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Money Laundering and Related Issues in Turkmenistan

1. Overview

Turkmenistan's Government is led by President Saparmurat Niyazov, who has ruled Turkmenistan since independence, and who was recently made president-for-life. The country, which borders Afghanistan, Iran, Uzbekistan and Kazakhstan, has some of the world's richest gas reserves and substantial proven oil reserves. Rich untapped offshore oil reserves may also lie in the Caspian Sea. Following several years of decline after independence from the Soviet Union in 1991, the economy, which is still tightly state-controlled, has grown rapidly, partly as a result of the resolution of a gas pipeline dispute with Russia.

Comprehensive anti-money laundering legislation has not yet been introduced, nor institutions capable of enforcement. Although Turkmenistan's legislation does contain some legal definitions of money laundering, the problem is not dealt with systematically. Law enforcement uses related legal tools – such as confiscation of assets – as ad-hoc instruments to be applied according to the exigencies of particular situations.

Turkmenistan's status as a transit country for drugs, as well as possible corruption related to a rapid development of the energy sector, may increase incentives and opportunities for high levels of money laundering.

2. Drug trafficking

Turkmenistan, the second largest state in Central Asia, is not a source country for illegal drug exports. A small amount of opium poppy is cultivated mainly for domestic use. However, its location, flat terrain and relatively good transportation links make it an important transit route for illicit drugs from South Asia to the Caucasus, Russia and Europe. Shipments of opium and heroin from Afghanistan, Tajikistan and Uzbekistan transit Turkmenistan *en route* to markets in Russia, Turkey and Western Europe. It is also a transshipment point for the precursor chemical acetic anhydride destined for Afghanistan.

Illicit drug trafficking has aggravated crime, creating significant pressures on law enforcement and other authorities. Trafficking is also a major source of illicit proceeds

that require laundering, as well as making the country vulnerable to other crimes, such as corruption.

3. Crime and money laundering

3.1 Money laundering

There have been virtually no official reports of money laundering in Turkmenistan, although substantial irregularities in the transfer of hard currency have been reported. In 2001, Turkmenistan President Saparmurat Niyazov accused a Vice Chairman of the Council of Ministers of embezzling US\$ 5-6 million by taking advantage of the 1:4 difference between official bank and black market rate of the Turkmen *manat*.¹

Foreign business people working in Turkmenistan have noted that the country's hotels and casinos might be vulnerable to financial fraud and money laundering by organized criminal groups.

3.2 Economic crimes

Reported crimes for fraud, embezzlement and bribery have all increased in recent years, while other reported crime rates fell. Larceny is the most widespread reported crime, representing 27% of total reported crimes. About one third of crimes are unreported, according to the 1997 Turkmenistan Living Standards Survey, with half of respondents citing the ineffectiveness of law enforcement agencies for the failure to report.²

3.3 Corruption

Corruption is a cause for concern. In 2000, Turkmenistan was the only former Soviet country to which the World Bank halted loans because of corruption allegations. Five private Western firms have been banned from work on any World Bank projects after alleged fraud and corruption in the country – including bribe payments to Turkmenistan authorities in an attempt to win contracts for Bank-funded projects. The World Bank stated that the President had cooperated in a joint investigation.³

Public officials' low salaries and the relatively broad powers of Turkmenistan's law enforcement officials increase vulnerability to corruption. A court in Ashgabat passed sentence on 15 June 2002 on three former leading National Security Committee officials. Former Committee Chairman Mukhammed Nazarov and his former deputy, Khayyt Kakaev, were sentenced to 20 years' imprisonment; a second former deputy was sentenced to 18 years. The three men were charged with premeditated murder, torture,

¹ *Watan Local News*, 6 August 2001, *op. cit.* Official (fixed) exchange rate: 1 US\$ = 5,200 manat

² The United Nations System in Turkmenistan, *Common Country Assessment*, 2000

³ Radio Free Europe, Ron Synovitz, 28 Sept. 2001

drug trafficking, abuse of power, illegal arrest, taking bribes, and running a bordello.⁴ At the same time, the authorities confiscated some 200 houses from officials either sentenced for or accused of corruption. The authorities later announced that the property would be made available to the socially disadvantaged.⁵

4. Financial system⁶

Turkmenistan has few financial institutions that could be abused for money laundering purposes. International banking operations are limited and are subject to stringent controls by the Central Bank.

Since the private sector remains small, the banking sector is still concentrated in the traditional state banks. Government control over the banking sector and the economy as a whole remains high. The banking sector includes four fully state-owned banks, three majority state-owned banks, and two banks with foreign participation and a minority government share. Public confidence in the domestic banking sector, meanwhile, is low. In the late 1990s, the public showed an increasing preference to hold cash rather than deposits in an already cash-based economy.

Cash is used for most payments, and credit cards are virtually unknown. There are no limits on the amount of foreign currency that can be imported but the exact amount must be declared on arrival. The US dollar is accepted everywhere as a de facto second local currency. The export of more US dollars than the amount originally declared on arrival is forbidden.

The Central Bank has made efforts to improve banking supervision, particularly in order to improve loan allocation and prevent the misuse of funds. State banks are required to report regularly to the Central Bank on the financial situation of their clients, and state supervisors to report to the Central Bank on the quality of banks' lending portfolios and capital adequacy. Effective July 1998, the Central Bank issued new regulations for prudential control, bringing them closer to international standards. A computerized system was been developed to improve monitoring. Information from off-site monitoring is used as a basis to conduct on-site inspections which are done for all banks on an annual basis.

⁴ RFE/RL Newswire, 18 June 2002

⁵ RFE/RL Central Asia Report Vol.2, No.25, 27 June 2002

⁶ This section is based on the IMF country reports on Turkmenistan.

5. Responses to money laundering⁷

5.1 Legal provisions

Like most other countries in the region, Turkmenistan has yet to develop comprehensive anti-money laundering legislation. Generally, much of the old Soviet-style legislation is still in force, which does not take into account many of the current international standards.

In 1997, the new Criminal Code was adopted (entering into force in 1998), establishing several indictable drug-related offences. Articles 254 and 292-301 of the Code establish penalties for export/import, transport, dispatch, production, manufacture, extraction, preparation, possession, purchase, sale of narcotic drugs and psychotropic substance. The death penalty for all criminal offences was abolished by presidential decree in December 1999.

Article 242 of the Criminal Code imposes liability for the legalization (laundering) of money, assets or other property knowingly derived from illegal conduct. The provisions of the article are similar to the penal provisions of other countries in Central Asia, although the sanctions are lower. Financial and other transactions with monetary assets or property knowingly derived from illegal conduct, as well as their use, are punishable by a fine equal to 50 to 100 times the average monthly wage, or by imprisonment of up to two years. If the offence is committed repeatedly, in a group, or with abuse of an official position, the sentence can be two to five years imprisonment, with or without confiscation of property. According to the Supreme Court of Turkmenistan, several cases on money laundering were investigated and brought to court in 2001; all were minor cases and unconnected with the proceeds of drug trafficking.

5.2 Anti-money laundering institutions

In accordance with the Code of Criminal Procedure of Turkmenistan, pre-trial investigation of money laundering offences falls under the jurisdiction of the Interior Ministry. The national legislation does not contain provisions governing mutual legal assistance, extradition or transfer of proceedings and sentenced persons. No central authority responsible for execution of the request on mutual legal assistance or for their transmission to the relevant competent authorities was designated in pursuance of Article 7 of the United Nations Convention against Illegal Traffic in Narcotic Drugs and Psychotropic Substances of 1988.

⁷ Based on contributions from the ODCCP Regional Office for Central Asia, Tashkent, Uzbekistan.

5.3 International cooperation

At regional level, Turkmenistan signed in 1996 in Tashkent the Memorandum of Understanding on Sub-Regional Drug Control Cooperation in Central Asia, together with the Governments of Kyrgyzstan, Tajikistan, Kazakhstan, Uzbekistan and the United Nations International Drug Control Programme (UNDCP). The Russian Federation and Aga Khan Development Network joined the Memorandum in 1998, and Azerbaijan in 2001.

In July 1999, Turkmenistan signed the Tashkent Declaration of the “Six Plus Two” group, composed of the states bordering Afghanistan, as well as Russia and the United States, which agreed, *inter alia*, to strengthen measures to combat illicit drug trafficking.

In the field of judicial cooperation, Turkmenistan has ratified the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Cases, adopted at the joint meeting of the Council of Heads of States and the Council of Heads of Governments of the CIS on 23 January 1993, as amended by the 1997 Protocol.

On 5-7 March 2002, Turkmenistan participated in a three-day regional conference jointly organized by the Kazakhstan Government and the United Nations Office for Drug Control and Crime Prevention (UNODCCP) in Almaty, Kazakhstan, to strengthen legal cooperation in the fight against organized crime and drug trafficking.

Turkmenistan also participated in an international conference on terrorism, held in Bishkek, Kyrgyzstan on 13-14 December 2001. The conference, which focused on the special needs of the Central Asian countries, was co-organized by UNODCCP and the Organization for Security and Cooperation in Europe (OSCE). The Declaration of the Bishkek International Conference on Enhancing Security and Stability in Central Asia: Strengthening the Comprehensive Efforts to Counter Terrorism noted the complex links between terrorism, illicit drugs, transnational crime, arms trafficking and money laundering.

In 1996, Turkmenistan ratified the United Nations Convention against Illegal Traffic in Narcotic Drugs and Psychotropic Substances of 1988, the United Nations Convention on Psychotropic Substances of 1971 and the United Nations Single Convention on Narcotic Drugs of 1961. Turkmenistan has not, however, yet signed the United Nations Convention against Transnational Organized Crime of 2000.

GLOBAL PROGRAMME AGAINST MONEY LAUNDERING

The **Global Programme against Money Laundering (GPML)** was established in 1997 in response to the mandate established by the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The Convention called on Member States to criminalise the offence of money laundering and to establish a comprehensive legal framework to deal with all associated matters. The **Programme's** mandate was further strengthened in 1998 by the UN General Assembly Special Session, which broadens its remit beyond drug offences to all serious crime.

The **Programme** is the focal point in the UN system for issues related to money laundering and proceeds of crime, including technical assistance to Member States in bringing their countermeasures into conformity with global standards.

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