

MONEY LAUNDERING AND THE FINANCING OF TERRORISM: THE UNITED NATIONS RESPONSE

Excerpts from the main legal instruments and resolutions
against money laundering and financing of terrorism adopted
under the auspices of the United Nations

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Introduction

From the very start in the fight against money laundering at the international level, the United Nations has taken an active role to promote the harmonization of countermeasures and the strengthening of international cooperation. The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted in December 1988 in Vienna, was the first international instrument to address the issue of proceeds of crime, and to require States to establish money laundering as a criminal offence.

The rationale of the fight against money laundering is to attack transnational criminal organizations at their weak point. Money generated by criminal activities is difficult to hide; it sometimes constitutes primary evidence of the crime. Transfer of criminal funds in financial systems can be identified, if proper alert mechanisms are in place. Since the end of the 1980's, States have endeavoured to establish these alert mechanisms, to ensure that criminal assets can be identified, seized, and confiscated wherever they are.

The Office on Drugs and Crime has been mandated to ensure that there are no gaps or loopholes in the international machinery by assisting Member States in the implementation of their anti-money laundering policies, including the enactment of relevant legislation encompassing anti-money laundering measures and internationally recognized standards in the regulation of financial services. The Political declaration adopted in June 1998 at the UN General Assembly Special Session on drugs reaffirms the appropriateness of this strategy. Ten years after the 1988 convention, the General Assembly upgraded and updated it through the adoption of a plan of action, "Countering Money Laundering" to fine-tune and further strengthen the action of the international community against the global criminal economy.

The United Nations Convention against Transnational Organized Crime was opened for signature in December 2000. The scope of money laundering under the terms of the Convention includes proceeds deriving from all serious crimes. The Convention urges State Parties to cooperate with one another in the detection, investigation and prosecution of money laundering. Parties are obliged to reinforce requirements for customer identification, record-keeping and the reporting of suspicious transactions. Parties are also recommended to set up financial intelligence units to collect, analyse and disseminate information.

Further to the events of September 11, 2001, UN Member States underlined the links between terrorism, transnational organized crime, the international drug trade and money laundering, and called on the States that had not done so to become parties to the relevant international conventions, including the 1999 International Convention for the Suppression of the Financing of Terrorism. The UN Security Council adopted resolution 1373 (2001) through which it established the Counter-Terrorism Committee (CTC); which is mandated to monitor the implementation of the resolution urging States to prevent and suppress the financing of terrorist acts. In order to comply with the terms of the resolution, many States have been using preventive and criminal anti-money laundering measures to combat the financing of terrorism.

The current document contains the relevant excerpts from the main United Nations instruments against money laundering and financing of terrorism.

UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Adopted in Vienna, 19 December 1988 (*excerpts*)

The Parties to this Convention,

Deeply concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, which pose a serious threat to the health and welfare of human beings and adversely affect the economic, cultural and political foundations of society,

...
Recognizing the links between illicit traffic and other related organized criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States,

Recognizing also that illicit traffic is an international criminal activity, the suppression of which demands urgent attention and the highest priority,

Aware that illicit traffic generates large financial profits and wealth enabling transnational criminal organizations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial business, and society at all its levels,

Determined to deprive persons engaged in illicit traffic of the proceeds of their criminal activities and thereby eliminate their main incentive for so doing,

...

Article 3

OFFENCES AND SANCTIONS

1. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally:

...

(a)(v) The organization, management or financing of any [drug trafficking] offences;

(b) (i) The conversion or transfer of property, knowing that such property is derived from any [drug trafficking] offence, or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence or offences established in accordance with subparagraph (a) of this paragraph or from an act of participation in such an offence or offences;

(c) Subject to its constitutional principles and the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from an offence or offences established in accordance with subparagraph (a) of this paragraph or from an act of participation in such offence or offences;

Article 5

CONFISCATION

1. Each Party shall adopt such measures as may be necessary to enable confiscation of:
 - (a) Proceeds derived from offences established in accordance with article 3, paragraph 1, or property the value of which corresponds to that of such proceeds;
 - (b) Narcotic drugs and psychotropic substances, materials and equipment or other instrumentalities used in or intended for use in any manner in offences established in accordance with article 3, paragraph 1.
2. Each Party shall also adopt such measures as may be necessary to enable its competent authorities to identify, trace, and freeze or seize proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article, for the purpose of eventual confiscation.
3. In order to carry out the measures referred to in this article, each Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. A Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.
4. (a) Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the Party in whose territory proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article are situated shall:
 - (i) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, give effect to it; or
 - (ii) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by the requesting Party in accordance with paragraph 1 of this article, in so far as it relates to proceeds, property, instrumentalities or any other things referred to in paragraph 1 situated in the territory of the requested Party.
- (b) Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the requested Party shall take measures to identify, trace, and freeze or seize proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article for the purpose of eventual confiscation to be ordered either by the requesting Party or, pursuant to a request under subparagraph (a) of this paragraph, by the requested Party.
- (c) The decisions or actions provided for in subparagraphs (a) and (b) of this paragraph shall be taken by the requested Party, in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting Party.
- (d) The provisions of article 7, paragraphs 6 to 19 are applicable *mutatis mutandis*. In addition to the information specified in article 7, paragraph 10, requests made pursuant to this article shall contain the following:
 - (i) In the case of a request pertaining to subparagraph (a)(i) of this paragraph, a description of the property to be confiscated and a statement of the facts relied upon by the requesting Party sufficient to enable the requested Party to seek the order under its domestic law;

(ii) In the case of a request pertaining to subparagraph (a)(ii), a legally admissible copy of an order of confiscation issued by the requesting Party upon which the request is based, a statement of the facts and information as to the extent to which the execution of the order is requested;

(iii) In the case of a request pertaining to subparagraph (b), a statement of the facts relied upon by the requesting Party and a description of the actions requested.

(e) Each Party shall furnish to the Secretary-General the text of any of its laws and regulations which give effect to this paragraph and the text of any subsequent changes to such laws and regulations.

(f) If a Party elects to make the taking of the measures referred to in subparagraphs (a) and (b) of this paragraph conditional on the existence of a relevant treaty, that Party shall consider this Convention as the necessary and sufficient treaty basis.

(g) The Parties shall seek to conclude bilateral and multilateral treaties, agreements or arrangements to enhance the effectiveness of international co-operation pursuant to this article.

5. (a) Proceeds or property confiscated by a Party pursuant to paragraph 1 or paragraph 4 of this article shall be disposed of by that Party according to its domestic law and administrative procedures.

(b) When acting on the request of another Party in accordance with this article, a Party may give special consideration to concluding agreements on:

(i) Contributing the value of such proceeds and property, or funds derived from the sale of such proceeds or property, or a substantial part thereof, to intergovernmental bodies specializing in the fight against illicit traffic in and abuse of narcotic drugs and psychotropic substances;

(ii) Sharing with other Parties, on a regular or case-by-case basis, such proceeds or property, or funds derived from the sale of such proceeds or property, in accordance with its domestic law, administrative procedures or bilateral or multilateral agreements entered into for this purpose.

6. (a) If proceeds have been transformed or converted into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

(b) If proceeds have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to seizure or freezing, be liable to confiscation up to the assessed value of the intermingled proceeds.

(c) Income or other benefits derived from:

(i) Proceeds;

(ii) Property into which proceeds have been transformed or converted; or

(iii) Property with which proceeds have been intermingled

shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds.

7. Each Party may consider ensuring that the onus of proof be reversed regarding the lawful origin of alleged proceeds or other property liable to confiscation, to the extent that such action is consistent with the principles of its domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a Party.

UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

Adopted by the General Assembly on 15 November 2000 (*excerpts*)

Article 2 *Use of terms*

For the purposes of this Convention:

(a) “Organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

(b) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

(c) “Structured group” shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure;

(d) “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

(e) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

(f) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

(h) “Predicate offence” shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 6 of this Convention;

(i) “Controlled delivery” shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence;

(j) “Regional economic integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorised, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it; references to “States Parties” under this Convention shall apply to such organizations within the limits of their competence.

Article 6
Criminalisation of the laundering of
proceeds of crime

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences all serious crime as defined in article 2 of this Convention and the offences established in accordance with articles 5, 8 and 23 of this Convention. In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in such list a comprehensive range of offences associated with organized criminal groups;

(c) For the purposes of subparagraph (b), predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence;

(f) Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

Article 7
Measures to combat money laundering

1. Each State Party:

(a) Shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of

money-laundering, which regime shall emphasise requirements for customer identification, record-keeping and the reporting of suspicious transactions;

(b) Shall, without prejudice to articles 18 and 27 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

4. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

Article 10 ***Liability of legal persons***

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences established in accordance with articles 5, 6, 8 and 23 of this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

Article 11 ***Prosecution, adjudication and sanctions***

1. Each State Party shall make the commission of an offence established in accordance with articles 5, 6, 8 and 23 of this Convention liable to sanctions that take into account the gravity of that offence.

2. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences covered by this Convention are exercised to maximise the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

3. In the case of offences established in accordance with articles 5, 6, 8 and 23 of this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

4. Each State Party shall ensure that its courts or other competent authorities bear in mind the grave nature of the offences covered by this Convention when considering the eventuality of early release or parole of persons convicted of such offences.

5. Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence covered by this Convention and a longer period where the alleged offender has evaded the administration of justice.

6. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

Article 12 **Confiscation and seizure**

1. States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences covered by this Convention or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or destined for use in offences covered by this Convention.

2. States Parties shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

4. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

6. For the purposes of this article and article 13 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. States Parties shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

7. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

Article 13
International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article 12, paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence covered by this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 18 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 18, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested.

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting State Party.

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

7. Cooperation under this article may be refused by a State Party if the offence to which the request relates is not an offence covered by this Convention.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. States Parties shall consider concluding bilateral or multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this article.

Article 14
Disposal of confiscated proceeds of crime or property

1. Proceeds of crime or property confiscated by a State Party pursuant to articles 12 or 13, paragraph 1, of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.

2. When acting on the request made by another State Party in accordance with article 13 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners.

3. When acting on the request made by another State Party in accordance with articles 12 and 13 of this Convention, a State Party may give special consideration to concluding agreements or arrangements on:

(a) Contributing the value of such proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article 30, paragraph 2 (c), of this Convention and to intergovernmental bodies specialising in the fight against organized crime;

(b) Sharing with other States Parties, on a regular or case-by-case basis, such proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property, in accordance with its domestic law or administrative procedures.

Article 15
Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with articles 5, 6, 8 and 23 of this Convention when:

(a) The offence is committed in the territory of that State Party; or

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party;

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(c) The offence is:

(i) One of those established in accordance with article 5, paragraph 1, of this Convention and is committed outside its territory with a view to the commission of a serious crime within its territory;

(ii) One of those established in accordance with article 6, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 6, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory.

3. For the purposes of article 16, paragraph 10, of this Convention, each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

4. Each State Party may also adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite him or her.

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that one or more other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

6. Without prejudice to norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 27 **Law enforcement cooperation**

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each State Party shall, in particular, adopt effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(e) To exchange information with other States Parties on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

3. States Parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology.

Article 29
Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law, with the following:

(a) Methods used in the prevention, detection and control of the offences covered by this Convention;

(b) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures;

(c) Monitoring of the movement of contraband;

(d) Detection and monitoring of the movements of proceeds of crime, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities, as well as methods used in combating money-laundering and other financial crimes;

(e) Collection of evidence;

(f) Control techniques in free trade zones and free ports;

(g) Modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations;

(h) Methods used in combating transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology; and

(i) Methods used in the protection of victims and witnesses.

2. States Parties shall assist one another in planning and implementing research and training programmes designed to share expertise in the areas referred to in paragraph 1 of this article and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

3. States Parties shall promote training and technical assistance that will facilitate extradition and mutual legal assistance. Such training and technical assistance may include language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

4. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximise operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

Article 30
Other measures: implementation of the Convention through economic development and technical assistance

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of organized crime on society in general, in particular on sustainable development.

2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:

(a) To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat transnational organized crime;

(b) To enhance financial and material assistance to support the efforts of developing countries to fight transnational organized crime effectively and to help them implement this Convention successfully;

(c) To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to the aforementioned account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;

(d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.

3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of transnational organized crime.

Article 32 ***Conference of the Parties to the Convention***

1. A Conference of the Parties to the Convention is hereby established to improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention.

2. The Secretary-General of the United Nations shall convene the Conference of the Parties not later than one year following the entry into force of this Convention. The Conference of the Parties shall adopt rules of procedure and rules governing the activities set forth in paragraphs

3 and 4 of this article (including rules concerning payment of expenses incurred in carrying out those activities).

3. The Conference of the Parties shall agree upon mechanisms for achieving the objectives mentioned in paragraph 1 of this article, including:

(a) Facilitating activities by States Parties under articles 29, 30 and 31 of this Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends in transnational organized crime and on successful practices for combating it;

(c) Cooperating with relevant international and regional organizations and non-governmental organizations;

(d) Reviewing periodically the implementation of this Convention;

(e) Making recommendations to improve this Convention and its implementation.

4. For the purpose of paragraphs 3 (d) and (e) of this article, the Conference of the Parties shall acquire the necessary knowledge of the measures taken by States Parties in

implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the Parties.

5. Each State Party shall provide the Conference of the Parties with information on its programmes, plans and practices, as well as legislative and administrative measures to implement this Convention, as required by the Conference of the Parties.

Article 34
Implementation of the Convention

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

2. The offences established in accordance with articles 5, 6, 8 and 23 of this Convention shall be established in the domestic law of each State Party independently of the transnational nature or the involvement of an organized criminal group as described in article 3, paragraph 1, of this Convention, except to the extent that article 5 of this Convention would require the involvement of an organized criminal group.

3. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating transnational organized crime.

**POLITICAL DECLARATION
AND ACTION PLAN AGAINST MONEY LAUNDERING**

**adopted at the Twentieth Special Session of the United Nations General Assembly devoted
to “countering the world drug problem together”,
New York, 10 June 1998 (*excerpts*)**

POLITICAL DECLARATION

Drugs destroy lives and communities, undermine sustainable human development and generate crime. Drugs affect all sectors of society in all countries; in particular, drug abuse affects the freedom and development of young people, the world's most valuable asset. Drugs are a grave threat to the health and well-being of all mankind, the independence of States, democracy, the stability of nations, the structure of all societies, and the dignity and hope of millions of people and their families; therefore:

“We, the States Members of the United Nations,

“Concerned about the serious world drug problem, having assembled at the twentieth special session of the General Assembly to consider enhanced action to tackle it in a spirit of trust and cooperation,

“1. Reaffirm our unwavering determination and commitment to overcoming the world drug problem through domestic and international strategies to reduce both the illicit supply of and demand for drugs;

...

“15. Undertake to make special efforts against the laundering of money linked to drug trafficking and, in that context, emphasize the importance of strengthening international, regional and subregional cooperation, and recommend that States that have not yet done so adopt by the year 2003 national money-laundering legislation and programmes in accordance with relevant provisions of the United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, as well as the measures for countering money-laundering, adopted at the present session;

“16. Undertake to promote multilateral, regional, subregional and bilateral cooperation among judicial and law enforcement authorities to deal with criminal organizations involved in drug offences and related criminal activities, in accordance with the measures to promote judicial cooperation, adopted at the present session, and encourage States to review and, where appropriate, to strengthen by the year 2003 the implementation of those measures;

...

“20. Call upon all States to take into account the outcome of the present session when formulating national strategies and programmes and to report biennially to the Commission on Narcotic Drugs on their efforts to meet the above-mentioned goals and targets for the years 2003 and 2008, and request the Commission to analyse these reports in order to enhance the cooperative effort to combat the world drug problem.

“These are new and serious promises which will be difficult to achieve, but we are resolved that such commitments will be met by practical action and the resources needed to ensure real and measurable results;

Together we can meet this challenge”.

*“COUNTERING MONEY-LAUNDERING”**The General Assembly,*

Recognizing that the problem of laundering of money derived from illicit trafficking in narcotic drugs and psychotropic substances, as well as from other serious crimes, has expanded internationally to become such a global threat to the integrity, reliability and stability of financial and trade systems and even government structures as to require countermeasures by the international community as a whole in order to deny safe havens to criminals and their illicit proceeds,

Recalling the provisions of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, according to which all parties to the Convention are required to establish money-laundering as a punishable offence and to adopt the measures necessary to enable the authorities to identify, trace and freeze or seize the proceeds of illicit drug trafficking,

Recalling Commission on Narcotic Drugs resolution 5 (XXXIX) of 24 April 1996,(21) in which the Commission noted that the forty recommendations of the Financial Action Task Force established

by the heads of State or Government of the seven major industrialized countries and the President of the European Commission remained the standard by which the measures against money-laundering adopted by concerned States should be judged, as well as Economic and Social Council resolution 1997/40 of 21 July 1997, in which the Council took note with satisfaction of the document entitled "Anti-drug strategy in the hemisphere", approved by the Inter-American Drug Abuse Control Commission of the Organization of American States at its twentieth regular session, held at Buenos Aires in October 1996 and signed at Montevideo in December 1996, and urged the international community to take due account of the anti-drug strategy in the hemisphere as a significant contribution to the strengthening of the Global Programme of Action adopted by the General Assembly at its seventeenth special session,(22)

Recognizing the political will expressed by the international community, especially as reflected in such initiatives as the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, adopted in 1990 by the Committee of Ministers of the Council of Europe, the Ministerial Communiqué of the Summit of the Americas Conference Concerning the Laundering of Proceeds and Instrumentalities of Crime, held at Buenos Aires in December 1995, and by such bodies as the Inter-American Drug Abuse Control Commission of the Organization of American States, the Asia/Pacific Group on Money Laundering, the Caribbean Financial Action Task Force, the Offshore Group of Banking Supervisors and the Commonwealth, all of which are well-recognized multilateral initiatives aimed at combating money-laundering and constitute legal or policy frameworks within which concerned States are defining and adopting measures against money-laundering,

Aware that the proceeds of illicit drug-trafficking and other illicit activities, which are laundered through banks and other financial institutions, constitute an obstacle to the implementation of policies designed to liberalize financial markets in order to attract legitimate investment, in that they distort those markets,

Emphasizing that there is a need to harmonize national legislation with a view to ensuring appropriate coordination of policies for combating money-laundering, without prejudice to the action each State is undertaking within its own jurisdiction to combat this form of criminality,

Recognizing the need to promote and develop effective mechanisms for the pursuit, freezing, seizure and confiscation of property obtained through or derived from illicit activities, so as to avoid its use by criminals,

Recognizing that only through international cooperation and the establishment of bilateral and multilateral information networks such as the Egmont Group, which will enable States to exchange information between competent authorities, will it be possible to combat effectively the problem of money-laundering,

Emphasizing the enormous efforts of a number of States to draw up and apply domestic legislation that identifies the activity of money-laundering as a criminal offence,

Realizing the importance of progress being made by all States in conforming to the relevant recommendations and the need for States to participate actively in international and regional initiatives designed to promote and strengthen the implementation of effective measures against money-laundering,

1. Strongly condemns the laundering of money derived from illicit drug trafficking and other serious crimes, as well as the use of the financial systems of States for that purpose;

2. Urges all States to implement the provisions against money-laundering that are contained in the United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 1988 and the other relevant international instruments on money-laundering, in accordance with fundamental constitutional principles, by applying the following principles:

(a) Establishment of a legislative framework to criminalize the laundering of money derived from serious crimes in order to provide for the prevention, detection, investigation and prosecution of the crime of money-laundering through, inter alia:

(i) Identification, freezing, seizure and confiscation of the proceeds of crime;

(ii) International cooperation; and mutual legal assistance in cases involving money-laundering;

(iii) Inclusion of the crime of money-laundering in mutual legal assistance agreements for the purpose of ensuring judicial assistance in investigations, court cases or judicial proceedings relating to that crime;

(b) Establishment of an effective financial and regulatory regime to deny criminals and their illicit funds access to national and international financial systems, thus preserving the integrity of financial systems worldwide and ensuring compliance with laws and other regulations against money-laundering through:

(i) Customer identification and verification requirements applying the principle of "know your customer", in order to have available for competent authorities the necessary information on the identity of clients and the financial movements that they carry out;

(ii) Financial record-keeping;

(iii) Mandatory reporting of suspicious activity;

(iv) Removal of bank secrecy impediments to efforts directed at preventing, investigating and punishing money-laundering;

(v) Other relevant measures;

(c) Implementation of law enforcement measures to provide tools for, inter alia:

(i) Effective detection, investigation, prosecution and conviction of criminals engaging in money-laundering activity;

(ii) Extradition procedures;

(iii) Information-sharing mechanisms;

3. Calls upon the United Nations Office for Drug Control and Crime Prevention to continue to work, within the framework of its **Global Programme Against Money Laundering**, with relevant multilateral and regional institutions, organizations or bodies engaged in activities against money-laundering and drug trafficking and with international financial institutions to give effect to the above principles by providing training, advice and technical assistance to States upon request and where appropriate.

**NAPLES POLITICAL DECLARATION AND GLOBAL ACTION PLAN AGAINST
ORGANIZED TRANSNATIONAL CRIME**
**adopted at the World Ministerial Conference
on Organized Transnational Crime,
held at Naples from 21 to 23 November 1994
(UN General Assembly Resolution GA/49/159)**
(excerpts)

POLITICAL DECLARATION

3. We will direct particular efforts towards defeating the social and economic power of criminal organizations and their ability to infiltrate legitimate economies, to launder their criminal proceeds and to use violence and terror.

...

9. We wish to strengthen and enhance, whenever possible, the capability of States, as well as of the United Nations and other relevant global and regional organizations, to achieve more effective international cooperation against the threats posed by organized transnational crime, particularly in relation to:

...

(e) Measures and strategies to prevent and combat money-laundering and to control the use of the proceeds of crime.

...

GLOBAL ACTION PLAN AGAINST
ORGANIZED TRANSNATIONAL CRIME

12. To effectively combat organized crime, States should take its structural characteristics and modus operandi into account in devising strategies, policies, legislation and other measures. While not constituting a legal or comprehensive definition of the phenomenon, the following qualities are characteristic: group organization to commit crime; hierarchical links or personal relationships which permit leaders to control the group; violence, intimidation and corruption used to earn profits or control territories or markets; laundering of illicit proceeds both in furtherance of criminal activity and to infiltrate the legitimate economy; the potential for expansion into any new activities and beyond national borders; and cooperation with other organized transnational criminal groups.

13. To recognize and intelligently prevent and combat organized transnational criminal activities, the international community should increase its knowledge of criminal organizations and their dynamics. States should collect, analyse and disseminate reliable statistics and information on the phenomenon.

...

18. The regulatory measures detailed [...] below, dealing with money-laundering and the proceeds of crime, and other administrative law mechanisms to reinforce transparency and integrity in business and government, should be considered preventive measures of equal importance with penal law means of combating organized crime.

...

35. States should ensure that the fight against organized transnational crime should be based on strategies aimed at defeating the economic power of criminal organizations, which should involve both criminal law measures, in particular appropriate sanctioning and sentencing, and adequate regulatory mechanisms.

36. States should consider the need to make it a criminal offence to launder the proceeds of criminal activities, in order to address the accumulation by organized criminal groups of large amounts of capital, and the resulting need of those groups to have their profits laundered and invested in legitimate business.

37. States should consider the adoption of preventive measures ensuring a clear identification of position of owners of companies and accurate information on acquisitions and transfers, high ethical standards in public administration, the business sector, financial institutions and relevant professions, as well as cooperation between the authorities in charge of regulating financial and economic sectors and those applying penal laws.

38. States should consider adopting legislative measures for the confiscation or seizure of illicit proceeds, asset forfeiture, as required, and the availability of provisional arrangements, such as the freezing or seizing of assets, always with due respect for the interests of bona fide third parties. Subject to the basic principles of their legal systems, States should also consider the possibility of sharing forfeited assets and - under specific conditions and always through judicial or other legal proceedings - of confiscating or seizing illicit proceeds without a criminal conviction, or confiscating or seizing sums that are higher than those relating to the crime for which judgement has been passed.

39. States should consider the adoption of legislative and regulatory measures that will limit financial secrecy in order to promote effective money-laundering control and international cooperation. These measures should also include obligations for the application of the 'know your customer' rule, as well as for the identification and reporting of suspicious financial transactions, while fully protecting representatives of financial institutions from any liability for good-faith reporting of such transactions, except in cases of gross negligence. In addition, States should accord high priority to measures designed to prevent the displacement of money-laundering activity from tightly supervised banks to non-supervised businesses and professions which offer financial services. For this purpose, States should endeavour to undertake research and studies to identify those businesses which may serve as money-launderers and to determine the feasibility of extending reporting and other requirements to possible areas other than banking and financial institutions.

40. The United Nations and other international global and regional organizations and mechanisms, such as the Financial Action Task Force, the International Criminal Police Organization, the Inter-American Drug Control Commission (CICAD) of the Organization of American States, the Council of Europe, the European Union, the Arab Interior Ministers' Council and the Commonwealth Secretariat, which have played an active role in combating money-laundering, should join their efforts to reinforce common regulatory and enforcement strategies in that area.

41. The United Nations should assist States in needs assessment, treaty development and development of criminal justice infrastructures and human resources by providing technical assistance to countries on request, using the expertise and cooperation of all its institutes and other relevant agencies, including the International Scientific and Professional Advisory Council of the United Nations crime prevention and criminal justice programme, which organized the “International Conference on Preventing and Controlling Money-Laundering and the Use of the Proceeds of Crime: a Global Approach.”

And also...

Political Declaration adopted at the Seventeenth General Assembly Special Session on drugs, 20-23 February 1990 stressing the danger presented by the large financial profits which the transnational criminal organizations derived from illicit drug trafficking and related criminal activities, and called for prevention of the use of the banking system and other financial institutions for the laundering of proceeds from such activities by making them criminal offences;

Global Programme of Action adopted at the Seventeenth General Assembly Special Session on drugs, 20-23 February 1990, calling for a series of measures against the effects of money derived from, used in, or intended for use in, illicit drug trafficking, illegal financial flows and illegal use of the banking system : United Nations facility to strengthen the gathering, collation and exchange of information on the financial flows from drug-related funds; promotion with Interpol and WCO of bilateral or regional exchanges of information between governmental regulatory or investigative agencies, concerning the financial flows of illicit drug proceeds; development of a repository of laws and regulations on money laundering, currency reporting, bank secrecy and forfeiture of property, as well as procedures and practices designed to prevent money laundering; possibility of using forfeited property and proceeds or their equivalent value for activities to combat drug abuse and illicit trafficking, including for United Nations drug related activities, etc.

General Assembly Resolution 45/123 of 14 December 1990 and Resolution 47/87 of 16 December 1992, inviting Member States to “make available to the Secretary General, on request, the provisions of their legislation relating to money laundering, the tracing, monitoring and forfeiture of the proceeds of crime and the monitoring of large-scale transactions and other measures so that they may be made available to Member States desiring to enact or further develop legislation in these fields”.

ECOSOC Resolution 1993/30 of 27 July 1993 requesting the then Crime Prevention and Criminal Justice Branch, *inter alia*, to consider, in cooperation with other UN bodies concerned and other relevant entities, such as FATF, the possibility of assisting Governments, at their request, in developing guidelines for the detection, investigation and prosecution of the laundering of the proceeds of crime, in providing information to assist financial institutions in detecting, monitoring and controlling suspicious transactions, and in preventing the infiltration of the legitimate economy by the proceeds of crime. This resolution requested also to provide appropriate training material and technical assistance to Member States upon request, in drafting, revising and implementing relevant legislation, organizing special investigation teams, and training law enforcement, investigative, prosecutorial and judicial personnel.

Resolution 37/5 of the UN Commission for Narcotic Drugs stressing the role of UNDCP in the field of money laundering and control of proceeds from illicit traffic in narcotic drugs and psychotropic substances;

Resolution 38/6 of the UN Commission for Narcotic Drugs calling upon UNDCP to play the role of clearing house for the delivery of training, advice and assistance to Member States in the field of financial investigations.

International Convention for the Suppression of the Financing of Terrorism

Preamble

The States Parties to this Convention,

Bearing in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations,

Considering that the financing of terrorism is a matter of grave concern to the international community as a whole,

Noting that the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain,

Noting also that existing multilateral legal instruments do not expressly address such financing,

Being convinced of the urgent need to enhance international cooperation among States in devising and adopting effective measures for the prevention of the financing of terrorism, as well as for its suppression through the prosecution and punishment of its perpetrators,

Have agreed as follows:

Article 1

For the purposes of this Convention:

1. “Funds” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit.
2. “A State or governmental facility” means any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of Government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.
3. “Proceed” means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in article 2.

Article 2

1. Any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and wilfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

2. (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depositary of this fact;

(b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.

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

4. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

5. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;

(c) Contributes to the commission of one or more offences as set forth in paragraphs 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender is a national of that State and is present in the territory of that State and no other State has a basis under article 7, paragraph 1, or article 7, paragraph 2, to exercise jurisdiction, except that the provisions of articles 12 to 18 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

- (a) To establish as criminal offences under its domestic law the offences set forth in article 2;
- (b) To make those offences punishable by appropriate penalties which take into account the grave nature of the offences.

Article 5

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence set forth in article 2. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.
3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 6

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 7

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:
 - (a) The offence is committed in the territory of that State;
 - (b) The offence is committed on board a vessel flying the flag of that State or an aircraft registered under the laws of that State at the time the offence is committed;
 - (c) The offence is committed by a national of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
 - (a) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), in the territory of or against a national of that State;
 - (b) The offence was directed towards or resulted in the carrying out of an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), against a State or government facility of that State abroad, including diplomatic or consular premises of that State;

(c) The offence was directed towards or resulted in an offence referred to in article 2, paragraph 1, subparagraph (a) or (b), committed in an attempt to compel that State to do or abstain from doing any act;

(d) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State;

(e) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established in accordance with paragraph 2. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 8

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in article 2 as well as the proceeds derived from such offences, for purposes of possible forfeiture.

2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in article 2 and the proceeds derived from such offences.

3. Each State Party concerned may give consideration to concluding agreements on the sharing with other States Parties, on a regular or case-by-case basis, of the funds derived from the forfeitures referred to in this article.

4. Each State Party shall consider establishing mechanisms whereby the funds derived from the forfeitures referred to in this article are utilized to compensate the victims of offences referred to in article 2, paragraph 1, subparagraph (a) or (b), or their families.

5. The provisions of this article shall be implemented without prejudice to the rights of third parties acting in good faith.

Article 9

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence set forth in article 2 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

[...]

Article 10

1. The State Party in the territory of which the alleged offender is present shall, in cases to which article 7 applies, if it does not extradite that person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and this State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 11

1. The offences set forth in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 2 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 7, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in article 2, including assistance in obtaining evidence in their possession necessary for the proceedings.

2. States Parties may not refuse a request for mutual legal assistance on the ground of bank secrecy.

3. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

4. Each State Party may give consideration to establishing mechanisms to share with other States Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 5.

5. States Parties shall carry out their obligations under paragraphs 1 and 2 in conformity with any treaties or other arrangements on mutual legal assistance or information exchange that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 13

None of the offences set forth in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a fiscal offence. Accordingly, States Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 18

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, *inter alia*, by adapting their domestic legislation, if necessary, to prevent and counter preparations in their respective territories for the commission of those offences within or outside their territories, including:

(a) Measures to prohibit in their territories illegal activities of persons and organizations that knowingly encourage, instigate, organize or engage in the commission of offences set forth in article 2;

(b) Measures requiring financial institutions and other professions involved in financial transactions to utilize the most efficient measures available for the identification of their usual or occasional customers, as well as customers in whose interest accounts are opened, and to pay special attention to unusual or suspicious transactions and report transactions suspected of stemming from a criminal activity. For this purpose, States Parties shall consider:

(i) Adopting regulations prohibiting the opening of accounts the holders or beneficiaries of which are unidentified or unidentifiable, and measures to ensure that such institutions verify the identity of the real owners of such transactions;

- (ii) With respect to the identification of legal entities, requiring financial institutions, when necessary, to take measures to verify the legal existence and the structure of the customer by obtaining, either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity;
 - (iii) Adopting regulations imposing on financial institutions the obligation to report promptly to the competent authorities all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose, without fear of assuming criminal or civil liability for breach of any restriction on disclosure of information if they report their suspicions in good faith;
 - (iv) Requiring financial institutions to maintain, for at least five years, all necessary records on transactions, both domestic or international.
2. States Parties shall further cooperate in the prevention of offences set forth in article 2 by considering:
- (a) Measures for the supervision, including, for example, the licensing, of all money-transmission agencies;
 - (b) Feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.
3. States Parties shall further cooperate in the prevention of the offences set forth in article 2 by exchanging accurate and verified information in accordance with their domestic law and coordinating administrative and other measures taken, as appropriate, to prevent the commission of offences set forth in article 2, in particular by:
- (a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;
 - (b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:
 - (i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;
 - (ii) The movement of funds relating to the commission of such offences.
4. States Parties may exchange information through the International Criminal Police Organization (Interpol).

Annex

1. Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970.
2. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971.
3. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.
4. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
5. Convention on the Physical Protection of Nuclear Material, adopted at Vienna on 3 March 1980.
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.
7. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.
9. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.

Resolution 1373 (2001): Adopted by the Security Council at its 4385th meeting, on 28 September 2001

The Security Council,

Reaffirming its resolutions 1269 (1999) of 19 October 1999 and 1368 (2001) of 12 September 2001,

Reaffirming also its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts,

Reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security,

Reaffirming the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368 (2001),

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Deeply concerned by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism,

Calling on States to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism,

Recognizing the need for States to complement international cooperation by taking additional measures to prevent and suppress, in their territories through all lawful means, the financing and preparation of any acts of terrorism,

Reaffirming the principle established by the General Assembly in its declaration of October 1970 (resolution 2625 (XXV)) and reiterated by the Security Council in its resolution 1189 (1998) of 13 August 1998, namely that every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

2. *Decides also* that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

3. *Calls upon* all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

4. *Notes* with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard *emphasizes* the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security;

5. *Declares* that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and *calls upon* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;

7. *Directs* the Committee to delineate its tasks, submit a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the Secretary-General;

8. *Expresses* its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter.

9. *Decides* to remain seized of this matter.

Resolution 1377 (2001): Adopted by the Security Council at its 4413th meeting, on 12 November 2001

The Security Council,

Decides to adopt the attached declaration on the global effort to combat terrorism.

Annex

The Security Council,

Meeting at the Ministerial level,

Recalling its resolutions 1269 (1999) of 19 October 1999, 1368 (2001) of 12 September 2001 and 1373 (2001) of 28 September 2001,

Declares that acts of international terrorism constitute one of the most serious threats to international peace and security in the twenty-first century,

Further declares that acts of international terrorism constitute a challenge to all States and to all of humanity,

Reaffirms its unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed,

Stresses that acts of international terrorism are contrary to the purposes and principles of the Charter of the United Nations, and that the financing, planning and preparation of as well as any other form of support for acts of international terrorism are similarly contrary to the purposes and principles of the Charter of the United Nations,

Underlines that acts of terrorism endanger innocent lives and the dignity and security of human beings everywhere, threaten the social and economic development of all States and undermine global stability and prosperity,

Affirms that a sustained, comprehensive approach involving the active participation and collaboration of all Member States of the United Nations, and in accordance with the Charter of the United Nations and international law, is essential to combat the scourge of international terrorism,

Stresses that continuing international efforts to broaden the understanding among civilizations and to address regional conflicts and the full range of global issues, including development issues, will contribute to international cooperation and collaboration, which themselves are necessary to sustain the broadest possible fight against international terrorism,

Welcomes the commitment expressed by States to fight the scourge of international terrorism, including during the General Assembly plenary debate from 1 to 5 October 2001, *calls on* all States to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, and encourages Member States to take forward work in this area,

Calls on all States to take urgent steps to implement fully resolution 1373 (2001), and to assist each other in doing so, and *underlines* the obligation on States to deny financial and all other forms of support and safe haven to terrorists and those supporting terrorism,

Expresses its determination to proceed with the implementation of that resolution in full cooperation with the whole membership of the United Nations, and *welcomes* the progress made so far by the Counter-Terrorism Committee established by paragraph 6 of resolution 1373 (2001) to monitor implementation of that resolution,

Recognizes that many States will require assistance in implementing all the requirements of resolution 1373 (2001), and *invites* States to inform the Counter-Terrorism Committee of areas in which they require such support,

In that context, invites the Counter-Terrorism Committee to explore ways in which States can be assisted, and in particular to explore with international, regional and subregional organizations:

- the promotion of best-practice in the areas covered by resolution 1373 (2001), including the preparation of model laws as appropriate,
- the availability of existing technical, financial, regulatory, legislative or other assistance programmes which might facilitate the implementation of resolution 1373 (2001),
- the promotion of possible synergies between these assistance programmes,

Calls on all States to intensify their efforts to eliminate the scourge of international terrorism.