of the ESSAMLG jurisdictions can the region have the necessary legislative and institutional frameworks to enable it to ascertain the levels and impact of money laundering in the region.
- 3.2 **Typologies of Money Laundering in the SADC Region.** Mr. Charles Goredema presented a paper on typologies of money laundering in the SADC region, and concluded with suggestions on how to improve the regional response to the manifestations of money laundering.
- 3.3 **Approaches to Fighting Money Laundering.** Mr. Tim Lemay, the Head of the United Nations Global Programme against Money Laundering (GPAML) outlined the existing tools, strategies and approaches to fighting

money laundering. Among them are the provisions contained in the 1988 United Nations Convention against Illicit Drugs and Psychotropic Substances, for the criminalisation of dealings with illicit drug proceeds. Mr. Lemay also pointed to the basic requirements for fighting money laundering, which include: the know-your-customer-rule; record keeping; the importance of reporting suspicious transactions; the establishment of Financial Intelligence Units; Asset Freezing and Confiscation; as well as international cooperation in the fight against money laundering.

3.4 **Money laundering and Links to the Illicit Drugs Trade and Terrorist Financing.** Commissioner Mukutulu Sinyani, Head of the Drug Enforcement Commission in Zambia, presented an exposition of how money laundering was not only linked to illicit drugs, but also to other forms of organised crime. He drew upon lessons learnt in Zambia from the 1980s and early 1990s, where some individuals rose to influential positions, through corrupt practices and nefarious involvement in the illicit drugs trade. Commissioner Sinyani also highlighted the factors that increase the vulnerability to money laundering. Most importantly, in terms of fighting money laundering, the Commissioner stressed that national task teams or forces should be formed, that should be able to attract a pool of talent from various disciplines. He noted that such task teams should be separated from the ordinary military establishment.

3.5 **International Trends in the Fight against Money Laundering.** On this subject, Tim Lemay pointed to the relevant provisions contained in the United Nations Convention against Transnational Organised Crime (the Palermo Convention) as well as the 40 FATF recommendations, as recently modified. He also alluded to broader reporting regimes, the concept of civil asset forfeiture and the need for database technology and the capacity to analyze the data contained therein.

4. **Highlights of Day One**

During the discussions, the delegation of the Democratic Republic of the Congo (DRC) made mention of the problems faced by their Government, and noted the progress achieved so far. The delegation pointed out that the Government of the DRC had demonstrated strong political will by launching a crusade against corruption. The Government has also considered incorporating the provisions of the United Nations Convention against Transnational Organised Crime into domestic legislation. The Government of the DRC has also established a law project on combating money laundering and terrorism, the financing of which has been linked to the prostitution industry. It was however stressed that the DRC had only two officers trained in anti-money laundering strategies. Appeals were made to the four regional organizations responsible for organizing the conference, as well as to other Member States for assistance with regard

anti-money laundering training for officials from the DRC. Poor border control was highlighted as a specific weakness, which continued to subject the DRC, like other countries in the Region, to the threat of transnational organised crime.

In their contributions, the Namibian and Mozambican delegations stressed that solutions to problems such as money laundering should go beyond the organizing of conferences and seminars, and that clear follow-up action should be pursued. It was suggested that a Regional Anti-Corruption Task Force be formed, to support national initiatives against corruption that would also contribute to the fight against money laundering. A further suggestion to decriminalize cannabis, to avail more resources to the fight against corruption and money laundering, attracted critical comment and did not find favour with the conference. It was pointed out that countries should be wary of taking a defeatist stand, and should also not be intimidated by non-cannabis producing countries. It was emphasized that in the African context, the increasing danger that cannabis poses to health, considering that its THC content – averaging presently at approximately 17 percent THC levels – has drastically increased compared to previous years.

5. DAY TWO

- 5.1 **Legislative Requirements in the Fight against Money Laundering in the SADC Region.** Mr. Ernesto Lopez, Financial Sector Expert, International Monetary Fund (IMF), Washington, presented on the role of the IMF in fighting money laundering. He elaborated the repercussions of September 11 2001, primarily the new resolve to vehemently fight money laundering and terrorist financing. Mr. Lopez discussed the FATF recommendations and the assessment methodology for monitoring compliance. He observed that a common problem was the lack of financial and material resources to fight money laundering, particularly on the part of law enforcement agencies and the judiciary.
- 5.2 **International Standards in the Fight against Money Laundering and Terrorist Financing.** Mr. Lemay, UNODC emphasized that to avoid the problem of unsustainable anti-money laundering programmes, much more use should be made of mentorship. This is where a pool of trainers can be trained in new counter-measures and they in turn should be available to train others.
- 5.3 **SADC Protocols and the Fight against Money Laundering.** Mr. Ray Goba from the prosecutor's office in Windhoek, Namibia, made a presentation on relevant Articles in the SADC Protocol on Combating Illicit Drugs, and the SADC Protocol Against Corruption, which have a bearing

on combating money laundering. He pointed out that the protocols could be used as benchmarks, but that member states also had the discretion of deciding how to fashion their legislation in conformity with their laws. He highlighted the importance of enhancing measures on extradition and mutual legal assistance.

- 5.4 **Challenging Money Laundering and ESAAMLG Memorandum of Understanding.** Mr. Wayne Blackburn, the UNODC officer working with ESAAMLG in Dar-Es-Salaam, outlined the composition of ESAAMLG, the self-evaluation assessment process it had launched, and the content and value of the Memorandum of Understanding among ESAAMLG member states.
- 5.5 **The Role of Financial Intelligence Units (FIUs).** Mr. Boudewin Verhelst, Deputy Director of the Belgian Financial Intelligence Processing Unit, gave a compelling presentation on the role of Financial Intelligence Units (FIUs) in fighting money laundering and terrorism funding. He also alluded to the FATF recommendations, the European anti-money laundering directive and how an efficient FIU should be organised. He mentioned the functioning of the Egmont Group, which is essentially an international forum for FIUs around the world. Mr. Verhelst noted the requirements for FIUs who want to join the Egmont Group .
- 5.6 **The Role and Responsibilities of the Financial Sector in the Fight against Money Laundering.** Mr. Murray Michell from the South African Financial Intelligence Unit made a presentation on this aspect. He dwelt on the experiences of the South African unit, of which he is head. He touched on the importance of political ownership, and that governments have to create the conditions for financial stability and economic development. He further mentioned that government ministers had to take responsibility, especially with regard to effecting control measures. Mr. Michel made mention of the Money Laundering Advisory Council, which is essentially a partnership concept aimed at enhancing the role of government and other stakeholders in the fight against money laundering.

6. Highlights of Day Two

Highlights from the discussion were concerns about joining the Egmont Group of Financial Intelligence Units, as it seemed that most states in southern Africa do not have these. The main concern was how to organize FIUs since most countries in the region do not have the experience of having such units.

Other highlights were discussions and the sharing of experiences on operational issues pertaining to money laundering investigations, such as

dual criminality or double jeopardy and other complications, for example where suspects die before the return of suspected criminal proceeds and their eventual confiscation. It was pointed out that one way of getting around this obstacle was through the administrative forfeiture process, where money or assets would be returned using the civil procedure, where the assets would be handled the same way than in an estate.

7. Day Three

Ms. Leam Thompson, an asset forfeiture and protection expert from the United Kingdom, made the first presentation of the day. She described the asset seizure and forfeiture system in the United Kingdom, before and after 1998. She observed that there had been much exchange of ideas in this area between the UK and South Africa. Advocate Willie Hofmeyer, Director of the South African Asset Forfeiture Unit (AFU), followed with a presentation on the work the AFU and the theoretical underpinnings of seizing and returning laundered assets. Ms. Thompson returned to present on the United Kingdom Receivership system, which essentially involves an interdisciplinary non-governmental unit mainly dealing with the management of proceeds of crime.

Commissioner Mukutulu Sinyani, and Senior Assistant Commissioner Kenny Kapinga, Head of the Interpol Sub-Regional Bureau in Harare, Zimbabwe, spoke on enhancing the capacity of law enforcement in fighting money laundering. Mr. Jackson Madzima, from the same bureau's money laundering desk subsequently presented on international law enforcement cooperation in the fight against money laundering.

8. Break Away Session

During this session, participants had to divide into three groups. The groups comprised respectively of members of the prosecution and judiciary, law enforcement and the financial sector. The purpose of the session was for representatives of the three sectors to deliberate amongst themselves and return with resolutions and tentative suggestions on the way forward. The following were suggestions from the three groups:

- 8.1 The prosecution and judiciary group resolved that:
 - There was a need for political sensitization of policy makers in the Region on money laundering and terrorism funding issues;
 - SADC Member States need to ratify international conventions, particularly the Palermo Convention;

- Members of the prosecution and the judiciary would require training on new legal practices emanating from being party to international instruments;
- Countries need capacity building in the drafting of legislation against money laundering and anti-terrorism funding;
- There is a need to advocate for the enhancement of mutual legal assistance in criminal matters, and extradition, and for the improvement of legal and law enforcement cooperation among SADC Member States in general; and
- A regional prosecutors' forum should be established, much like the Southern African Regional Police Chiefs Coordination Organisation, where prosecutors can meet and discuss issues affecting their cross-border cooperation.

8.2 The Law Enforcement group reported the following resolutions:

- That most countries in the region faced three particular challenges with fighting money laundering:
 - i. The slow development and promulgation of legislation in SADC Member States that do not have FIUs as yet, with which law enforcement agencies can liaise in order to obtain relevant information on suspicious financial transactions and activities;
 - ii. The problem of resource constraints, both human and financial; and
 - iii. The general lack of experience on the part of law enforcement to deal with money laundering cases.
- That Member States should make experts available and that regional organizations, such as SADC should keep a register of the relevant resource persons; and
- That participants should utilize examples of legislation for FIUs, available on the Egmont Group website, to expedite the completion of their legislation against money laundering and on anti-terrorism funding.

8.3 The resolutions from the Financial Sector Group were as follows:

- The need for relevant legislation was reiterated;
- Assistance for drafting this legislation is required;
- It was suggested that SADC should conduct needs assessments on legislation/ appropriate structures required in Member States, and their compliance with international requirements to combat money laundering and terrorism funding (this is already done by ESAAMLG);
- There was a call for broad sensitization for policy makers
- The need for more research in the areas concerned was highlighted; and
- Supervision would be required in the area of financial reporting.

9. Closure

In short closing statements, Messrs Charles Goredema (ISS), Charles Lengalenga (ESAAMLG) and Rob Boone (UNODC) thanked participants for their contributions, after which Dr Johnny Strijdom (SADC) closed the conference, acknowledging the valuable contributions made.

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