

We are happy to share this information with you and encourage you to use this document for research purposes. Please ensure that all credits are acknowledged when using all or any of the information in this document. Commercial reproduction is strictly prohibited.

Money Laundering in the Asia Pacific

Working Paper No. 2: Asia Pacific money
laundering flows and trends

International Centre for Criminal Law Reform
and Criminal Justice Policy

March, 1999

Allan Castle, Ph.D.

Contents

Introduction

Defining money laundering

Placement

Layering

Integration

Regional Scope

Background: the transnationalisation of crime and money laundering

The amount and sources of money laundered in the Asia Pacific

How much money is being laundered?

- **Estimating the scale of money laundering in the Asia Pacific**
- **The '2 percent' rule**

What are the sources of laundered money in the Asia Pacific?

- **FATF/APG 'typologies' exercise report on sources of laundered money**
- **Illicit drugs**
- **Prostitution**
- **Corruption**
- **Smuggling**
- **Fraud**
- **Tax evasion**
- **Organised crime in the former Soviet Union (FSU) as a source of laundered money**

Methods of laundering money in the Asia Pacific

- **FATF-APG laundering typologies**
- **FSU laundering methods**
- **Casinos and internet gambling**
- **Offshore financial centres**
- **Movement of proceeds (layering or structuring)**
- **Underground banking**
- **Other methods**

Conclusions

The sources of laundered money

The routes of laundered money

Further reference

Introduction

The first report in this series emphasised the need for concerted action against money laundering in the Asia Pacific, presenting an analysis of the opportunities and obstacles likely to be encountered in any attempt to construct a realistic and effective anti-money laundering regime in the region. This report¹ provides further background regarding the nature of the problem by providing an overview of the most significant sources and routes of laundered money in the region. It presents a picture in which money laundering stems from numerous sources, and occurs in a variety of different forms.

With respect to the sources of money laundering in the Asia Pacific, it may of course take the traditional form of criminally derived profits (for instance, from the drug trade or from prostitution) which the criminal then seeks to dispose of or re-invest with impunity. In this form, money laundering is a problem that pits the resources and ingenuity of the state against the methods of criminal actors. This origin of money laundering is widespread in the region, particularly with respect to the profits from the production and trading of heroin and methamphetamine, and also with respect to the profits from prostitution and trafficking in persons.

A second common source of laundered money is that flowing from public sector corruption, which remains endemic in a number of states of the region. Such corruption may involve clearly illegal but covert activities such as the misappropriation of significant levels of funds from the public purse by mid-level or high-level officials, or the abuse of public tenders. A more challenging version of this phenomenon is the involvement of the armed forces in

¹ Methodological note

This report has been prepared with the use of four major information sources. First, an attempt has been made to draw from most major, relevant official studies and reports addressing money laundering and other financial crime – where possible with a regional focus. Second, academic research having clear policy implications has been consulted wherever possible. Third, current and archival news reports have been employed as background material where other reliable data is unavailable or in order to form a more complete picture. Finally, formal and informal interviews with officials and experts (while not directly referenced in the text) have supplemented other research materials.

significant levels of corrupt and criminal activities, and the subsequent disposal of the proceeds from those activities, a problem which exists to this day in a number of the region's largest states.

A third form, and perhaps the greatest concern to policy makers and to regional stability, is inherent in situations where the state has become an active participant in criminal activity. While this may also be characterised as corruption, the complicity of state actors and the state itself is in these instances far more overt. In a limited number of cases this situation has progressed to the point where the lines between legitimate state enterprise and money laundering have become sufficiently blurred as to render traditional prescriptions for the control of money laundering inadequate in the absence of significant national institutional reform. Most commonly this situation obtains where drug production and/or transit operations form a significant component of the national or regional economy.

The routes and methods employed in the laundering of funds vary considerably. Here the region is characterised by continuity and change. There is continuity in the continued significance of the region's largest financial centres – particularly those in Southeast Asia – as hubs for money laundering. These centres retain their attraction for money launderers due to the size, variety and complexity of their financial institutions, as well as their proximity to key shipping, drug production and/or human transit corridors.

Along with this continuity, there is change in the exploitation of new opportunities, methods and jurisdictions. A number of small states have become an increasingly preferred destination for criminal money due to their recent development of 'tax haven' status. New communications and encryption technologies have allowed for a burgeoning 'virtual' financial industry, which appeals to foreign criminal as well as legal funds, through offshore banking services and internet gambling. The crisis in Asian economies has led to an increase in monies generated through trafficking in persons, whether for purposes of prostitution or migration. Finally, the process of 'globalisation' has brought criminal actors from other regions of the world into the Asia Pacific in search of convenient or effective laundering opportunities. In particular, the appearance of organised criminal groups from the states of the former Soviet Union is of considerable concern.

1. Defining money laundering

Most organised crime activity is economic activity. The goal of the criminal is to use the proceeds of crime in the same manner as legal earnings, and this is possible as long as the source of the funds remains concealed. The task of the money launderer, therefore, is to make the proceeds of crime appear to be of legal origin, or of sufficiently obscure origin that any attempt to link those assets to criminal behaviour would be futile. In the context of developed states, it is generally understood that this task is accomplished through three basic steps: placement, layering and integration. The following paragraphs describe these activities, as they are currently understood.

Placement

The initial challenge for the money launderer is to place the profits from predicate criminal activity (i.e., original crimes such as drug sales or prostitution) into a bank or non-bank financial institution, in order to more easily manipulate the funds. In the familiar context of the drug trade, this will typically involve depositing or otherwise converting amounts of cash that would be unusually large by normal commercial standards. As placement of large sums of cash may trigger formal reporting mechanisms in many jurisdictions, elaborate means may be employed at this stage to avoid detection. These may include the use of 'front' businesses such as bars, restaurants, or casinos that may reasonably claim to do business in cash. They may also involve the use of 'smurfing' techniques – numerous deposits of amounts small enough to avoid raising suspicion or triggering reporting mechanisms. Once the cash has been placed, it may then be moved with greater ease and less suspicion through the economy or if necessary offshore.

Layering

Once the money derived from criminal activity has been converted to a bank account balance or a financial instrument, the next step in laundering the funds is to 'layer' the money.² The launderer seeks to insert layers of transactions between the original criminal

² A process sometimes referred to as 'structuring'.

activity and the seemingly legitimate re-emergence of the funds into the legal economy. This may be accomplished several ways, but the goal remains the same: to render the path of the funds and their ownership as opaque as possible. The most common means used here are well known. Money launderers favour jurisdictions whose financial institutions provide legally protected anonymous banking and/or who provide 'off-the-shelf' shell companies under conditions of anonymity. Other methods include the importing or exporting of non-existent products, the use of casinos or lotteries, and the purchase and resale of fixed assets or real estate. It is in this phase that the crime of laundering money becomes particularly transnational, as multiple jurisdictions are often used in further efforts to cloud the audit trail.

Integration

The goal of the placement and layering phases is to make it impossible to trace the funds to their original source. Once this condition has been achieved, the criminal assets may then be integrated into the legal economy. This may occur under the auspices of a company domiciled in the criminal's own jurisdiction, which conducts 'business' with offshore shell companies used in the layering process, or via returns on 'investments' in those companies. It may also take the form of loans with highly favourable or negligible terms of repayment, real estate investments, or other transactions, which will be unremarkable once the criminal has constructed a plausible legal commercial and business identity.

2. Regional Scope

The focus of this report is on East and Southeast Asia and the island states of the South Pacific. This grouping obviously brings together several distinct economic categories. It includes the large, heavily populated economies of East and Southeast Asia, the smaller economies of those same sub-regions, and the small states of the Pacific. Where relevant, reference will be made to the situation and/or experience of individual jurisdictions. However, as the goal of this report is to provide an overall view of problems common to a number of states or entire sub-regions, most analysis is developed in general terms.

The report excludes the distinct groupings of states in South Asia and in the territories of the former Soviet Union, as well as some states where information is either unavailable or unreliable (e.g. North Korea, Mongolia, Christmas Island). Selected developed states on the periphery of the region with an active engagement in the regional economy but with substantial extra-regional links (Australia, New Zealand, Japan, the United States and Canada) are included in the analysis where relevant, and for purposes of comparison.

Table 1: Jurisdictions covered in this report

East and Southeast Asia	Pacific Islands	Other Regional Actors
Brunei, Cambodia, PR China, Hongkong SAR, Indonesia, South Korea, Laos, Macao, Malaysia, Myanmar, Philippines, Singapore, Taiwan, Thailand, Vietnam	Cook Islands, Fiji, Kiribati Marshall Islands, Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tahiti, Tokelau Islands, Tonga, Tuvalu, Vanuatu	Australia, Canada, Japan, New Zealand, United States

3. Background: the transnationalisation of crime and money laundering

The transnationalisation of criminal activity, beyond the sporadic use of international legal loopholes by domestic criminals and the effects of migration, can be traced in part to the explosion in consumer demand for recreational drugs in the Western hemisphere from the late 1960s onward.³ At the same time, the statutory offensive against sophisticated criminal

³ The expansion of the recreational drug market has not caused revenues to expand in equal proportion, however. After the initial boom, changes in production techniques and increased sources of supply resulted in the peaking of drug revenue in the mid-1980s. In the US case, estimated expenditures on illegal recreational drugs (in 1996 dollars) declined consistently from 1988 (\$91.4 billion) to 1995 (\$57.3 billion). See William Rhodes et al., *What America's Users Spend on Illegal Drugs, 1988-1995*, Office of National Drug Control Policy, Washington DC, 1997.

behaviour gathered speed, with the RICO legislation⁴ in the United States followed by a growing number of legislative provisions against the financing operations of organised crime, both in the United States and elsewhere, in the 1980s. In the case of the trade in illegal drugs, therefore, a vast increase in demand led to an equally vast increase in revenue. Combined with increasing difficulty in concealing the origins of that revenue, this series of developments placed pressure on criminal actors to exploit variance in national legislative and regulatory codes, in order to maintain a shield of secrecy over their financial operations. Those involved in drug trafficking in the 1970s and 1980s sought to move their money quickly from the point of sale to offshore locations willing to provide conditions of anonymity in financial transactions. The transnational effects of these changes in the drug trade were thus not limited to the increased movement of drugs over borders, but to the increasing exploitation of international financial markets. These changes in the drug economy were augmented by the same set of technological innovations that have reduced transaction costs associated with commercial activity in most industries, legal or illegal.

The scale and complexity of these transactions have made it difficult for governments to regulate and control monetary movements across boundaries. Money, the most fungible of commodities, can be transmitted and exchanged instantaneously and traced only with great effort. The global financial network operates according to the logic of the market and is not readily amenable to national preferences or efforts of central or even co-ordinated management. The sheer volume of money in the financial system and the ease with which it can be moved electronically have made it much easier to move and launder profits of illicit activities. There are so many points of access to the global financial system that making access in some areas more difficult does not eliminate laundering, it simply encourages its relocation or 'displacement'.

Rapid advances in transportation and communication have also contributed to the increase in the volume of trade. The use of container shipments has grown as international trade expanded. The use of container shipments has enabled criminals to smuggle in large volumes of illicit products across borders. The creation of recreational wealth has created

⁴ RICO refers to the US Racketeer Influenced and Corrupt Organisation federal statute (1970), the earliest and most influential national statute against organised crime.

new demand for illicit goods and services. The spread of economic openness, including support for free movement of goods and people across boundaries, has substantially lessened the capacity of border policy to detect and restrict surreptitious flows across countries.⁵ International migration has facilitated the creation of network structures for the supply of illicit goods. With this growth in trade, investment, and travel, those seeking to move covertly illegal people or illicit goods across national boundaries can easily hide in the mass of legitimate travellers and commodities.⁶

As a partial consequence of these developments, transnational criminal activity has expanded since the 1970s beyond the drug trade to a new range of activities. A recent draft of a proposed *UN Convention on Transnational Organised Crime* identified ten activities criminal to be addressed by the international community.⁷ They include money laundering, counterfeiting, trafficking in cultural objects, trafficking in narcotics, trafficking in persons, theft of nuclear materials, terrorist acts, illicit traffic or stealing of arms and explosive materials, motor vehicle theft, and corruption of public officials. A background paper prepared for the World Ministerial Conference on Transnational Organised Crime held in Naples November 21-23, 1994, singled out two additional categories of crime for particular attention in deliberations: trafficking in body parts and tax evasion.⁸

4. The amount and sources of money laundered in the Asia Pacific

How much money is being laundered?

Estimating the amount of criminal money originating from the Asia Pacific or being laundered there is not a simple task. We may start from the United Nations' published

⁵ Louise Shelley, 'Transnational Organised Crime: An Imminent Threat to the Nation-State?', *Journal of International Affairs*, 48 (winter 1995), p. 466.

⁶ *Ibid.*, p. 465.

⁷ Ad Hoc Committee on the Elaboration of a Convention against Transnational Organised Crime, *Draft United Nations Convention against Transnational Organised Crime*, A/AC.254/4, (15 December 1998).

⁸ See the United Nations *Crime Prevention and Criminal Justice Newsletter*, nos. 26 & 27, Vienna, November 1995.

estimate that \$400 billion in criminal funds is laundered annually worldwide.⁹ At least 50% of this figure, by most accounts, comes from the drug trade. The drug trade in the Asia Pacific is a significant operation, involving the bulk of the world's heroin production, and other criminal activities such as prostitution, smuggling and corruption are also present to a significant degree in the region.

Estimating the scale of money laundering in the Asia Pacific

As the figures involved are significant but difficult to quantify with much precision, it may be fruitless to concentrate on determining an exact amount. There are few if any reliable overall statistics on money laundering for the developing states directly examined in this study, and for the several developed economies on the periphery of the region (Canada, the United States, Japan, Australia and New Zealand) the information is largely based on estimates.

As one recent report commissioned for the Australian Transactions Reports and Analysis Centre (AUSTRAC) concluded, 'there are no official statistics on money laundering,' providing a comprehensive account of the difficulties involved:

There are data on individual cases, but these are of necessity only the proven tip of the iceberg, and owing to the multiplicity of agencies involved in their identification, investigation and prosecution, and the time taken to bring cases to fruition, the published data overlap, by agency and over time, to a degree which makes virtually any form of analysis extremely difficult. Nor [is] it ... easy to monitor money laundering even with the very best feedback from those agencies, for the reasons mentioned above. Official statistics only relate to proven offences, they are confused by the multiplicity of agencies involved and the delays in processing allegations through the courts to finality, and they are problematic, in their estimation of the amounts actually involved in laundering operations. The estimation of the extent of money laundering must therefore rely ... on reading the more oblique messages we can piece together from other sources.¹⁰

⁹ See the United Nations *Crime Prevention and Criminal Justice Newsletter*, nos. 26 & 27, Vienna, November 1995.

¹⁰ John Walker, *Estimates of the Extent of Money Laundering In and Throughout Australia*, Australian Transaction Reports and Analysis Centre, 1995 (www.austrac.gov.au/publications/moneylaundestimates/toc.html)

Applied to Australia, the study suggests that estimates that money laundering in that state amounts to between \$5.24 billion and \$9.88 billion (\$Aus) annually, 'most of which is clearly the proceeds of frauds and drug offending', and that 'as much as \$5500 million may be being sent out of Australia to overseas tax havens'.¹¹ A recent study commissioned in Canada on the impact of organised criminal activity on Canadian society estimated that the amount of money laundered in that country on an annual basis was between \$5 billion and \$17 billion (\$Can).

The '2 percent' rule

These figures, especially those in the Canadian study, were drawn in part from extrapolation from estimated drug revenues nation-wide, and in part derived on the IMF assumption that 2% of GDP is a reasonable 'rule of thumb' estimate of money laundered in any particular state, *ceteris paribus*.¹²

This estimate, if applied to global GNP in 1996, would suggest that there is something in the region of \$500-\$600 billion laundered annually worldwide, a figure somewhat higher than the UN estimate stated above.¹³ Applied to the total Asia Pacific GNP for 1996 including all the states identified as relevant in **Figure 1** above, the 2% estimate method yields an estimate of \$US 316 billion laundered annually in the states forming the Asia Pacific region.

Naturally, the size of this figure is driven in large measure by the scale of the US economy. We may say with confidence that much of the illegal revenue within that economy would necessarily be related to intra-American flows rather than Asia Pacific linkages (primarily

¹¹ Walker, *ibid*.

¹² The figure of 2% is the low end of the range of 2-5% of global GDP being the consensus amount of money laundered globally. This suggestion appeared first 'Money Laundering: the Importance of International Countermeasures', an address by Michel Camdessus, Managing Director of the International Monetary Fund, at the Plenary Meeting of the Financial Action Task Force on Money Laundering, Paris, February 10, 1998. This address is available on-line at (<http://www.imf.org/external/np/speeches/1998/021098.HTM>)

¹³ Global GNP (a figure distinct from GDP but sufficiently close to allow generalisation) was estimated by the World Bank in 1998 at \$US 29.5 trillion (i.e. \$29,510,000,000,000). For the states listed in **Figure 1**, the overall GNP for 1996 was \$15.8 trillion. See *World Development Indicators 1998*, The World Bank, Washington DC, 1998, table 1.1 ('Size of the economy').

with respect to the cocaine trade). Assuming that only 20% of illegal proceeds associated with the US economy originate with Asia Pacific criminal activity or are destined to be laundered in that region, this gives us an initial figure of approximately \$US 200 billion. Revised downwards to reflect the more conservative estimates from the United Nations – whose overall figures of money laundered globally were some 25% lower than IMF amounts – we arrive at a final figure of *approximately \$150 billion* laundered annually in the region as the *most conservative* estimate possible. Of this figure perhaps one-half to two-thirds (i.e. \$75 to \$100 billion) may be associated with the drug trade, with other crimes accounting for the balance.

While the reader must remain aware that this is a gross estimate, it has been derived according to assumptions made by the international organisations most competent and best placed to hypothesise on this issue. We may further augment this figure with sums from the ‘grey areas’ of criminal activity – public sector corruption, illegal activities involving the armed forces and other public agencies, and tax evasion. There is no reliable method of estimating these sums, but it is enough to suggest that the predicate problems are of such magnitude that the sums involved require action regardless of their exact amount.

What are the sources of laundered money in the Asia Pacific?

FATF/APG ‘typologies’ exercise report on sources of laundered money

The Financial Action Task Force is the leading international body on money laundering policy. Its *Forty Recommendations* define the ‘state of the art’ in providing a functional yet transparent financial system.¹⁴

The mandate of the FATF is threefold. First, the FATF is committed to continue the process of *mutual evaluation* in which teams of experts from other member countries visit individual member jurisdictions, examine the way in which the recommendations have been

Sections of *WDI 1998* are available online at (www.cdinet.com/DEC/wdi98/wdi/wdi.htm). Table 1.1 is available at (www.cdinet.com/DEC/wdi98/wdi/pdf/tab1_1.pdf).

implemented, and report back to the FATF Secretariat. Second, the FATF studies recent developments in *money laundering techniques* based on the experience of its members. Interpretative notes updating the 40 recommendations are issued from time to time in light of what is known about new laundering typologies. Finally, the FATF is involved in an *outreach program* encouraging implementation of the recommendations by non-member states, many of which are important financial centres.

The FATF's outreach program is manifest in the Asia Pacific in the form of the Asia Pacific Group on Money Laundering (APG). The most recent meeting of the APG, a workshop on money laundering typologies held in November 1998, drew participants from twenty of the jurisdictions covered in this report, as well as from a number of other countries and several international organisations.¹⁵ According to the APG, the primary sources of criminal proceeds in the region were identified as trafficking in illicit drugs and human beings, gambling and the activities of organised crime groups. Some other identified sources include kidnapping, arms smuggling, hijacking, extortion, public corruption, terrorism and tax evasion.

Illicit drug trade

The production and transit of illegal narcotics and psychotropics is the single biggest criminal activity in the region in terms of cash flow.¹⁶ Strictly speaking, there are three major divisions in terms of production, with heroin production concentrated in the states encompassing the so-called 'golden triangle' in Southeast Asia, methamphetamine production concentrated in the industrial centres of some of the region's largest states, and marijuana production occurring sporadically across the region. It is heroin (primarily for export outside the region) and methamphetamine (consumed to a high degree within the region as well as exported to other parts of the globe) which represent the lion's share of drug earnings. Of the three drugs, the greatest growth in terms of production and

¹⁴ See the discussion of the FATF in Allan Castle, *Money Laundering in the Asia Pacific: Working Paper No. 1, Regional challenges and opportunities for international co-operation*, International Centre for Criminal Law Reform and Criminal Justice Policy, Vancouver, 1999.

¹⁵ See *FATF 1998-1999 Report on Money Laundering Typologies*, Financial Action Task Force, Paris, 10 February 1999, available in Aat (<http://www.oecd.org/fatf/pdf/99typ-e.pdf>)

consumption is exhibited by methamphetamine, reflecting the susceptibility of the drug trade to changing fashions in consumer markets.

It is important to recognise that profits from the production of and sale of drugs do not revert directly to the producer. Like any other which requires secondary processing and distribution, as well as financial manipulation and re-investment, the trade in illicit drugs produces income at each stage of the business. Rather than accepting the stereotype of a number of monolithic 'cartels' to whom all profits revert, it may be more useful to consider the likelihood that the proceeds of drug-related crime – like the proceeds from other trafficking crimes – are increasingly dispersed with the growing globalisation of the drug market. While it is true a number of large (often ethnically based) networks control different portions of the drug production market in the region, contributions to processing and transit at different locations in the region add to the distribution of proceeds from these crimes across a large number of jurisdictions and a wide variety of individuals. Of particular importance in the money laundering cycle are those jurisdictions whose largest cities provide a significant level of financial services to an international market, and those jurisdictions whose ports provide criminals with considerable 'value added' in the smuggling of contraband (or of illegal proceeds themselves).

Prostitution

Prostitution, and the additional cross-border trafficking in women and children which accompanies it, continues to be a problem across the region. In Southeast Asia, domestic prostitution operations are augmented by the illegal migration, forcible transport or sale of individuals from one part of the region to another. This situation has been exacerbated by the current economic crisis, according to observers, as the effects of economic recession force more to seek an income from the sex trade either at home or abroad.¹⁷ While some are led by economic necessity into the trade, others are kidnapped, sold by their families, or otherwise compelled to co-operate with traffickers.

¹⁶ *The World Geopolitics of Drugs 1997/1998*, Observatoire Geopolitique des Drogues, Paris 1998

International 'sex tourism', a phenomenon in which wealthy foreign men travel from outside the Asia Pacific to countries with widespread prostitution and child-sex problems, attracts much of the attention associated with prostitution in the region.¹⁸ However, it is important to note that prostitution aimed at domestic markets accounts for a considerably higher degree of revenue than the international trade, despite its lower profile.

Corruption¹⁹

A recent study dealing with approaches to corruption from an international perspective notes that it is difficult to treat the issues of corruption and organised criminality as separate problems, as corruption often provides the necessary cover for other criminal activities. This is particularly true in cases where those perpetrating criminal acts are individuals or groups with a high degree of integration into the legal economy and legitimate society.²⁰ The same study subdivides the issue of corruption into four separate areas, as follows:

- a. **Bribes and 'kick-backs':** payments demanded or expected in return for being allowed to do legitimate business. The payment becomes the license to do business. Those who make the payments are allowed to compete or win contracts.
- b. **Election/campaign corruption:** illegal payments made at the time of elections to ensure continuing influence.
- c. **Protection:** officials accept payments (or privilege) from criminal organisations in exchange for permitting them to engage in illegitimate businesses.

¹⁷ Andrew Nette, *Inter Press Service* (Melbourne) January 15, 1999, 'Asia-Australia: law against trafficking in women meets protests'.

¹⁸ See e.g. 'Travel Industry Targets Sex Tourism', press release from the World Tourism Organisation, at (www.world-tourism.org/ows-doc/pressrel/travind.htm); 'Violations of Human Rights -- Trafficking Women and Girls', *WINAP Newsletter*, Women's Information Network for Asia and the Pacific, United Nations Economic and Social Commission for Asia and the Pacific, New York, December 1996, p. 1; excerpts from US State Dept. country reports with respect to trafficking in persons, highlighted on the web pages of the Coalition to Abolish Slavery and Trafficking (www.ljr.net/cast/state.html).

¹⁹ This issue is addressed more fully in Allan Castle (with Joanne Lee), *Money Laundering in the Asia Pacific: Working Paper No. 4, Money laundering and corruption*, International Centre for Criminal Law Reform and Criminal Justice Policy, Vancouver, 1999.

²⁰ See Margaret Beare, 'Corruption and organized crime: Lessons from history', *Crime, Law & Social Change*, vol. 28, pp. 155-72, 1997.

- d. **Systemic top-down corruption:** national wealth is systematically siphoned off or exploited by ruling elites.²¹

Any attempt to quantify the funds derived from corruption in the Asia Pacific region which are then laundered to appear of legitimate origin (or to remain hidden from view in foreign accounts and investments) faces the same problems of data and methodology described above. However, there is considerable anecdotal evidence to suggest that corruption in all forms remains a significant ethical, political and fiscal problem in the region (as it does in many other regions of the world). Five of the states possessing the ten largest economies in the region – and most of those comprising the leading economies in Southeast Asia – have been repeatedly assessed as exhibiting significant levels of corruption by the leading independent international review of corruption perceptions.²² In several states of the region, including one current high-profile case, effective money laundering legislation has been watered down or challenged on procedural grounds in order to exclude public sector corruption from the list of predicate crimes.

It would be a mistake, however, to identify corruption in many states of the Asia Pacific as the problem of those states alone, or as a problem of ‘developing’ states. One recent high-profile scandal involving election corruption, in which funds of dubious origin from east Asia were allegedly channelled into the electoral process in North America, highlights the ‘global’ nature of a regional problem and potential implicates private and public-sector actors in a number of states.²³ Another incident, in which one state launched an internal investigation into the finances of the outgoing national government, yielded the conclusion that as much as \$100 million of public funds in that state had been diverted to European accounts and investments over two decades by elite members. As much as \$4 billion more

²¹ List with minor adaptations from Beare, *ibid.*, pp. 161-62.

²² See the *Transparency International 1998 Corruption Perceptions Index*, Transparency International, 1998. The TI index is a compilation of expert impressions concerning corruption in a selection of nation-states, using an amalgam of several separate indices to arrive at an annual Index. Though indicative of general national characteristics and exhibiting results which may be intuitive to many readers, its methodology and broad scope suggest that caution be applied in interpreting the significance of the numerical rankings -- available at (www.gwdg.de/~uwvw/1998.html).

²³ See ‘Indicted Democratic donor may have left US’, *Associated Press* report, November 26, 1998.

was alleged to have been laundered and presented as ostensibly legal private holdings inside the country.²⁴

Systemic corruption takes on a different hue where the cloak or pretence of legality is practically abandoned in favour of widespread state involvement in activity which would by any reasonable international standard be considered criminal. Two individual governments in Southeast Asia, subject to increasing scrutiny over its role in the international heroin trade, are alleged to condone tacitly – and on occasion to be directly involved in – the production and trafficking of illicit drugs. Several other states in Southeast Asia exhibit similar characteristics, albeit to a lesser degree and with the mitigating circumstance of underdevelopment which of necessity compromises the strength of government forces versus those of the traffickers.²⁵

A further example of state involvement in criminal activities, beyond the general categories identified by Beare, can occur through the involvement of the armed forces, sometimes generating massive profits that can be effectively masked through the typical ability of that institution to conceal its activities. In several of the largest and most populous states of the region, direct armed forces corruption, whether through extortion, involvement in the drug trade, or other trafficking of contraband, is a source of large amounts of criminal proceeds. In several cases, the constitutional ability of the armed forces to engage in commercial activity serves as the starting point for involvement in criminal activity.²⁶

Smuggling

One of the biggest revenue items in non-drug smuggling activities is of course the arms trade. Here the armed forces may again play a crucial role, blurring the distinction between states and criminal actors in some cases. Even in those jurisdictions where civilian control of the military is well established, the size of the armed forces and its access to weaponry

²⁴ See “President promises probe within days”, *Deutsche Presse-Agentur*, September 15, 1998

²⁵ Sources: *International Narcotics Control Strategy Report 1998*, U.S. Dept. of State, Washington, 1999; *World Drug Report*, United Nations Drug Control Program, Vienna and New York, 1998; *The World Geopolitics of Drugs 1997/1998*, Observatoire Geopolitique des Drogues, Paris 1998; and various news reports.

²⁶ *Asia Pulse*, November 23, 1998; Nationwide Financial News: Newspaper Summary

may encourage such activity, especially where accounting and inventory standards may be more easily exploited. This has been most clearly highlighted in the international arena in the case of states in the former Soviet Union, where illegal arms sales have formed a significant component of the economic base of the armed forces and of individuals within the services.²⁷ However, in a number of the larger military establishments of Southeast Asia, similar practices are suspected, and in a number of cases have been uncovered.²⁸

Fraud

Fraud, taking a wide variety of forms, is a fast-growing source of criminal revenue in the region, abetted through the augmentation of traditional methods with newer avenues of fraudulent behaviour such as credit card fraud or internet stock promotions. The expansion of new stock markets on the Asian mainland is a particular source of worry, as the growth of these markets has been unmatched to date with adequate supervisory and regulatory structures.²⁹ In the better-established stock markets of the region, numerous cases of fraud have also come into the spotlight in recent years, as the economic crisis has forced previously hidden transactions into view.³⁰ Credit card fraud has seen remarkable growth in both reported incidents and scale, particularly on the East Asian mainland and in the region's leading financial centres.³¹

Tax evasion

While it is probably impossible to assess with much accuracy the amount of legitimate tax revenue which goes unreported in the region, it is also likely that it is true that criminal organisations avoid taxation, primarily for the reason that the source of revenue itself is

²⁷ See the report of the Center for Strategic and International Studies Task Force on Global Organized Crime, *Russian Organized Crime*, available at (<http://www.csis.org/goc/roc.pdf>)

²⁸ "China detains Zhanjiang customs chief in probe headed by president", *Agence France Presse*, March 10, 1999; "Chinese pirates kill crews in arms racket", *Sunday Times*, February 14, 1999; "Squalid world of Thai politics", *Japan Times*, January 19, 1999.

²⁹ See, e.g. "Chinese Premier Zhu Rongji's government work report", *China Central TV*, Beijing, in Chinese 0105 GMT March 5 1999.

³⁰ See, e.g., "Oil Wholesaler Says He Gave Six LDP Diet Members \$2.4 Million", September 8, 1997, and other reports under "Japan: Corruption and Scandal", *ABC-CLIO, Inc.*, 1999 (accessed via Lexis-Nexis, January 4, 1999)

³¹ "Forged credit card kingpin' arrested as fraud rate soars", *South China Morning Post*, March 18, 1999.

illegal. But individuals whose public profile is far less dramatic than that of a Mafia 'don' also practice tax evasion to a great degree. In the United States, an estimated 15% of personal taxable income goes unreported, and this figure is estimated to be amongst the lowest rates of evasion in the OECD.³² Far higher degrees of tax evasion are found in Mexico, Brazil, Indonesia and other large developing economies. These funds are often concealed through the use of offshore financial centres and other money laundering techniques familiar to high-profile criminals.³³

Organised crime in the former Soviet Union (FSU) as a source of laundered money

In developments parallel to the situation in a number of Mediterranean jurisdictions, the impact of the high level of organised crime activity in the former Soviet republics is being felt in the South Pacific and in other jurisdictions offering 'offshore' services. One state, which had been criticised by the FATF on this point, recently ordered a review of its tax haven operations amid allegations it had become a key money-laundering centre for the FSU mafia. Organised crime has been attracted to the South Pacific due to the 'no-questions asked' approach to 'anyone presenting large cash amounts or proposing to set up off-shore banks or front companies'.³⁴ Another South Pacific state recently said it was experiencing a 'significant increase' in FSU criminals seeking to open operations in its offshore banking system.

Figure 2 provides a graphic representation of the crimes and amounts in question. Even at the lower reaches of this estimate, financial activity involving the proceeds of crime would represent a significant element of the regional economy. As the IMF has indicated, the dollar figures involved are of sufficient scale to bring into focus the very real impact that criminal economic activity may have on the regional economy. Moreover, and more importantly, it is suggestive of the profitability, size and impact of organised criminal activity in the region, and a worrying figure for those whose task it is to effect meaningful economic reform.

³² See 'Disappearing taxes: the tap runs dry', *The Economist*, May 31st 1997, pp. 21-23.

³³ See Jack A. Blum et al., *Financial Havens, Banking Secrecy and Money-Laundering*, United Nations Office for Drug Control and Crime Prevention, New York 1998.

Figure 2: Sources of laundered money and estimated amounts, Asia Pacific³⁵

<p>Drugs</p> <ul style="list-style-type: none"> • Heroin production and trafficking • Psychotropics production and trafficking 	<p>\$75-100 billion?</p>
<p>Prostitution</p> <ul style="list-style-type: none"> • Cross-border trafficking in women and children • Domestic prostitution 	<p>\$5-10 billion?</p>
<p>Corruption</p> <ul style="list-style-type: none"> • State involvement in criminal activities • Armed forces corruption & enterprises • High-level public misappropriations • Other public sector corruption 	<p>\$5-20 billion?</p>
<p>Fraud</p> <ul style="list-style-type: none"> • credit card fraud • stock market/securities fraud • false pretences 	<p>\$5-10 billion?</p>
<p>Smuggling</p> <ul style="list-style-type: none"> • arms • other non-drug contraband 	<p>\$2-5 billion?</p>
<p>Tax evasion</p>	<p>\$10 billion?</p>
<p>Other crimes</p> <ul style="list-style-type: none"> • e.g. migrant smuggling, auto theft 	<p>\$10 billion?</p>

³⁴ *Agence France Presse* March 02, 1999: 'Pacific republic orders tax review amid Russian mafia charges'

³⁵ Sources: compiled and interpreted from various official reports and estimates, including *Estimates of the Extent of Money Laundering In and Throughout Australia*, John Walker, Australian Transaction Reports and Analysis Centre (AUSTRAC), 1995 (www.austrac.gov.au/publications/moneylaundestimates/chap4.html), *International Narcotics Control Strategy Report 1998*, U.S. Dept. of State (www.state.gov/www/global/narcotics_law/1998_narc_report/index.html), *World Drug Report*, United Nations Drug Control Program 1998 (www.undcp.org/undcp/wdreport/wdr.htm), and numerous news reports.

5. Methods of laundering money in the Asia Pacific

FATF-APG laundering typologies

In reviewing the nature of money laundering activities in the Asia Pacific, the participants at the 1998 APG typologies meeting (described above)³⁶ identified a number of known methods of money laundering in the region, as well as some methods where despite scant evidence considerable concern exists over the future potential of those avenues. The meeting noted that ‘in an area of concern where reliable data is notoriously elusive,’ the lack of supervisory or regulatory regimes provided only speculation and anecdotal evidence in any attempt to assess the problem:

While few non-FATF members in the area have implemented comprehensive anti-money laundering programmes, there have been some signs that individual countries are moving to establish such systems. Some FATF members nevertheless continued to find evidence of significant money laundering activity or serious vulnerabilities to it.³⁷

FSU laundering methods

FATF members noted that, on the basis of impressionistic evidence, considerable activity related to criminal groups in the states of the former Soviet Union is occurring in the Pacific Islands region. Laundering schemes were said typically to operate under the cover of businesses with no obvious *prima facie* link to the FSU, using intermediaries posing as United States citizens. The activities in question may also include systematic evasion of taxes by foreign groups, using the cover of opacity in transactions provided by many jurisdictions in the region.³⁸

Casinos and internet gambling

Gambling is a popular pastime in many jurisdictions in the region, and for this reason many casino operations and other gambling institutions such as thoroughbred racing have been

³⁶ See *FATF 1998-1999 Report on Money Laundering Typologies*, Financial Action Task Force, Paris, 10 February 1999, available at (<http://www.oecd.org/fatf/pdf/99typ-e.pdf>)

³⁷ *Ibid*

³⁸ See ‘Money laundering a growing worry in South Pacific’, *Reuters*, March 7 1999.

exploited by money launderers for some time. A recent development, internet gambling now generates nearly \$1.5 million a month in Pacific islands region, representing ‘a major new business trend and another potential vulnerability for money laundering and financial crime in those jurisdictions’.³⁹ As with any avenue for money laundering, it is difficult to state with certainty the amounts processed through internet gambling at present, and it may well be that this is a threat for the future, as opposed to the present. However, the concern of many of the regions’ competent authorities over the potential dangers of internet gambling is palpable and understandable.⁴⁰ Internet gambling, as an activity economically domiciled in a number of region ‘tax havens’, with ease of accessibility in the border-less environment of the internet, and exhibiting the added difficulty of implementing ‘know-your-customer’ and transaction reporting schemes in a business which deals in encrypted, anonymous transactions and suffers from few geographical barriers, has clear implications for masking the flow of cash in much the same way as traditional casinos. Accordingly, the FATF experts identified this area as a source of current and future concern.

Offshore financial centres

This term refers to the financial services sector cater to non-residents in those jurisdictions offering low taxation rates, relative ease of legal residency, and very often a higher degree of anonymity in financial transactions than is found in many developed states. It is an industry that serves a demand for tax ‘avoidance’ and increasingly a demand for ‘asset protection’. The more established financial centres of East and Southeast Asia have long been utilised for laundering activities due to the sheer size and historical under-regulation of their financial markets. More recently, similar activities have emerged in a number of island states in the South Pacific. **Figure 3** provides a tabular analysis of the extent of ‘offshore’ activity in the Asia Pacific.

³⁹ *Ibid*

⁴⁰ “Battle to beat the odds”, *South China Morning Post*, March 15, 1999

Figure 2: offshore financial centres in the Asia Pacific region⁴¹

JURISDICTIONS	Offshore banks	Supervisory agencies	Trust & management companies	IBCs/ exempt companies	Bearer shares	Asset protection trusts	Insurance and re-insurance	Government sponsored economic citizenship	Services advertised via the internet by agents or governments	Internet gaming	Membership in international organisations ⁴²
China (PRC)	✓										A
Hong Kong	✓	✓	✓	✓			✓		✓		A,F,O
Labuan (Malaysia)	✓	✓	✓	✓		✓	✓		✓	✓	
Macau	✓	✓									
Singapore	✓	✓		✓						✓	A,F,O
Taiwan		✓									A
Thailand	✓	✓									A
Cook Islands	✓	✓	✓		✓	✓	✓		✓	✓	S
Marshall Islands			✓	✓	✓				✓		S
Nauru	✓	✓	✓	✓	✓		✓		✓		S
Niue	✓		✓	✓				⁴³	✓	✓	S
Samoa	✓	✓	✓	✓	✓	✓	✓		✓		S
Tonga	✓	✓	✓	✓		✓		✓	✓		S
Vanuatu	✓	✓	✓	✓					✓		A,O,S

⁴¹ Adapted from information compiled in the *1998 International Narcotics Control Strategy Report*, United States Department of State, February 1999 (available at http://www.state.gov/www/global/narcotics_law/1998_narc_report/index.html). Some entries have been revised or updated by the author subsequent to new information.

⁴² A = Asia Pacific Group; F = Financial Action Task Force; O = Offshore Group of Banking Supervisors; S= South Pacific Forum

⁴³ Said to be considering offering government-sponsored economic citizenship in 1999 -- see 1998 *INCSR* (cited above).

*Definition of terms in Figure 2:*⁴⁴

- **Offshore banks:** banks domiciled in one jurisdiction and which conduct their business primarily with non-residents. While there are many banks and bank branches engaged in legitimate business in the offshore sector, there are also many which are not. Whether legitimate or not, offshore banks are unencumbered by many regulations normally associated with “onshore” financial institutions. Exempt or subject to very low tax rates, with few or no capital reserve requirements, offshore banks typically enjoy relaxed or non-existent supervision while providing layers of secrecy for their account holders. In most instances, there is no requirement for an offshore bank even to have a physical presence in the jurisdiction in which it is registered. Constantly refining and developing new financial services in order to maintain competitiveness, many offshore banks are now offering portfolio management and mutual funds free from capital gains taxation. Some newer offshore financial centres, located primarily in the South Pacific, have passed legislation making it a criminal offence to disclose any information concerning an offshore bank or its customers to law enforcement officials or financial regulators of other jurisdictions.
- **Supervisory agencies:** supervisory and regulatory agencies formed to supervise ‘offshore’ activities in the jurisdiction in question. This column, while registering the existence of such agencies, makes no judgement as to the extent of supervision or the effectiveness of the agencies in exercising their authority. In fact, only two of the states listed in Figure 2 possess supervisory bodies recognised as meeting international standards by the Egmont Group. The Egmont Group serves as an international network to foster improved communication and interaction among supervisory agencies, known as Financial Intelligence Units (or FIUs), in such areas as information sharing and training co-ordination. At its November 1996 meeting, Egmont Group members agreed on the definition of an FIU to facilitate the establishment of new units by setting a minimum standard. By 1998 just four Asia Pacific countries had FIUs meeting the

⁴⁴ Definitions adapted with modifications from 1998 *INCSR* (fn. 35 above), and from discussion in Blum et al, *Financial Havens, Banking Secrecy and Money-Laundering*, United Nations Office for Drug Control and Crime Prevention: New York and Vienna, 1998.

Egmont definition: Australia, Hong Kong, New Zealand, and the United States. FIUs

Group FIU definition include those of Taiwan, Japan and Canada.⁴⁵

Trust and management companies:

serve as agents, representatives, lawyers, accountants, trustees, nominee shareholders, directors and officers of international business corporations as well as acting as

- **International Business Corporations (IBCs):** corporate structures operating exclusively outside the jurisdiction in which they are incorporated. IBCs are incorporated as separate legal entities with limited liability, and they eliminate the connection to the principals, thereby (shell companies) are the use of bearer shares, and nominee shareholders and directors.
- **Bearer shares:** certificates of corporations, the ownership of which passes with the offshore banks. Bearer shares, when issued by an IBC, and when further insulated by a simple conveyance known as the “mini-trust,” through which control of the IBC has the ultimate beneficial owner of the assets.
- **‘Asset protection’ trusts:** trusts that protect the assets of individuals from civil judgements in their home countries. A common provision of APT law is that when challenge or a claim against the assets of the trust. Many APTs and other trusts include a

⁴⁵ *Money Laundering: FinCEN's Law Enforcement Support, Regulatory, and International Roles*, United States GAO report, April 1 1998.

“flee clause” which requires the trustee to transfer the assets of the APT and other trusts to another jurisdiction whenever the trust is threatened by inquiry.

- **Insurance and re-insurance:** these companies are established in offshore financial centres to take advantage of limited or non-existent tax requirements and lax or few regulatory and capitalisation requirements.
- **Government-sponsored “economic citizenship”:** instances where passports are sold by jurisdictions which enable their holders to evade taxation and legal remedies by law enforcement agencies of the passport holders’ current country of domicile.
- **Services advertised via the internet by agents or governments:** As noted in numerous for a recently, the internet has provided an extraordinary boon to offshore financial centres. For minimal cost, remote and little known jurisdictions and their agents can advertise globally, describing the services provided by the offshore financial centres. These services include, but are not limited to, the opening of numbered or anonymous bank accounts, the formation, licensing and registration of offshore banks, the creation of IBCs and APTs and other trusts, the formation of insurance and re-insurance companies, the sale of economic citizenship, and the licensing of “virtual casinos” on the Internet. Mirroring recent developments in the Caribbean, offshore financial service providers in the South Pacific are now extremely active on the internet. New encryption technologies allow for multiple on-line financial activities in numerous South Pacific jurisdictions, including anonymous banking, second passports, the anonymous purchase and use of “shelf” international business corporations, and even the establishment of private offshore banks. Examples may be found on-line at:

- www.offshoreprofit.nu/ownbank/
- www.mooresrowland.com/offshore.html
- www.privacy-consultants.com/bom_comparison.html
- www.bankofbermuda.com
- www.offcorp.com/index3.htm
- www.offshore-inc.com/internet.html

- **Internet gaming:** Licenses granted by jurisdictions enable grantees to establish “virtual casinos” on the Internet. As with the services of offshore financial centres offered on the Internet, not all “virtual casinos” are licensed by the jurisdiction in which the casino is presumably located. In many instances, the operators of these websites are not located in the jurisdiction in which even licensed websites are advertised as being domiciled. This may follow the pattern of Caribbean-based internet gambling, many of whose companies, while domiciled for legal purposes in Caribbean offshore centres, serve the United States gambling market through server, software and encryption providers based in Canada and other countries.
- **Membership in international organisations:** various multinational organisations have been formed to combat money laundering or to establish sound supervisory regimes. In the Asia Pacific region, four of the most salient actors in this regard are the Asia/Pacific Group, the Financial Action Task Force, the South Pacific Forum, and the Offshore Group of Bank Supervisors. A blank cell in this column indicates that the jurisdiction does not hold membership in any of these organisations.

In reviewing other overall impressions concerning the growth of offshore activity in the region, participants in the APG typologies exercise noted the increasing presence of solicitors, accountants, and other professionals in these jurisdictions. These professionals were employed both to set up business entities and to facilitate the administration of accounts used in money laundering – a degree of sophistication required in the increasing use of structured⁴⁶ transactions. It was also noted, conversely, that the perpetrators of the predicate offences commonly launder their own proceeds. This is contrary to recent findings in other areas of the world – in particular, Latin America – where a new ‘professional’ caste of money launderers is alleged to have emerged to service the financial needs of the drug trade.

⁴⁶ See definition of money laundering above.

In addition, the purchase of monetary instruments (bank drafts, cheques) and physical removal of currency or monetary instruments was also identified as a recurrent phenomenon.

Movement of proceeds (layering or structuring)

Criminal proceeds have been moved through the Asia/Pacific area by traditional (electronic) means, as well as alternative remittance systems. The APG experts also mentioned that criminal proceeds are often transferred out of the region under the guise of real estate or other investments, as legitimate gambling proceeds, or through the use of credit and debit cards. The group expressed concerns regarding the development of new payment technologies.

Underground banking

An APG workshop in Tokyo on 2-3 March 1999 concentrated on the use of underground banking and alternative remittance systems for money laundering purposes. Such systems typically rely on informal systems of credit and funds transfer which in turn are based on sanctions derived from loyalty, kinship, or intimidation (and usually some combination of or all of these factors). The seriousness of the situation was underscored by the head of the National Police Agency of Japan, who reported that underground banking operations has resulted in the illicit transfer of nearly a billion dollars to eight countries, including China, South Korea and Thailand, in 15 cases uncovered by police since 1997 that violate Japan's banking law. These funds were derived, according to police reports, from a combination of the earnings of illegal migrants as well as revenue earned through the sale of drugs, robbery, theft and other criminal activities.⁴⁷ It is safe to assume that the funds identified in these cases represent only a small portion of the total flow. Moreover, these figures represent only a series of bilateral informal banking links in the region, with Tokyo only one of several major financial centres.

⁴⁷ "Conference on money-laundering opens in Tokyo", *Deutsche Presse-Agentur*, March 2, 1999

Other methods

Where the line between state and criminal activity is blurred, as in the case of state

members or units of the national armed forces, laundering methods may not require the sophistication involved with the 'classic' money laundering cycle of placement,

reaches into the financial system such that effective oversight is absent and wilful blindness may well characterise governmental attitudes to the proceeds of criminal activities, the question of whether or not illegal assets have to be 'laundered' in the first place remains open. This may be said to be the case in the case of widespread military involvement in illegal activities. We may also doubt the interest of the state in resolving the issue of the movement of criminal assets, where those assets are derived from the illegal expropriation by

significant taxable income is condoned for individuals with personal ties to the state leadership.

6. Conclusions

The sources of laundered money

Overall estimate

Currently, revenues from trafficking in drugs, other contraband, and human beings dominate money laundering in the Asia Pacific. This report estimated a figure in the region of \$150 billion in criminal revenues laundered annually as profits of predicate criminal activities committed in the region. Of this figure, at least half by all estimates (and probably more) is associated with the drug trade, making its continued existence one of the major challenges for any emergent anti-money laundering regime in the region.

Hidden amounts

However, the true conclusions of this analysis regarding the sources of laundered money flow more from what this number conceals. The real amount of money involved may never be quantified, and this number cannot and does not include sources of money from activities

that – though criminal by most international standards – are ignored, hidden or even abetted by state actions. Of these activities, the most significant are public sector corruption, tax evasion, covert illegal economic activities of the military, and – the most intractable problem of all – direct and open state involvement in the drug trade and other criminal economic activity.

Institutional remedies

These activities do not come under the scrutiny of the Financial Action Task Force, the leading international anti-money laundering organisation: as an intergovernmental body which operates through a mixture of consensus and moral suasion, it is not equipped or mandated to deal with criminal, governmental and constitutional issues of this scope. Nor should anyone expect it to do so. On the other hand, any attempt to deal with money laundering in the region must recognise the limitations of any approach which cannot address the ‘grey areas’ of criminal finance outlined here, areas which may account for a high percentage of criminal funds flowing through and out of the region. Nor, unfortunately, will an approach which presupposes the *bona fide* intention of participating governments to address the issue of money laundering succeed in areas where that intention is severely compromised by other economic, constitutional or strategic imperatives.

The routes of laundered money

Underground banking

‘Underground’ banking in the Asia Pacific, an activity facilitated by informal accounting practices and often relying on patterns of ethnicity or kinship ties, is not a new phenomenon. Instead, it is a set of practices, whether characterised as *fei ch’ien*, *hawala*, or otherwise, which have adapted themselves to a series of historical circumstances, beginning with colonial rule and ethnic migration, and more latterly to the increasing international concern over criminal financial transactions. Patterns of remittances, a common practice for many generations in the Asia Pacific intended to avoid both taxation and government scrutiny, have been exploited increasingly by criminal actors seeking to move money internationally without interference. While identification of this increase in informal money flows has been facilitated by a series of high profile cases in the region in recent years, the flexible nature of

such activity promises to make extremely difficult any attempt to restrict underground banking. Even if, for the sake of argument, those involved in such banking practices were willing to engage in some form of transaction reporting, such reporting would presuppose a 'paper trail' and accounting method which are not currently in existence – indeed, that is the point of this kind of operation.

Offshore new and old

The emergence of 'offshore' financial centres in the South Pacific is a highly significant development, from the perspectives of precedent and the social and economic health of the islands region, and the overall pattern of money laundering in the Asia Pacific. In terms of precedent, the experience of the Caribbean suggests that little other than sovereignty and governmental initiative is required to turn any jurisdiction into a major centre for offshore activities (and by implication, money laundering). While the Caribbean prospered due to its proximity to North America – just as the Channel Islands and the Isle of Man developed large offshore industries through their proximity to the City of London – the revolution in information and communications technologies of the 1980s has meant that the relatively remote location of the South Pacific islands is of less significance than in earlier periods. With respect to the socio-economic health of the islands, there is every danger that this new industry will implicate these jurisdictions in the drug and other crime-related activities of powerful foreign actors, just as the Caribbean nations have become linked to the inter-American drug trade, despite being neither globally significant producers or consumers of drugs.

However, it is important to recognise that while this development warrants much attention in the near future, the traditional financial centres of the region – Hong Kong, Tokyo, Singapore, Bangkok, Taipei and Sydney among them – remain the largest 'clearing houses' for criminal funds in the Asia Pacific. This is for no other reason than the sheer size of their financial infrastructure and their status as currency-exchange centres. To this list must be added Shanghai, whose importance to the regional economy will likely continue to increase in the next decade. Despite the fact that the jurisdictions in which many of these cities are located have taken great strides in developing a legal and regulatory infrastructure to combat

money laundering, these financial nodes must remain a central focus and concern of any regional anti-money laundering strategy.

The internet

The internet, whether as a facilitating influence on offshore banking, as a means of furthering the activities of informal or underground financial networks, or as the venue and method of new gambling schemes, is an area of obvious concern for financial regulators and those concerned about the flow of criminal assets. In many cases, perhaps in those areas identified with respect to the South Pacific, the threat posed by internet-related laundering is probably more potential than actual. However, the massive growth in internet use and applications in the last decade suggests two conclusions.

First, it would be foolish to assume that this new information revolution will have anything other than profound, decentralising effects on personal finance and international banking in the coming years. Existing strategies to combat the use of the financial system for money laundering all presume the use of controls and reporting mechanisms at key 'entry' or 'transit' points in the financial system – the opening of accounts, the transfer of funds, the payment of cheques – which may be observed by the state with the co-operation of the financial institutions in question. However, the internet's tendency has in fact been to disperse, rather than concentrate, flows of information and economic decision making, and here is no good reason to expect a reversal of this trend. Second, and more worrying for financial regulators, is the fact that economic activities on the internet have proven able to exploit extraterritorial immunity, and even generate a degree of 'non-territoriality' – as evidenced in the United States government's recent efforts to regulate internet gambling operators serving the United States market from Canada and the Caribbean. Thus, while more sophisticated information flows and encryption technologies may open new paths for money laundering, the ability of the state to legislate the internet environment has yet to be tested. There are few signs that this will be an easy obstacle to surmount. Thus, in the Asia Pacific in the coming decades, the challenges of developing effective legislative and regulatory responses to money laundering may be joined by an even greater technological challenge.

Further Reference

- ASEA, *Manila Declaration on the Prevention and Control of Transnational Crime*, Manila, March 25, 1998
- Financial Action Task Force, *The Forty Recommendations*, OECD (Paris), 1997
- HEUI (Adamoli, Sabrina et al.), *Organised Crime Around the World*, Helsinki, 1998
- International Monetary Fund (Michel Camdessus), *Money Laundering: the Importance of International Countermeasures*, Washington, 1998
- Observatoire Geopolitique des Drogues, *The World Geopolitics of Drugs 1997/1998*, Paris, 1998
- United Nations (General Assembly), *Political Declaration and Action Plan Against Money Laundering*, New York, June 10, 1998
- United Nations Drug Control Programme, *World Drug Report (Highlights)*, Vienna, 1998
- United Nations, *Competent National Authorities under the International Drug Control Treaties*, Vienna, 1997
- United Nations, *Report of the Asian Ministerial Workshop*, E/C.15/1998/6/Add.2, Manila, 23-25 March 1998
- United Nations, *The impact of organized criminal activities upon society at large* (report of the Secretary General), E/C.15/1993/3, New York, 1993
- United Nations, *Revised Draft Convention against Transnational Organised Crime*, Vienna, 1999 (available at <http://www.ifs.univie.ac.at/~uncjin/dcatoc/2session/4r1e.pdf>)
- United States Department of State, *International Narcotics Control Strategy Report 1998*, Washington 1999