

CURRENT PROBLEMS IN THE COMBAT OF TRANSNATIONAL ORGANIZED CRIME

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I. TRANSNATIONAL ORGANIZED CRIME IN PERSPECTIVE

Law-abiding citizens are becoming increasingly aware of and concerned about common crime. Indeed, the fear of crime seems to permeate our lives. We worry about being mugged or robbed in a parking lot; our wives and daughters are afraid of being raped or molested while walking home from work or school; many of us live in terror of having our children kidnapped, or entrapped into drug circles. We put alarms in our cars, place bars on our windows, trying to make our homes as secure as prisons; at the same time we accept to live as prisoners.

The tools of crime have become frightening. Not to mention the misery it leaves in its wake, the financial damage to societies is staggering. The economic price exacted on our nations is enormous, while its social and hidden human costs are even higher. In addition to traditional and "street" crime, the consequences of certain new forms of criminality present real and present dangers to progress and a brake to development. Economic crimes, including fraudulent bankruptcy and illicit outflow of capital, tax evasion, computer crimes and the theft of works of art representing the cultural heritage of nations, have become especially troubling, as they are very difficult to detect and control, particularly when they are inter-linked to corruption and abuse of power.

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Environmental offences and criminal negligence damage the human habitat, sometimes irreversibly and disastrously. Sea piracy, including against refugees, the trafficking in persons across borders, particularly women and children, and other crimes, including smuggling of human organs or the mistreatment of migrants, add a new dimension to human exploitation. Violence is extending its reach far beyond national frontiers; with terrorism introducing a random and highly dangerous element into international relations, and with the covert arms trade creating a "deadly convergence" between subversive movements, drug traffickers and local warlords.

Crime strikes not only its most immediate victims, but seriously undermines the foundation of trust upon which government rests, by eroding its authority and legitimacy, wherever alleged offenders manage to escape apprehension and sanctioning. It is high time to promote worldwide a culture of legality and tolerance, instead of accepting a culture of lawlessness and violence, which dangerously threatens national institutions and their principal foundation: global values. Nations have decided to join efforts to reduce crime not only because it constitutes a serious infringement of our inalienable right to live in peace and tranquility, but also because it impedes the quest of countries to growth, stability and steady progress towards democracy.

Throughout the world, there is recognition of the need to develop more effective, ideally global, strategies to

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prevent and control crime, especially transnational organized crime. The task before us is in my view even greater, because the development of better and more effective solutions is not the only need; we must reassess the very nature and dimensions of the problem, and the policies that can serve the common purpose of dealing with it. But we must also reflect very seriously on the impact of crime in general, and transnational organized crime in particular, on our lives and economic activity. We must gear our minds to think beyond (and to challenge) perceptions more or less well ingrained. We need to reassess our interests and look beyond traditional roles and stereotypes. If we do that, I am sure we will discover that:

(a) transnational organized crime is a phenomenon with multiple facets which have hardly been thoroughly studied;

(b) organized criminal groups are conscious of and ready to seize the opportunities presented to them by globalization and the growing trends towards trade liberalization to expand their activities and operations, in spite of the increased awareness of the problem on the part of Governments;

(c) in view of the increased opportunities, but also in order to thwart efforts that go together with the increased awareness, organized criminal groups are forming alliances and re-examining their structures, as well as their targets and *modus operandi*;

(d) the public and private sectors share much more than we previously perceived. They share not only common interests but also common values.

We must begin, as a matter of urgency, to think in terms of new partnerships to safeguard these values and protect mutual

interests.

While the forms of crime affecting our lives and the viability of our societies are numerous, organized crime is one of the most nefarious manifestations. Organized criminal groups are spreading their operations around the globe and are engaging in a variety of activities that range from the traditional to the modern, with an increased level of sophistication. They also display a remarkable ability to shift across borders and from activity to activity with speed and adaptability that would be the envy of any legitimate business.

The amounts of money generated by these activities are mind-boggling. Leaving aside some of the more "traditional" activities, like drug trafficking, by way of example, it is estimated that if car theft and its illicit trafficking were a legitimate business, it would rank fifth in the Fortune 500. Overall, the annual profits of organized crime are estimated, according to some sources, at one trillion dollars world-wide; almost as much as the United States annual federal budget.

Free trade and high-speed telecommunications make it easier to engage in multiple activities and to launder money across national borders, with an estimated one billion dollars in crime profits wire-transferred through the world financial markets every day. Moreover, the export of precious raw materials, including chemical, biological and nuclear material, is increasingly attracting the attention, and often falling into the hands of, organized crime.

Through its interfaces with other licit and illicit activities, organized crime is infiltrating national economies, taking advantage of the difficulties of following the trail of criminal proceeds. It has become

clear that only by tackling organized crime in a concerted manner can we hope to make inroads into a problem that transcends borders and exceeds the capacity of national mechanisms operating alone.

Developing countries and emerging democracies are becoming a target for organized criminal groups operating across borders, because of their vulnerabilities while their institutions are either young or in the process of being built. Often, the sophisticated *modus operandi* of these groups is no match to the criminal justice systems of developing countries and countries with economies in transition. The need for foreign capital to give new life to the economy and assist these countries in entering today's competitive and demanding global market, frequently obscures the long-term threat posed by the investment of criminal proceeds. Criminal groups are keen to enter developing countries and economies in transition, not only because of their potential, but also because of the decreased risks involved. The advantages that such groups enjoy, due to the sizeable amounts of money at their disposal and their ability to eliminate competition through intimidation and violence, make risks that would daunt any legitimate business perfectly acceptable. The consolidation of their power places in grave danger the growing economies of those countries, particularly in terms of their future development, their competitiveness in the international arena, and their stability.

The situation has become even more alarming with the expansion of organized crime and the growing tendency of organized criminal groups to diversify their operations in response to a principle that has been driving international business forever: reduce risks and maximize profitability. Some years ago, criminologists were drawing a clear

distinction between the activities of organized crime and the areas in which it was operating, and another elusive form of crime known as "white-collar crime." This is no longer the case. While retaining traditional activities, particularly those that continue to be lucrative, and finding new ways of eluding law enforcement efforts, organized criminal groups are increasing their sophistication and turning to "borderline" economic endeavours. The advantages are obvious. Countries are still in the process of analyzing the potential for malfeasance of a broad range of new economic activities and products available to individual and institutional investors, before they can even attempt to conceive, elaborate and enforce adequate regulations.

In addition to the obvious advantage of concealing wealth and laundering proceeds, organized criminal groups are drawn to the great possibilities for reaping sizeable, perfectly legal profits before anyone has even realized whether there was anything wrong. Since this type of crime is often "victimless", such activities offer the additional advantage of not drawing public attention, which puts increased pressure on national authorities for action.

Finally, such activities come with added value: power, which organized crime has never shunned if the price for obtaining it was right. There is another feature in this type of crimes that is both an additional advantage for criminal groups and an incalculable danger for modern societies. The successful engagement of criminals in economic crimes is often viewed by the public as an act of cunning and even bravery. Social criticism for the perpetrator is directed not at the commission of the crime but at the failure to escape justice. This attitude is a sign of the times and amply demonstrates the corrosive effects

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that such crimes have on the social fabric. It is fundamental that this attitude be reversed, because it can prove equally or more dangerous than the offences themselves. We must not shy away from this responsibility, which does not rest only on Governments, but must be equally shared by everyone, with the private sector playing a prominent role.

What are the problems facing individual countries and the international community in effectively dealing with organized crime? Policy-makers, legislators and criminal justice officials think in a certain way. We are all aware of the simple truth that everyone is captive of his/her own experience. We are trained according to certain principles and standards, and we are naturally inclined to base our reasoning, organize our work and approach problems and seek solutions on the basis of these principles. These standards may be part of our upbringing, our education, our professional training or our experience. Together with these standards and principles, we are also guided by certain values which we believe are paramount and should be protected.

Policy-makers are trained to think in terms of certain organizational structures that must be respected in making and implementing policies. Legislators and law enforcement officials are trained to think along the fundamental lines of their respective legal systems in elaborating laws and in implementing them. When faced with the necessity to put in place functioning and effective mechanisms of cooperation, responsible officials are constrained by the fundamental principles of their thinking and of the instruments defining their mandate and the margins within which they can operate or negotiate.

In order to comprehend the problem calling for cooperation, people have the

tendency to try and either break it down to elements with which they are familiar or try to project the problem (and its constituent elements) within their own overall perspective and operating environment. This effort is manifested in several ways, principal among them being the use of terminology. Consequently, in discussions and negotiations on international cooperation, government representatives tend to reason in ways that conform to their terminology and to their national legal frameworks and structures. Furthermore, there are always effort to ensure that the mechanisms of international cooperation are designed in such a way that would, if possible, not run counter to national norms and legal regimes.

Organized crime attacks the very fundamental values that we are trying to protect and on which we base our perception of structures, norms and standards. It also exploits lacunae and gaps that exist in legal systems and in legal thinking. It benefits from the limitations that the mode of reasoning discussed above imposes on mechanisms of international cooperation. If we are to deal effectively and decisively with organized crime, we must challenge our way of thinking and change the way we operate.

Let me make one thing absolutely clear at this stage. The fundamental precept of criminal law is, and must remain, the protection of individuals and society. Any action against organized crime (or any form of crime for this matter) must not be designed or undertaken in a way that would jeopardize or compromise fundamental rights and freedoms of the individual or society. This is one of the reasons that the task is even more difficult.

Effective action against organized crime requires an unreserved commitment to

international cooperation. It also requires the will of Governments, and ultimately everyone involved in policy-and decision-making, as well as civil society to conform legislative instruments and practices to the needs of international cooperation, instead of the other way around. This means that countries should be willing and ready to amend their legislation in order to make their legal and law enforcement regimes able to converge with those of other countries in order to ensure that no matter which activity, no matter in which geographical region, and no matter who are the perpetrators, organized crime groups find no safe haven. Furthermore, this will and readiness must be manifested by all countries from all regions, and their commitments must be sustained over time.

Action cannot be limited because of the transnational nature of organized crime and its ability to shift its operations across borders in response to increases in the risks it is facing. The commitment must be sustained over time for two reasons. First, because of the strength and resilience of organized criminal groups and, second, because of the power organized criminal groups wield due to their wealth and the comparative advantage this wealth gives organized criminal groups over law enforcement authorities which invariably operate with limited budgets. One may be tempted to ask: is this a last cause? Are efforts by law enforcement authorities doomed to merely trying to catch up? Optimism, albeit with caution, should guide us in answering these questions. Pooling resources, relying on active and genuine cooperation, and constantly increasing the professional capacities and the knowledge of law enforcement and criminal justice personnel can be the elements of successful action. But, more importantly, there is need for functional frameworks for international cooperation, coupled with appropriate mechanisms at

the national level.

II. UNITED NATIONS ACTION AGAINST TRANSNATIONAL ORGANIZED CRIME

The work of the United Nations in strengthening international cooperation against organized crime dates back twenty years. The issue and its various aspects have been debated and analyzed by successive congresses on the prevention of crime and the treatment of offenders, starting with the Fifth Congress in 1975. This debate has, of course, evolved through the years to reflect changing perceptions and priorities of States, but also the increased understanding of the real dimensions of the problem.

The Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders examined the "Changes in Forms and Dimensions of Criminality-Transnational and National" under agenda item 5. In what could today, with the benefit of hindsight, be termed prophetic, the Congress focussed on crime as business at the national and transnational levels: organized crime, white-collar crime and corruption. Crime as business was recognized as posing a more serious threat to society and national economies than traditional forms of crime. While it was a serious problem in many developed countries, the national welfare and economic development of the entire society in developing countries was found to be drastically affected by such criminal conduct as bribery, price-fixing, smuggling and currency offences.

In 1980, the Sixth United Nations Congress, under agenda item 5 entitled "Crime and the Abuse of Power: Offences and Offenders beyond the Reach of the Law," added new elements to the international perception of organized

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crime. Among these offences were those crimes with respect to which the law enforcement agencies were relatively powerless, because the circumstances under which they had been committed were such as to decrease the likelihood of their being reported or prosecuted. Organized crime, bribery and corruption were among the first examples listed.

The issue was considered further by the Seventh Congress in 1985 under Topic 1 "New dimensions of criminality and crime prevention in the context of development: challenges for the future." The Congress emphasized that multiple illicit operations carried out by international criminal networks represented a major challenge to national law enforcement and to international cooperation.

In 1988, a high-level plenipotentiary conference, held in Vienna, adopted the United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances. At the end of August 1996, 136 States were parties to the Convention, which represents one of the most important binding international instruments against drug trafficking, an activity in which transnational criminal organizations are regularly engaged.

In 1990, within the framework of its Topic III "Effective national and international action against: (a) Organized crime; (b) Terrorist criminal activities," the Eighth Congress examined the problem of transnational organized crime in the light of new historic developments. The rapid increase in the number of independent countries, together with the growing expansion of criminal activities beyond national borders, had created the need for new international institutions that could introduce a measure of order and enhance the effectiveness of crime prevention efforts. On the recommendation of the

Congress, the General Assembly made a substantive step towards strengthening international cooperation by adopting the Model Treaties on Extradition, on Mutual Assistance in Criminal Matters, on Transfer of proceedings in Criminal Matters and on Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released (resolutions 45/116, 45/117, 45/118 and 45/119 respectively). The Congress also adopted a set of guidelines against organized crime in resolution 24, which was welcomed by the General Assembly in resolution 45\121. In resolution 45/123, the General assembly urged Member States to implement these guidelines and invited them to make available to the Secretary-General their national legislation against organized crime and money laundering.

Pursuant to General Assembly resolution 45/108 of 14 December 1990 the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme was held in Versailles from 21 to 23 November 1991. The General Assembly, by resolution 46/152 of 18 December 1991, adopted a proposed Statement of Principles and Programme of Action, which, *inter alia* established the Commission on Crime Prevention and Criminal Justice (a 40-member functional Commission of the Economic and Social Council).

The Commission was established and held its first session in 1992. On its recommendation, the Economic and Social Council adopted resolution 1992/22, by which it determined that one of the priority themes that should guide the work of the Commission and the United Nations Crime Prevention and Criminal Justice Programme would be "national and transnational crime, organized crime, economic crime, including money laundering, and the role of criminal law in

the protection of the environment". The Council also adopted resolution 1992/23, in which it noted the recommendations of two *Ad Hoc* expert group meetings held in 1991, in Smolenice, Slovak Republic, and in Suzdal, Russian Federation, and requested the Secretary-General to continue the analysis of the impact of organized criminal activities upon society at large. The Commission, also at its first session, adopted resolution 1/2 by which it requested the Secretary-General to examine the possibility of coordinating efforts made at the multilateral level against laundering of the proceeds of crime and related offences, and to propose means for technical assistance to requesting Member States in drafting legislation, training law enforcement personnel, in developing regional, subregional and bilateral cooperation and in providing advice.

The efforts of the United Nations, and the awareness and interest displayed by the international community through the Commission on Crime Prevention and Criminal Justice, led to the organization of one of the most significant events in the history of the United Nations Crime Prevention and Criminal Justice Programme. The World Ministerial Conference on Organized Transnational Crime was organized in Naples, Italy, from 21 - 23 November 1994. The 142 States in attendance (86 of them at the Ministerial level, while others were represented by their Heads of State or Government) unanimously adopted the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, which was later approved by the General Assembly (resolution 49/159 of 23 December 1994).

The Naples Political Declaration and Global Action Plan emphasized the need and urgency for global action against transnational organized crime, focussing

on the structural characteristics of criminal organizations. Countries were called upon to begin the process of harmonizing their legislation, while special attention was paid to the need for countries to ensure that their criminal justice systems had the capacity to prevent and control transnational organized crime in all of its manifestations. Equal attention was given to the need for the international community, particularly donor countries and financing institutions, to assist developing countries and countries with economies in transition, to bridge the gap between the capacity of their law enforcement authorities and criminal justice systems in general, and the ability of organized criminal groups to shift their operations from activity to activity and to elude efforts against them by using sophisticated methods of operation.

The Naples Political Declaration and Global Action plan stressed the need for the international community to arrive at a generally agreed concept of organized crime as a basis for more compatible national responses and more effective international cooperation. Particular attention was given to more effective bilateral and multilateral cooperation against transnational organized crime, asking the Commission on Crime Prevention and Criminal Justice to examine the possibility of a convention or conventions against transnational organized crime. Furthermore, the prevention and control of the laundering and use of the proceeds of crime were considered essential elements of any international effort.

The Commission on Crime Prevention and Criminal Justice followed up on the implementation of the Naples Political Declaration and Global Action Plan at its fourth and fifth sessions (Vienna, 30 May - 9 June 1995 and 21 - 31 May 1996 respectively). On its recommendation at its

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fourth session, ECOSOC adopted resolution 1995/11 of 24 July 1995, in which the Secretariat was requested (a) to initiate the process of requesting the views of Governments on a convention or conventions; (b) to collect and analyze information on the structure and dynamics of transnational organized crime and on the responses of States to this problem, for the purpose of assisting the international community to increase its knowledge on the matter; (c) to Submit to Member States at the next session of the Commission a proposal on the creation of a central repository of existing legislative and regulatory measures and information on organizational structures designed to combat transnational organized crime; (d) to submit proposals to the Commission for the development of practical models and practical guidelines for substantive and procedural legislation in order to assist developing countries and countries in transition; (e) to provide advisory services and technical assistance to requesting Member States in needs assessment, capacity- building and training, as well as in the implementation of the Naples Political Declaration and Global Action Plan; and (f) to join effort with other relevant international organizations in order to reinforce common regulatory and enforcement strategies in the area of prevention and control of money laundering, and to assist requesting States in assessing their needs in treaty development and the development of criminal justice infrastructure and human resources.

An in-session intergovernmental working group was established at the fifth session of the Commission to review the views of Governments on a convention or conventions, as well as the proposals of the Secretariat described under (c) and (d) above. The Crime Prevention and Criminal Justice Division, on the basis of information

provided by Member States, prepared a report for the Commission's consideration at its fifth session (Vienna, 21 - 31 May 1996), in which the actual situation of organized crime was reviewed. Most responding Member States expressed their favourable disposition towards a convention against transnational organized crime.

In November 1995, the Division organized a regional Ministerial Workshop on the Follow-up to the Naples Political Declaration and Global Action plan, hosted by the Government of Argentina in Buenos Aires. The Workshop adopted the Buenos Aires Declaration on Prevention and Control of Organized Transnational Crime, in which the countries of Latin America and the Caribbean expressed their support for expeditious follow-up to the Naples Political Declaration and Global Action plan, and endorsed the idea of developing a convention against transnational organized crime, offering a list of elements that such a convention should include.

At its fifth session, the Commission devoted special attention to the issue of organized crime in general, and to the follow-up of Naples in particular. On its recommendation, the General Assembly adopted, at its fifty-first session in 1996, the United Nations Declaration on Crime and Public Security (resolution 51/60). By this Declaration, Member States undertook to seek to protect the security and well-being of all their citizens, by taking effective national measures to combat serious transnational crime, including organized crime, illicit drug and arms trafficking, smuggling of other illicit articles, organized trafficking in persons, terrorist crimes and the laundering of proceeds from serious crimes. Member States also pledged their mutual cooperation and to promote bilateral, regional, multilateral and global law

enforcement cooperation and assistance; white taking measures to prevent support for and operations of criminal organizations in their national territories. In addition, Member States undertook, to the fullest extent possible, to provide for effective extradition or prosecution of those who engage in serious transnational crimes in order to ensure that these criminals find no safe haven.

According to the Declaration, mutual cooperation and assistance in these matters would also include the strengthening of systems for the sharing of information among Member States, and the provision of bilateral and multilateral technical assistance. This is also important in connection with the agreement of Member States to take steps to strengthen the overall professionalism of their criminal justice, law enforcement and victims assistance systems, as well as relevant regulatory authorities. Member States were urged to become parties as soon as possible to the principal existing international treaties relating to the various aspects of the problem of international terrorism, as well as to the international drug control conventions. The Declaration called upon States to take measures to improve their ability to detect and interdict the movement across borders of those engaged in serious transnational crime, as well as the instrumentalities of such crime, and to protect their territorial boundaries. Such measures would include adopting effective controls on explosives and against illicit trafficking in certain materials and their components that are specifically designed for use and manufacturing nuclear, biological or chemical weapons; strengthening supervision of passport issuance and enhancement of protection against tampering and counterfeiting; strengthening enforcement of regulations on illicit trafficking in firearms; and

coordinating measures and enhancing information exchange to combat the organized criminal smuggling of persons across national borders.

In connection with the control of the proceeds of crime, Member States agreed to adopt measures to combat the concealment or disguise of the true origin of the proceeds of serious transnational crime and the intentional conversion or transfer of such proceeds for that purpose. Member States also agreed to require adequate record-keeping by financial and related institutions and the reporting of suspicious transactions and to ensure effective laws and procedures to permit the seizure and forfeiture of the proceeds of serious transnational crime. Member States recognized the need to limit the application of bank secrecy laws, if any, with respect to criminal operations and to obtain the cooperation of financial institutions in detecting these and other operations which may be used for the purpose of money laundering.

Further, Member States agreed to combat and prohibit corruption and bribery and to consider developing concerted measures for international cooperation to curb corrupt practices, as well as developing technical expertise to prevent and control corruption.

On the very important issue of corruption, the General Assembly adopted another resolution, also recommended by the Commission at its fifth session (resolution 51/59). Entitled "action against corruption", the resolution represents work carried out in the context of the United Nations Crime Prevention and Criminal Justice Programme for the last seven years. According to the resolution, the Assembly adopted an International Code of Conduct for Public Officials, which sets out a number of principles which Member States

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can use as a tool to guide their efforts against corruption. The Crime Prevention and Criminal Justice Division is currently in the process of revising and expanding a Manual on Practical Measures against Corruption, which together with the Code of Conduct would form a package for advisory services, training and other technical assistance activities. We are also working on model legislation against corruption for use in the context of technical cooperation activities. Countries requesting assistance in this field would be provided with the model law, which can be adapted to the particular legal requirements and other circumstances of the country, and assisted in making such adaptations and supplementing the legislation with regulatory and other measures.

In 1996, the General Assembly adopted another resolution (resolution 51/191) on the United Nations Declaration against Corruption and Bribery in International Commercial Transactions. The resolution, which approaches the issue of corruption from another, very important angle, contains a request to the Commission on Crime Prevention and Criminal Justice to examine ways, including through legally binding international instruments, to further the implementation of the Declaration, so as to promote the criminalization of corruption and bribery in international commercial transactions. The Assembly stressed that this action should in no way preclude, impede or delay international, regional or national actions in this field. The Assembly encouraged private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions to cooperate in the effective implementation of the Declaration. States committed themselves to take effective and concrete action to combat all forms of corruption, bribery and

related illicit practices in international commercial transactions and to call upon private and public corporations, including transnational corporations, and individuals within their jurisdiction engaged in international commercial transactions to promote the objectives of the Declaration.

Further, in accordance with the Declaration, which among other provisions contains elements that bribery may include, States committed themselves to deny, where not already done, the tax deductibility of bribes paid by any private or public corporation or individual to any public official or elected representative of another country and to develop or maintain accounting practices that improve transparency of international commercial transactions and that encourage corporations and individuals to avoid and combat corruption and bribery. In addition, States committed themselves to develop or encourage the development of business codes, standards and best practices that prohibit corruption, bribery and related illicit practices in international commercial transactions. Our Commission took further action on the modalities of implementation of the Declaration at its sixth session in April last year, while an expert group meeting was organized in Buenos Aires in March 1997, which made a number of recommendations to assist the Commission with its work.

Reverting to the follow-up to the Naples Political Declaration and Global Action Plan, the Economic and Social Council adopted resolution 1996/27, in which it took note of the Buenos Aires Declaration and requested the Secretary-General to continue his consultations with Member States on the possibility of elaborating a convention or conventions against transnational organized crime. The Council also requested the Secretary-General to

assist in the implementation of the Naples Political Declaration and Global Action Plan and to meet the needs of Member States for increased knowledge on the structure and dynamics of transnational organized crime in all its forms, as well as trends in its development, areas of activity and diversification. In addition the Secretary-General was called upon to assist Member States in reviewing existing international instruments and exploring the possibility of elaborating new ones to strengthen and improve international cooperation against transnational organized crime and to intensify technical assistance in the form of advisory services and training. The Secretary-General has also been requested to establish a central repository for national legislation, including regulatory measures, on transnational organized crime; information on organizational structures designed to combat transnational organized crime; and instruments for international cooperation, including bilateral and multilateral treaties and legislation to ensure their implementation. For the purpose of providing increased technical assistance to requesting Member States, the Secretary-General has been requested to develop training manuals for specialized law enforcement and investigative personnel on action against transnational organized crime, taking into account differences in legal systems.

In July last year, we organized a regional Ministerial Workshop in Dakar for the countries of the African region. In adopting the Dakar Declaration, the Ministers reaffirmed their commitment to fight against transnational organized crime and reiterated their collective political will to support the efforts of the Commission towards the elaboration of an international convention against transnational organized crime. In addition, the Ministers reviewed and approved two regional

projects for technical cooperation aimed at providing assistance to the Governments of the region in strengthening their capacities to prevent and control transnational organized crime.

The issue of the convention has come to the forefront as a result of a resolution adopted by the General Assembly in December 1996 (resolution 51/120), following the initiative of the Government of Poland to submit to the Assembly the text of a draft framework convention against transnational organized crime. On the recommendation of the Commission at its sixth session, the General Assembly adopted resolution 52/85 of 12 December 1997. By virtue of this resolution, an in-session intergovernmental group of experts was established and held a meeting from 2 to 6 February in Warsaw. The group's mandate was to elaborate a preliminary draft of a possible international convention against transnational organized crime, on the basis of a number of documents and contributions from Governments, either individually or in the context of a working group established at the last session of the Commission.

All this is a summary of the political process at the intergovernmental level. This process may sometimes appear to be cumbersome and to require considerable time. It is, however, essential for international cooperation, since the objective cannot be expediency and strong language but consensus, together with conscious and genuine commitment, which are the cornerstones of successful action.

While this process is under way, and in order to encourage it and solidify the gains that are made, technical cooperation is crucial. The Centre for International Crime Prevention has been making every effort possible to advance the implementation of

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the Naples Political Declaration and Global Action Plan and to provide assistance to Member States who wish to strengthen their capacity to fight organized crime. Of course, as with almost everything these days, this is also a question of resources. Technical cooperation activities are resource-intensive and the Centre's regular budget and extra-budgetary funds have not kept up with the emphasis placed by the international community on the Programme's priority role as the provider of timely and practical assistance. The problem we are facing has become more acute in the past couple of years with the multiplication of requests from developing countries and countries with economies in transition, whose needs have grown exponentially with the growth of crime in general, but also with the expansion of organized crime, and whose expectations have been raised by the emphasis placed by the Commission on the provision of practical assistance and the new orientation of our Programme.

With the limited resources at our disposal we have managed to provide assistance to the Economic Community of West African States (ECOWAS) in developing a regional convention on mutual assistance in criminal matters and in beginning a similar exercise with regard to extradition. In South Africa, we assisted the Government in developing a witness protection programme, while another project is under development to assist the country in strengthening its overall capacity to prevent and control organized crime. In Kyrgyzstan we are currently helping the Government to develop a specific project related to the establishment of a specialized department within the Ministry of the Interior to fight organized crime. We have also managed to respond to some of the needs of Belarus and Ukraine, with the assistance of the United Nations International Drug Control

Programme (UNDCP), and to carry out needs assessments in Angola, Argentina, Armenia, Bolivia, Georgia, Guinea, the Former Yugoslav Republic of Macedonia, Togo and Pakistan. In Bosnia and Herzegovina we have developed a number of project proposals, together with UNDCP, while we are implementing a project on strengthening the criminal justice system. In Romania, we have developed a project for building and strengthening the capacity of the country's criminal justice system to prevent and fight corruption and organized crime. On the occasion of the Buenos Aires and Dakar Workshops mentioned above, the Division developed regional technical cooperation projects on action against organized crime and corruption respectively, which are now awaiting funding. In June 1996 we organized, together with the Organization for Security and Cooperation in Europe (OSCE) and UNDCP, a seminar on drugs and crime for the five Central Asian Republics. In November, organized with funding by the Government of the United States, an international conference on the theft of, and illicit trafficking in, motor vehicles was hosted by the Government of Poland in Warsaw. We are also planning regional Ministerial Workshops, along the lines of the ones held in Buenos Aires and Dakar for Asia and the Pacific in Manila in March and for Eastern Europe, in Kiev, Ukraine, in June.

In 1996, a joint technical cooperation project entitled "Global Programme against Money Laundering" - aimed at making international action against money laundering more effective - was finalized - by UNDCP and the Division. The project consists of a number of specific activities required at the international level to help adequately fight money laundering, raise awareness about the problem, put in place the necessary legal frameworks, and provide assistance to the judicial, financial

and law enforcement sectors. The project has six immediate objectives: (a) increased awareness and improved understanding of the money laundering phenomenon and acceptance of the need for countermeasures; (b) introduction of relevant legislation, including promotion of mutual legal assistance; (c) improved global infrastructure including for the delivery of training services; (d) improved capacity of legal and related law enforcement systems, including the establishment of financial intelligence units or similar bodies; (e) reduced financial system vulnerability; and (f) improved process of performance evaluation. Within this framework, the project will target Priority Countries and assist them to put in place necessary legislation and other regulations, to counter money laundering, as well as undertake activities in infrastructure-building and training in the judicial, financial and law enforcement sectors. To this end, materials will be developed, such as a compendium of relevant national legislation and procedures, as well as computer databases and training materials of general application. These materials will be tested in pilot projects. The project was approved in October 1996 and the bulk of the necessary financing has already been secured. Its execution, which has already begun and is expected to last three years, is being carried out by UNDCP in cooperation with the Centre. The project also foresees close cooperation with other organizations active in the field, such as the Financial Action Task Force (FATF), in order to ensure proper coordination of the work done at the international level.

But much more needs to be done. We must raise awareness among people and within the business community about the dangers, the methods of operation and the short and long-term impact of the activities of transnational criminal organizations. We

must direct attention to the fact that organized criminal groups are now involved not only in traditional and violent crimes, but are shifting their attention to the economic and financial spheres. We must make everyone aware of the effects of these activities on our financial systems, our daily lives and, most importantly, on our values and institutions. We must all understand that no country is immune, no country is safe from the operations of criminal organizations, no matter what its level of development. The vast resources available to criminal organizations make the race with law enforcement and criminal justice an unequal one under any circumstances. It is only a question of degree of sophistication, and a question of type of activities which present less risk for criminal organizations. International cooperation holds the key. Genuine international cooperation, as well as forward looking concerted action, can only stem from knowledge. It is of the utmost urgency that we develop and disseminate information. The international community cannot afford to allow the situation to deteriorate further. It must take measures now and proceed to practical action based on agreement and founded on collective political will, as expressed in Naples and in every international forum since. It is still possible for such action to be proactive and not only be composed of damage control or containment measures. We must not lose this opportunity through further delay.

The role that the private sector can play in furthering the process and in developing and taking the appropriate action against organized crime, including money laundering is central and crucial. Assisting developing countries and countries with economies in transition to build and strengthen their criminal justice system to fight transnational organized crime in all its forms, including money laundering, is a sound investment, and one with high

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long-term returns. In the last quarter century, private capital flows to developing countries have risen 35 times, from \$5 billion to \$176 billion. These investments, most of which are long-term can flourish and their potential and returns can be maximized only in an environment of security and stability. The cost of investment can be considerably lower when not compounded by expenditures for security of installations, personnel and products. It is fundamental to any business that competition be not restricted through the operations of organized criminal groups and their front companies, or that the integrity, image and viability of a corporation would not be compromised or threatened through infiltration by these groups or their laundered profits.

As the Secretary-General of the United Nations said in Davos a few weeks after he took office, *"in the post-cold-war era, peace and security can no longer be defined simply in terms of military might or the balance of terror. The world has changed. ...In today's world, the private sector is the dominant engine of growth; the principal creator of value and wealth; the source of the largest financial, technological and managerial resources. If the private sector does not deliver economic opportunity - equitably and sustainably - around the world, then peace will remain fragile and social justice a distant dream."*

A partnership between the private sector and the United Nations is crucial and we must work together to forge and sustain it. The United Nations set the international norms and standards that make progress possible. The partnership between the United Nations and the private sector can help ensure that progress and development are not threatened by crime.