



# Twelfth United Nations Congress on Crime Prevention and Criminal Justice

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## Report of Committee I: agenda items 4, 7 and 9 and Workshops 1, 4 and 5

### Addendum

### **Agenda item 7. International cooperation to address money-laundering based on relevant United Nations and other instruments; Agenda item 9. Practical approaches to strengthening international cooperation in fighting crime-related problems**

#### Proceedings

1. At its 6th and 7th meetings, on 15 April 2010, Committee I held a general discussion on agenda item 7, entitled “International cooperation to address money-laundering based on relevant United Nations and other instruments”, and agenda item 9, entitled “Practical approaches to strengthening international cooperation in fighting crime-related problems”. For its consideration of the items, the Committee had before it the following documents:

(a) Working paper prepared by the Secretariat on international cooperation to address money-laundering based on relevant United Nations and other instruments (A/CONF.213/8);

(b) Working paper prepared by the Secretariat on practical approaches to strengthening international cooperation in fighting crime-related problems (A/CONF.213/10);

(c) Background paper on the Workshop on Links between Drug Trafficking and Other Forms of Organized Crime (A/CONF.213/15);

(d) Discussion guide (A/CONF.213/PM.1);

(e) Reports of the regional preparatory meetings for the Twelfth Congress (A/CONF.213/RPM.1/1, A/CONF.213/RPM.2/1, A/CONF.213/RPM.3/1 and A/CONF.213/RPM.4/1).

2. At the 6th meeting, on 15 April, the Chair of Committee I made an introductory statement. Two representatives of the Secretariat briefly introduced the



agenda items. Statements were made by the representatives of Morocco, Chile, Canada, Brazil, Argentina, Thailand, China, the Russian Federation, Saudi Arabia, Azerbaijan, Germany and India.

3. At the 7th meeting of the Committee, on 15 April, statements were made by the representatives of South Africa, Brazil, the Philippines, the United States of America, Mexico, the Republic of Korea, Argentina, the Islamic Republic of Iran, Australia, France, Indonesia, Portugal, Sri Lanka, Japan, Algeria, Ghana and Saudi Arabia and the observer for the Ibero-American Network for International Judicial Cooperation (IberRed).

### **General discussion**

4. It was noted that the increasing interconnection of national economies and the increased availability of information technologies presented unprecedented opportunities for organized criminal groups to operate across borders. Speakers conveyed the strong commitment of Member States to make both law enforcement cooperation and judicial cooperation more effective. Speakers also recognized that money-laundering posed a serious threat to the integrity and stability of national and international financial systems.

5. Several speakers highlighted the strong links between money-laundering and drug trafficking, transnational organized crime, corruption and terrorism. Many speakers acknowledged the essential framework provided by the United Nations legal instruments, including the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>1</sup> the United Nations Convention against Transnational Organized Crime and the Protocols thereto<sup>2</sup> and the United Nations Convention against Corruption,<sup>3</sup> as well as relevant international standards such as the recommendations of the Financial Action Task Force against Money Laundering (FATF). Several speakers called on the Conference of the States Parties to the United Nations Convention against Transnational Organized Crime to make an effort to establish an efficient and transparent mechanism for the review of implementation of the Convention and its Protocols.

6. It was stressed that the fight against money-laundering was a key element of any global strategy to combat organized crime, and the importance of broadening the range of predicate offences to money-laundering to cover all serious crimes was underlined. Speakers noted the challenges posed by new forms of money-laundering such as trade-based laundering, the misuse of new technologies, new payment methods and misuse of corporate vehicles.

7. Some speakers pointed out that the issue of money-laundering was addressed in many regional and international forums, such as the FATF-style regional bodies and the Egmont Group of Financial Intelligence Units, and noted the value of those forums in implementing international standards and exchanging information. Several speakers called for continued consideration of that thematic area in various established bodies of the United Nations. In addition, several speakers called for greater coordination between UNODC and FATF.

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<sup>1</sup> United Nations, *Treaty Series*, vol. 1582, No. 27627.

<sup>2</sup> *Ibid.*, vols. 2225, 2237, 2241 and 2326, No. 39574.

<sup>3</sup> *Ibid.*, vol. 2349, No. 42146.

8. Speakers emphasized the need for an effective legal and regulatory framework to combat money-laundering and noted the progress made by many States in adopting anti-money-laundering legislation containing a legal definition of money-laundering based on the relevant United Nations instruments, measures adopted by financial and non-financial institutions to prevent money-laundering and provisions on asset confiscation. The key operational role of financial intelligence units and other specialized anti-money-laundering bodies was emphasized.
9. Speakers also stressed the value of first engaging in informal cooperation prior to seeking formal mutual legal assistance, and noted that such informal methods could often be used instead of formal mutual legal assistance requests during the investigative phase of cases. The use of multilateral, regional and bilateral agreements was also highlighted as an important tool in international cooperation, as was the continued use of reciprocity arrangements based on domestic legislation.
10. Several speakers noted that the principle of dual criminality was often an impediment to international cooperation in the area of mutual legal assistance. Speakers noted that the law of many States prohibited the extradition of their nationals, and recognized the difficulty of effectively applying the principle of *aut dedere aut judicare*. Some speakers underscored the fact that the political will to cooperate was key to fostering international cooperation.
11. Speakers also noted the importance of international cooperation in the area of asset recovery, including tracing, freezing and confiscating proceeds of crime. It was stressed that such cooperation was particularly important in combating money-laundering and any other profit-motivated crime. Regional and multilateral networks could play a key operational role in promoting the exchange of information. It was underlined that seizing assets at the earliest possible stage was crucial, that asset confiscation was often more effective in fighting organized criminal groups than was imprisoning offenders and that emphasis should be placed on the return of confiscated funds to the countries of origin, in accordance with the relevant international legal instruments. Some speakers recommended making greater use of the reversal of the burden of proof in cases involving unexplained wealth.
12. Some speakers also stressed that non-conviction-based forfeiture could make international cooperation easier, as it allowed asset seizure even in situations where the immunity, flight, absence or death of the offender precluded a conviction.
13. Speakers stressed the need for States to ratify and fully implement the provisions on international cooperation and money-laundering contained in United Nations conventions. They also highlighted the need to strengthen inter-agency cooperation and establish or designate highly specialized, well-trained and adequately resourced central authorities, multidisciplinary investigative teams and specialized judicial bodies.
14. A number of speakers expressed support for strengthening international cooperation at the operational level through the creation of joint investigation teams and the deployment of liaison officers or magistrates.
15. Most speakers pointed out that the challenges posed by transnational crime required technical assistance that was more specialized. The United Nations Office on Drugs and Crime (UNODC) had a key role to play by assisting Member States in

fully implementing the conventions and continuing to provide technical assistance and capacity-building in the area of international cooperation in criminal matters. Several speakers noted that States should make use of the available model treaties on mutual legal assistance and extradition developed by UNODC and that UNODC should consider developing further model treaties, such as on the establishment of joint investigation teams.

16. Speakers also stressed the role of UNODC in supporting Member States in building capacity and strengthening anti-money-laundering systems to effectively detect, investigate and prosecute money-laundering cases and to recover the proceeds of crime.

17. Some speakers proposed the elaboration of a global convention on international cooperation, while other speakers were of the view that efforts should be directed to the full and effective implementation of existing international legal instruments. One speaker expressed the desire for a new international convention on money-laundering, and another speaker called for a review of existing regional cooperation treaties.

#### **Conclusions and recommendations**

18. Every effort should be made by States parties to fully implement the provisions on money-laundering and international cooperation contained in the 1988 Convention, the Organized Crime Convention and the Protocols thereto, the Convention against Corruption and relevant international standards.

19. States should pursue building specialized capacity for combating money-laundering and engaging in efficient and effective international cooperation. Financial intelligence units and central authorities for international cooperation should be strengthened. States should give consideration to the creation of multidisciplinary investigative teams, the deployment of liaison officers and magistrates and the establishment of joint investigation teams. Networks of practitioners for the informal exchange of operational information should be strengthened. In addition, the informal exchange of information prior to making a formal request for mutual legal assistance was recommended.

20. Asset confiscation and recovery should become an integral part of the strategy to combat money-laundering and other profit-motivated crime. States should have the ability and capacity to trace, freeze and confiscate proceeds of crime and afford the widest range of cooperation possible. States should consider taking the necessary measures to allow for the confiscation of assets without a prior criminal conviction, in accordance with the principles of their national legal system.

21. UNODC should continue to provide technical assistance for the full implementation of the relevant international conventions and other anti-money-laundering standards. All international actors should strive to coordinate their efforts to the greatest extent possible.