

**RECOMMENDATION OF THE CUSTOMS CO-OPERATION COUNCIL ON THE NEED TO
DEVELOP AND STRENGTHEN THE ROLE OF CUSTOMS ADMINISTRATIONS IN
TACKLING MONEY LAUNDERING AND IN RECOVERING THE PROCEEDS OF CRIME
(25 June 2005)**

THE CUSTOMS CO-OPERATION COUNCIL,

NOTING that since its foundation, the Council has been fully aware of the need for States to protect themselves against the various forms of Customs offences;

NOTING the Declaration of the World Customs Organization on Transnational Organized Crime (Budapest, 18 June 1997) which refers to strategic importance for Customs to repress money laundering;

HAVING REGARD to the United Nations Convention (1988) Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;

HAVING REGARD in particular to Articles 3 (Offences and Sanctions) and 5 (Confiscation) of the aforesaid Convention which require Contracting Parties respectively to establish as criminal offences the laundering of property derived from criminal activity and to adopt measures to enable confiscation of criminal proceeds;

HAVING REGARD to the United Nations Convention (2000) Against Transnational Organized Crime;

HAVING REGARD in particular to Articles 6 and 7 of the aforesaid Convention on criminalization of the laundering of proceeds of crime and measures to combat money laundering (the latter including the detection and monitoring of the cross-border movement of cash and monetary instruments); and to Articles 12, 13 and 14 on confiscation and seizure of the proceeds and instrumentalities of crime, international co-operation for the purposes of confiscation and the disposal of confiscated proceeds;

HAVING REGARD to the International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi, 9 June 1977);

HAVING REGARD to the International Convention on Mutual Administrative Assistance in Customs Matters (Johannesburg Convention, 27 June 2004);

HAVING REGARD to UN Security Council Resolution (UNSCR) 1373 (2001) which called on states to "prevent and suppress the financing of terrorist acts" and UNSCR 1456 (2003) which reaffirmed that "measures to detect and stem the flow of finance and funds for terrorist purposes must be urgently strengthened";

HAVING REGARD to UNSCR 1566 (2004) which calls for strengthened international cooperation in the fight against terrorism and requests the Counter Terrorism Committee in consultation with the relevant international, regional and sub-regional organizations and the United Nations bodies to develop a set of best practices to assist States in implementing resolution 1373 related to the financing of terrorism;

RECOGNIZING that the primary motivation in committing crime is to make money and that money laundering is accordingly a feature of many types of crime;

RECOGNIZING also that a high proportion of the finances which underpin drug trafficking, terrorism and other serious crime are moved from one country to another in the form of cash;

RECOGNIZING the ever-increasing threat to the economic and social interests of Member countries posed by money laundering and its predicate offences;

RECOGNIZING the need to improve the capacity of law enforcement agencies to target and intercept criminal proceeds and instrumentalities without unduly hindering the movement of innocent persons and legitimate international trade;

RECOGNIZING that criminal proceeds are frequently and increasingly moved from one country to another and that this gives law enforcement authorities - and Customs administrations in particular - the opportunity to intervene with a view to confiscation of those proceeds and/or prosecution of criminal offences;

RECOGNIZING that drug interdiction programmes alone will not have the desired effect in restricting this traffic and that other supporting measures, particularly in relation to money laundering, are likely to have a significant effect by disrupting the flow of the finances underpinning the crime;

RECOGNIZING that the capability of Customs administrations to act effectively against money laundering can make a crucial contribution to the overall response to drug trafficking and other Customs-related crime and should attract a corresponding degree of priority;

RECOGNIZING that not all countries' Customs authorities have the identical competence or resources with respect to money laundering, the recovery of the proceeds of crime, anti-terrorism and the enforcement of exchange control regulations;

BELIEVING nevertheless that Customs authorities - particularly in view of their ability to intercept illegal cross-border movements of cash, monetary instruments and other commodities - have an important and increasing role to play in global anti-money laundering strategies;

BELIEVING that effective action against money laundering can be greatly assisted by co-operation between Customs and other relevant agencies at the national and international level, and that exchange of information can significantly aid risk assessment and targeting, thereby leading to improvement in detection capabilities;

SUPPORTS the principle that anti-money laundering activity - and particularly the control of illicit cross-border movements of cash and equivalent instruments - should feature as an enforcement priority for Customs authorities within the limits of their respective national competence;

UNDERLINES the importance of increasing co-operation and effective exchange of information on a reciprocal and equitable basis between the World Customs Organization and other international organizations involved in action to combat money

laundering and financial crime, such as the United Nations, ICPO/Interpol, FATF and FATF-style regional bodies, and Europol;

CONSIDERS that the World Customs Organization should take initiatives designed to provide co-ordination, liaison, and support for multilateral programmes to develop practical measures to tackle money laundering and to recover criminal proceeds;

RECOMMENDS that Members of the World Customs Organization and other relevant organizations should :

1. Establish that tackling money laundering and, where provided in national law, recovering criminal proceeds is an important role of Customs administrations;
2. Recognize the need for effective action against money laundering to form a prominent part of Customs enforcement strategies for tackling drugs trafficking, the financing of terrorism and other serious crimes, in particular by preventing the physical international movement of cash, monetary instruments and other commodities used to launder criminal proceeds or meant to finance terrorist acts;
3. Where not currently available, seek appropriate legislation to enable criminal proceeds and terrorist funds to be seized or confiscated;
4. Where considered appropriate and useful, consider requiring international travellers carrying cash or monetary instruments in excess of a specified value to report the movement to the Customs authority;
5. Increase their efforts to co-operate on bilateral, regional and multilateral bases in the fight against money laundering;
6. Where the greater involvement of Customs authorities is considered appropriate, give consideration to providing them with a wider authority for enforcing anti-money laundering legislation: this may include the investigation and/or prosecution of criminal offences, the financial investigation of alleged or convicted criminals and the capability to seek judicial orders for the recovery of criminal proceeds or assets;
7. Where Customs have the authority to carry out financial investigations with a view to post-conviction confiscation, ensure they are equipped with the appropriate investigatory powers: these may include restraint and production orders, general bank circulars and search warrants;
8. Consider the use of appropriate technical resources for carrying out anti-money laundering measures, in particular currency dogs and X-ray facilities for the detection of cash;
9. Make maximum use of Customs' expertise in the control of commercial freight movements to detect and deal with trade-related money laundering: methods used include the over-valuation of imported goods to facilitate the export of criminal proceeds;

10. In collaboration with the WCO Secretariat if necessary, provide training courses for Customs officers in order to raise awareness of the importance of combating money laundering: this may include specialised guidance on appropriate counter-measures and on procedural requirements;
11. Encourage Customs staff to make maximum use of information acquired in the course of their routine border control work by analysing it with a view to establishing indications of money laundering;
12. Participate in the sharing of information on money laundering at both international and national levels and thus enhance administrative and operational co-operation; this should include provision of information on currency seizures to the CEN database to enable better analysis and consequently more effective risk assessment and profiling;
13. Seek, by whatever means appear most appropriate, to secure the fullest co-operation of commercial, fiscal or banking authorities and others involved in international commerce and trade to assist Customs authorities and, as appropriate, other law enforcement agencies in combating money laundering;
14. Consider acceding to the Johannesburg Convention, which provides for a legal basis to exchange information on money laundering and all other Customs offences.

REQUESTS Members of the World Customs Organization which accept this Recommendation to notify the Secretary General of their acceptance, and of the date from which they will apply the Recommendation and the conditions of its application.