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Report to the Chairman and Ranking Minority Member, Committee on Foreign Affairs, House of Representatives

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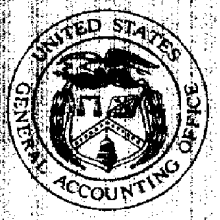
# ILLICIT NARCOTICS

# Recent Efforts to Control Chemical Diversion and Money Laundering

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The Honorable Lee Hamilton
Chairman
The Honorable Benjamin A. Gilman
Ranking Minority Member
Committee on Foreign Affairs
House of Representatives

As requested by the former Chairman and Co-Chairman, Task Force on International Narcotics Control, House Committee on Foreign Affairs, we reviewed recent efforts to control chemical shipments and money laundering. We identified the signatories to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the international community's progress in adopting measures to control chemical shipments and money laundering.

If you or your staff have any questions about this report, please call me on (202) 512-4128. Major contributors to this report are listed in appendix VI.

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# Executive Summary

## Purpose

Illicit drug production and trafficking are global problems transcending national borders. Profits from drug trafficking are estimated at hundreds of billions of dollars annually—far exceeding what the international community spends on counternarcotic programs. Manufacturers of illicit drugs produce many drugs using chemicals that have been diverted from legitimate sources of commerce.

To focus international counternarcotic efforts, the United Nations and two international task forces have recommended ways to control the production and trafficking of illicit substances and illicit proceeds. As requested by the former Chairman and Co-Chairman of the former Task Force on International Narcotics Control, House Committee on Foreign Affairs, GAO identified the signatories to the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the progress made by the international community in adopting the Chemical and Financial Action Task Forces' recommendations on chemical diversion and money laundering.

## Background

The 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances sought international consensus on criminalizing the production and trafficking of illicit drugs. Controlling chemicals used to manufacture illicit drugs and controlling illicit proceeds are two of the most important elements of the treaty. The convention provides the legal framework for countries to legislate controls and to cooperate with each other in the fight against drugs.

Two task forces mandated by the group of seven economic summit partners[1] expanded upon the convention's legal framework by defining the necessary mechanisms for harmonizing laws and establishing international controls. The Chemical Action Task Force recommended controls that include registering chemical manufacturers and handlers, requiring export and import authorizations for chemical transactions, maintaining records of chemical transactions, and reporting suspicious transactions. The task force also recommended that 10 chemicals be added to the U.N. convention. The United Nations included those chemicals, which brought the total number of controlled chemicals to 22, and called for international data exchange on transactions. The United Nations International Narcotics Control Board, which regulates licit chemical manufacturing, will monitor chemical controls.

[1]The seven members are Canada, France, Germany, Japan, Italy, the United Kingdom, and the United States. Although it is not a formal member of the G-7, the Commission of the European Communities is commonly invited to participate in G-7 summit meetings.

The Financial Action Task Force called for a global network of money-laundering controls and recommended 40 measures to form a basis for domestic programs and international cooperation. The task force recommended international cooperation in criminalizing money laundering; removing legislative barriers, such as bank secrecy laws, to investigations; seizure and forfeiture of assets; prevention and detection measures for banks and nonbank financial institutions; reporting suspicious transactions; and assisting other governments in financial investigations. Mutual assessments of task force members' financial systems, which have already begun, are designed to identify and share strengths and weaknesses in financial controls. The task force is also focusing on identifying measures to deal with other methods of laundering money, such as using brokers and shell corporations.

## Results in Brief

The 1988 United Nations Convention, which has been signed or ratified by 88 countries (plus the European Community), and the Financial and Chemical Action Task Forces have focused international efforts on controlling illicit drug production and trafficking. They have gained the political endorsement needed to criminalize money laundering and to legislate chemical and financial controls. However, these controls are not globally instituted and cooperatively enforced because (1) nations have divergent drug control policies; (2) countries fear that controls will impede financial and chemical commerce; (3) countries, some of whose economies are tied to the illicit drug trade, lack the resources to implement controls; and (4) legislative changes take time.

While many countries have adopted laws and regulations governing chemical control, some countries have been slow in applying the controls and in establishing the necessary infrastructures, such as monitoring and enforcement organizations. Many industrialized chemical manufacturing countries have regulated and established controls, but seizures of illicit drugs indicate that chemicals are still being diverted. Less developed countries lack the infrastructures and resources to implement chemical controls. Moreover, the international community lacks quick data exchange mechanisms necessary for the enforcement of these controls. It is too soon to determine how these controls will affect chemical diversion.

The Financial Action Task Force seeks universal and harmonized money-laundering controls, recognizing that weak links in financial systems provide traffickers and others opportunities for money laundering. At the inception of the task force, few members had

criminalized money laundering or required financial institutions to report suspicious transactions. Currently, nearly all task force members have made money laundering a criminal offense and have legislated financial controls such as transaction recording or reporting requirements or enforcement mechanisms. However, countries vary in the scope of these laws, the requirements for financial reporting, the extent of intercountry cooperation in financial investigations, and the seizure and forfeiture of illicitly derived assets.

# Principal Findings

## Chemical Regulation Vary Among Countries

The United States, the European Community, and the Organization of American States have been leaders in developing chemical regulations. For instance, the European Community has developed regulations that its 12 members were to have implemented by January 1, 1993. While some countries have adopted these regulations, others are still evaluating compliance requirements. The Community is negotiating with drug-producing and -transiting countries to provide notification of imports of Community-traded chemicals. So far, 14 of 35 countries queried have agreed to do so. Reciprocal notification of chemical shipments and receipts is necessary but will not prevent diversion unless coupled with mechanisms and resources to verify the legitimacy of traders and recipients.

The European Community members are concerned about establishing controls in Eastern European and former Soviet Union countries. Many of these countries can produce chemicals used in the manufacture of synthetic drugs as well as cocaine and heroin but lack the structures to monitor and regulate production.

In the Western Hemisphere, the Organization of American States has approved model regulations that require the control of 36 chemicals. Thus far, 12 of the 35 member countries have adopted the regulations, and 8 have pending legislation.

Countries that manufacture and export chemicals provide the best means of control by identifying and verifying the legitimacy of chemical shipment recipients. Suspension of shipments to unapproved or suspicious recipients prior to export can keep chemicals out of international shipping

channels, where there are many opportunities for diversion. Once countries that manufacture chemicals adopt regulations to control exports, they generally have administrative infrastructures to institute the controls but may not have enough personnel to monitor the end users of their controlled substances. Further, many drug-producing and -trafficking countries and potential new diversion markets like Eastern European countries lack the administrative and monitoring structures to implement controls. Chemical Task Force members and international programs, for example, the United Nations International Drug Control Program, are helping these countries develop such structures by providing training and equipment.

International organizations, including the United Nations International Narcotics Control Board, have also begun to develop a much needed international data exchange network on controlled chemicals. While this is a good start, inconsistent reporting of data and noncompliance with reporting requirements could hamper the network's effectiveness.

## Money-Laundering Controls Vary Among Countries

In addition to Financial Action Task Force members (including the United States), the United Nations, the European Community, the Council of Europe, and the Organization of American States have developed treaties, conventions, directives, or regulations implementing the recommended money-laundering controls. Many Financial Action Task Force members have legislated money-laundering controls; however, only Belgium, France, Italy, and the United Kingdom have fully complied with the European Community directives, effective January 1, 1993. Among those countries that have established financial controls, some require recording or reporting on transactions exceeding established thresholds. Most FATF countries report on suspicious transactions when they believe money derives from drug trafficking. A minority of countries, such as the United States, consider laundering of money from a variety of serious crimes—not just drug trafficking—punishable. In Financial Action Task Force member countries, financial institutions are responsible for recording and reporting on currency and suspicious transactions.

Some countries require financial institutions to report on suspicious transactions from a particular source, such as illicit drug trafficking. While these financial institutions may be liable for not reporting suspected illegal transactions, they may not know the source of deposited money. Consequently, they may be reluctant to jeopardize customer relations by reporting their large transactions or to jeopardize their employees by

subjecting them to civil suits brought by customers for reporting transactions as suspicious when they are legitimate. U.S. law eliminated the threat of civil liability for disclosures and the Organization of American States regulations require reporting all suspicious transactions, thereby eliminating the need for financial institutions to identify illicit sources. However, according to a Financial Action Task Force report, financial institutions in European countries, even those that provide for nonliability of banking employees, are reluctant to report transactions as suspicious.

The United States and Australia, which have voluminous transactions, routinely report large currency transactions to government authorities. U.S. law enforcement and regulatory agency officials believe that currency transaction reporting facilitates investigations and has made it increasingly difficult to move illicit profits into the nation's financial system undetected. Currency transaction reporting is costly, however. Banks pay $3 to $15 to file a transaction report. The number of U.S. reports filed could exceed 92 million by 1996.

Once a country suspects money laundering, it is expected, under the task force recommendations, to relax its bank secrecy laws, share that information with other countries, and seize the illicit traffickers' assets. The Financial Action Task Force encourages cooperation in multinational law enfocement efforts through the sharing of seized and forfeited assets. The United States has been a leader in asset sharing, but international cooperation in this area has been inconsistent. Even in countries committed to controlling drug-related money laundering, criminal and civil laws permit only limited departure from bank secrecy laws in order to permit exchanges of information. Many task force members have legislated forfeiture laws but have not enacted laws that permit asset sharing. Moreover, some countries do not permit the seizure of legitimate businesses established by illicit proceeds. In the United States, the Supreme Court ruled that the seizure and forfeiture of legitimate property obtained by or used in illegal activity are subject to constitutional limitations.[2]

## Recommendations

This report contains no recommendations.

## Agency Comments

Officials from the Departments of State, Justice, and the Treasury said that they were very pleased with the Financial Action Task Force's progress in

[2]Austin v. U.S., 113 S.Ct. 2801, 61 U.S.L.W. 4811, June 28, 1993.

that it had encouraged the legislation of money-laundering controls in member governments, agreed to mutual evaluation of members' financial systems, and promoted universal money-laundering controls. Moreover, these officials pointed out that the task force is only one part of a universal effort to effect money- laundering controls and obtain mutual legal assistance treaties and international organizations' assistance to collectively address this complex and difficult issue. They also provided information on recent U.S. efforts to encourage and facilitate chemical and financial system controls. (See app. IV and V.) GAO agrees that the Financial and Chemical Action Task Forces are valuable tools in promoting international cooperation. The purpose of this report was to provide a snapshot of international efforts to implement the 1988 U.N. Convention and the task forces' recommended chemical and financial controls. GAO believes that the report identifies progress and weaknesses in the implementation of recent efforts and notes that legislating and implementing such controls can be a lengthy process.

In addition to informal comments from the Departments of State, Justice, and Treasury, which GAO has included in the report where appropriate, the Departments of State and Justice also provided written comments (see app. IV and V).

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**Abbreviations**

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| CATF | Chemical Action Task Force |
| DEA | Drug Enforcement Administration |
| EC | European Community |
| FATF | Financial Action Task Force |
| OAS | Organization of American States |

# Introduction

According to U.N. officials, because the illicit use of narcotics and the trade of drugs are global problems, little impact can be made by individual governments. In an effort to develop a global approach to countering illicit narcotics, three U.N. conventions seek international cooperation to control the manufacture, transshipment, and use of narcotic drugs and psychotropic substances. In 1961, the Single Convention on Narcotic Drugs set up a universal system to control the production, manufacture, export and import, distribution, and possession of opium poppy, coca leaf, and cannabis. The convention also created the U.N. International Narcotics Control Board to oversee this system and to regulate the licit manufacture of controlled substances. The Board, which has no enforcement authority, identifies reasonable manufacturing limits, given projected use, and reports on the manufacture, import and export, and seizure of illicit narcotics and psychotropic substances. Later, the 1971 Convention on Psychotropic Substances established the international machinery to control dependency-causing synthetic substances and relied on the Board to implement controls.

The most recent U.N. convention, the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, criminalized money laundering and required other measures to fight illicit traffic. The convention called for controls over 12 commonly manufactured and used chemicals that can be diverted for illicit drug production. (In 1992 the United Nations approved the addition of 10 more chemicals to be controlled under the convention.) More important, the convention sought international consensus on criminalizing the manufacturing and trafficking of drugs and the money laundering of traffickers' profits. To date, 88 countries, and the European Community (see app. I) have signed or ratified the convention, which provides the legal framework to legislate controls and establish and harmonize laws, controls, and infrastructures necessary for international cooperation. Such infrastructures include properly trained and equipped personnel, enforcement procedures, reporting mechanisms, and international communication channels.

Although many countries have signed or ratified the convention, some have done so with reservations. Other countries, like many African countries through which illicit drugs transit, have not signed or ratified the convention. To encourage ratification by these countries, the United States and its allies provide technical assistance to harmonize legislation. In addition, the United States and its allies use diplomatic initiatives and political forums. For example, after the United States and other international counternarcotic representatives met in Cartegena, Colombia

agreed to resubmit the convention for approval. Although the Colombian congress had previously faced strong internal opposition to ratification of the convention because of the provision permitting extradition of Colombian citizens, Colombia has recently ratified the convention. Colombia did not adopt the extradition or seizure of assets provisions of the convention but will move against assets that are connected to unexplained wealth.

While ratification of the convention often signifies the signatories' political will to control drugs, their economies are also considerations. For example, Bolivia, which signed the convention in August 1990, recently announced that it was considering the industrialization of coca and its products for export. Also, the economic impact of instituting chemical controls in manufacturing countries was a concern among Chemical Action Task Force (CATF) members, according to the U.N. International Narcotics Control Board, and some European manufacturing companies continue to provide controlled substances to traffickers through countries with weak import and export controls.

## Financial and Chemical Action Task Forces

Two task forces mandated by economic summit partners (Canada, France, Germany, Japan, Italy, the United Kingdom, and the United States), with the participation of the Commission of the European Communities, expanded upon the 1988 convention by identifying the legislation, regulatory mechanisms, and procedures necessary to harmonize international laws and to establish controls. At the 1989 economic summit, these partners established the Financial Action Task Force (FATF) to recommend ways to control money laundering.[1] FATF has become institutionalized and, under limited-term mandates, will continue to assess existing controls and identify new money-laundering techniques. It seeks compliance with its recommendations beyond its membership and works independently or in cooperation with other organizations in establishing or strengthening member and nonmember infrastructures.

[1]FATF members are Austria, Australia, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, the United Kingdom, the United States, the European Community, and the Gulf Cooperation Council.

The CATF, established in 1990, examined the diversion of commonly used chemicals from legitimate commerce to illicit drug manufacturers.[2] In addition to developing controls to prevent such diversion, CATF recommended, and the U.N. Commission on Narcotic Drugs approved, the addition of 10 chemicals to the 1988 convention. (See app. II for a list of chemicals to be controlled.) Unlike FATF, CATF did not become institutionalized, and in April 1993, the International Narcotics Control Board assumed CATF's mandate to foster international chemical control.

## Objectives, Scope, and Methodology

As requested by the former Chairman and the Co-Chairman, former Task Force on International Narcotics Control, House Committee on Foreign Affairs, we identified the signatories to the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the international community's progress in adopting the Chemical and Financial Action Task Forces' recommended measures to control chemical diversion and money laundering.

In Vienna, Austria, we interviewed officials at and obtained documents from the U.S. Mission to the United Nations, the U.N. Drug Control Program, and the U.N. International Narcotics Control Board. In Brussels, Belgium, we interviewed officials of the U.S. Mission to the European Community, the European Community, and the Customs Cooperation Council. In Paris, France, and London, England, we discussed the status of chemical and financial controls with members of the Financial and Chemical Action Task Forces and embassy-based Customs and Drug Enforcement Administration officials. We also analyzed the information provided by those countries responding to both task forces' inquiries. In Washington, D.C., we discussed chemical and money-laundering issues with officials at the Organization of American States.

To determine U.S. efforts to implement and gain international cooperation in ratifying and implementing the objectives of the 1988 convention and the recommendations of the Financial and Chemical Action Task Forces, we interviewed officials at and obtained documentation from the Departments of State, the Treasury, and Justice and the Drug Enforcement Administration.

[2]CATF members are Argentina, Australia, Belgium, Bolivia, Brazil, Canada, China, Colombia, Ecuador, France, Germany, Hungary, India, Italy, Japan, the Netherlands, Pakistan, Peru, Spain, Sweden, Switzerland, Thailand, the United Kingdom, the United States, the U.N. International Narcotics Control Board, the Organization of American States, and the Commission of the European Communities.

We conducted our review between January 1992 and February 1993 in accordance with generally accepted government auditing standards.

# International Control of Chemicals

The 1988 U.N. convention and the Chemical Action Task Force have focused international efforts on controlling illicit drug production and trafficking and have gained the political endorsement needed to criminalize drug trafficking and to legislate chemical controls. While many countries have adopted laws and regulations governing chemical control, progress has been slow in applying the controls. In addition, chemical controls have not yet been globally instituted, supported by control infrastructures, and cooperatively enforced. Furthermore, although an international data exchange mechanism has been developed to monitor controlled chemicals, its effectiveness is hampered by the inconsistent reporting of data and noncompliance with reporting requirements. Seizures of illicit drugs indicate that chemicals are still being diverted from Europe and the United States, which have advanced control mechanisms.

## Task Force Recommendations Address the Complexity of Chemical Diversion

Controlling the chemicals necessary to manufacture illicit drugs is a complex problem. Trade in chemicals has no geographic boundaries and involves manufacturers, retailers, agents and brokers, users, and controllers of controlled and free export and import points. All these points are vulnerable to chemical diversion. Some chemicals have both industrial and common uses, which complicates regulation. Hydrochloric acid, for example, is used to manufacture other chemicals, metal and industrial cleaners, and other products. Controlled chemicals can be diverted by inaccurately reporting amounts of manufactured and stored chemicals and their intended destinations or customers; making illicit multiple sales or shipping transactions; falsely documenting or labeling chemicals; substituting shipments; establishing illegitimate, or "front," companies; and extracting controlled substances from noncontrolled mixtures.

Exporting countries can more easily control chemicals because they can control shipments before they enter international shipping channels, where there are multiple opportunities for diversion. Preventing the diversion of chemicals, especially those commonly manufactured and used, without imposing undue burdens on legitimate commerce requires the creation of effective, but unrestrictive, chemical controls. For this reason, the Chemical Action Task Force recommended that the international community target transactions of the more commonly used drug-manufacturing chemicals to known drug-producing or -manufacturing countries. In addition, CATF recommended adding 10 chemicals to the 1988 U.N. convention, which brought the total number of controlled chemicals to 22. CATF called for countries to ratify the

convention and encourages ratifying states to seek ratification by other countries as well.

To control chemical diversion, CATF recommended that the following measures be implemented:

- register firms handling regulated chemicals,
- require export permits for each transaction,
- require import authorizations,
- report suspicious transactions, and
- record and maintain records of transactions.

CATF member countries are to implement the recommendations by establishing legislation, regulations, and procedures for monitoring the manufacture of and transactions involving controlled substances. They are to identify appropriate control authorities and authorize them to seize suspected substances. The task force also called for the exchange of information on trafficking activity.

## Chemical Regulations Vary Among Countries

Although all CATF members have agreed to adopt the task force recommendations, according to a CATF report dated June 1992, prescribed measures have not been fully implemented in chemical-producing countries. Some CATF member countries have regulated or improved existing controls; less industrialized member countries lack the resources to implement recommended controls.

The United States, some other Western Hemisphere countries that manufacture or trade controlled chemicals, and the European Community (EC) have been leaders in adopting laws and regulations governing control of licit and illicit chemical substances. Most of the chemical-producing countries have some administrative structures to implement those regulations but may not have enough investigative means to ensure compliance. Further, drug-producing countries lack the necessary administrative and monitoring structures to institute controls. The United States, the U.N. International Drug Control Program, the EC, and other CATF members are helping these countries develop such structures and are encouraging adoption of the task force recommendations by non-CATF members. The United States and members of the European Community, for example, encourage chemical control through bilateral agreements with other countries.

## The United States

U.S. efforts to control the diversion of U.S.-produced chemicals outside its borders have met with significant results. Since the implementation of the 1988 U.S. Chemical Diversion and Trafficking Act, U.S. chemical exports to Colombia have remained about 40 percent below pre-act levels, according to officials from the Drug Enforcement Administration (DEA). The act replaced voluntary control and required regulation of transactions involving 20 listed chemicals. Two of the CATF-recommended chemicals, hydrochloric acid and sulfuric acid, were not covered by the act but have been included in a DEA regulation. Importers, chemical manufacturers, and traders are to maintain records of chemical shipments, provide 15-day advance notice on both exported and imported chemicals, and report suspicious chemical transactions. Suspected chemical diversion may result in suspended shipments, and violators can be fined or imprisoned. Control of more commonly used chemicals is targeted to drug-producing and -transiting countries. Two organizations implement these controls. DEA monitors and controls domestic and international distribution of regulated chemicals, and the U.S. Customs Service is the discovery agent at U.S. entry and exit points.

## Europe

Europeans have made progress in controlling the diversion of exported chemicals. (Free chemical trade exists within the EC.) Several European countries, including Germany, France, and the United Kingdom, are major pharmaceutical manufacturers. To gain cooperation in chemical export control, the EC has passed two regulations that are binding on its member countries.[1] The first regulation, dated December 1990, governs the external trade of 12 chemicals listed in the 1988 U.N. convention. The other, which was effective January 1993, amends the first regulation and incorporates all 22 chemicals now listed in the 1988 U.N. convention. Of those 22 chemicals, 7 are to be heavily regulated. Regulation of the more commonly used chemicals is focused on drug-producing and -transiting countries to avoid impeding legitimate commerce. Moreover, the EC is attempting to negotiate agreements with 35 targeted countries to notify the EC of chemical imports. Thus far, 14 of the 35 countries have agreed to do so. EC regulations cover the licensing and registration of some chemical traders; the maintenance of records on shipment characteristics, traders, and recipients; the seizure of suspicious shipments; and pre-export notifications.

[1]EC members are Belgium, France, Denmark, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, and the United Kingdom.

While some EC countries are still evaluating compliance requirements, others have begun to put controls in place and develop monitoring systems. For example, France is establishing a bureau within its Trade Ministry to monitor private companies and plans to seek intergovernmental cooperation in regulating control. Among non-EC European countries, controls vary. For example, Sweden, which has few regulated chemical handlers, stops shipments of chemicals only if transshipment is regarded as a drug crime.

## Western Hemisphere

The 35-member Organization of American States (OAS),[2] promotes chemical controls in the Western Hemisphere. In Latin America and the Caribbean—known production and trafficking areas—OAS model regulations,[3] which are more comprehensive than the CATF recommendations, require that 36 chemicals be controlled. In addition, licensing of manufacturers and traders, record-keeping, reporting on chemical manufacturing and transshipment, and criminalization of offenses are required.

Although the OAS model was designed to set a standard, the degree of regulation differs in drug-producing and -trafficking countries. Thus far, 12 of 35 OAS-member countries have adopted the recommended controls and 8 have pending legislation. While individual Latin American countries are beginning to control chemical imports, intra-country diversion is a growing problem. Colombia, a major South American drug-producing and -trafficking country, has ratified the 1988 U.N. convention but has not endorsed provisions for extradition of its citizens or seizure of assets. Prior to ratification, Colombia entered into bilateral agreements with the United States and with some European countries that, according to State Department officials, implement controls over 18 imported chemicals. (It does not export controlled chemicals.) Colombian law establishes a complex regulatory system that generally requires licensing, customer identification, and record-keeping for essential chemicals. It does not require recording or reporting routine or suspicious shipments of the 18 chemicals controlled and lacks the resources to effectively implement these controls. Ecuador, for example, is used to transit diverted chemicals

[2]Antigua and Barbuda, Argentina, the Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba (participation suspended), Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Christopher-Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, the United States, Uruguay, and Venezuela are OAS members.

[3]"Model Regulations to Control Chemical Precursors and Chemical Substances, Machines and Materials," approved by the Organization of American States on April 17, 1990.

to Colombia and does not require advanced notice of domestic chemical shipments. According to the U.N. International Narcotics Control Board, Ecuador will implement new legislation that is designed to reduce chemical diversion.

## Other Countries

With increasing evidence that chemicals are being diverted for drug manufacture in Eastern Europe, Asia, and Africa, CATF members encourage countries in these regions to adopt chemical controls and provide training on establishing controls and infrastructures. Controls in these countries vary, and countries with regulations are not always effective in exercising controls. For example, Pakistan, a CATF member and heroin-producing country, regulates some of the chemicals it manufactures, but the regulation has not resulted in reduced illicit heroin production. Hungary, also a CATF member, has agreed to control 22 chemicals but does not have the resources to do so. Moreover, Hungary, like its Eastern European neighbors, faces many economic issues that are a higher priority than drug control.

In other Eastern European countries, some of which are chemical manufacturers, Western European efforts to control chemical diversion are progressing. Germany, for example, has signed bilateral cooperation agreements on criminal matters with the Commonwealth of Independent States, Czechoslovakia, and Hungary. EC has included antidrug controls in its trade agreements with some of these countries, and several Eastern European countries are adopting trading regulations, based on EC models, that will incorporate chemical controls to some extent. In addition, several countries, such as the United Kingdom, and international organizations have begun to provide equipment and training to Eastern Europe. Recently, an informal coordinating body, the European region Dublin Group,[4] asked the U.N. International Drug Control Program to coordinate planned law enforcement training assistance, part of which will cover chemical controls. In response, the United Nations submitted a plan for collecting Eastern European requirements and donor assistance data.

[4]Dublin Group members are Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

## Weak Links Could Break the Chemical Control Chain

Although laws and regulations are necessary to control chemical diversion, they alone are not sufficient to ensure universal control. Illicit drug trafficking has multiple facets and involves numerous countries; any break in the control chain could render other controls ineffective. CATF has identified the necessary means to control chemical trade. The United States provides funds for the U.N. International Drug Control Program and OAS programs designed to provide training and equipment to drug-producing and -transiting countries to facilitate universal implementation of chemical controls and the exchange of data. However, requiring reciprocal notification on shipments and receipts of chemicals, including those used to produce cocaine and heroin, and establishing mechanisms to verify the legitimacy of traders and recipients have not been universally adopted domestically, regionally, or internationally due to a lack of resources and equipment in drug-producing countries.

### Strengthening Chemical Controls

The effectiveness of export notifications made by chemical manufacturing companies trading internationally is at risk if companion import notifications, verifications of the legitimacy of ultimate recipients, and confirmations that chemicals were legitimately received are not made. The EC's attempt to control chemical diversion by negotiating with drug-producing and -trafficking countries for import notifications or permits is laudable; however, exporting countries have no regulatory authority over recipient countries where complementary controls are necessary. EC efforts could be rendered ineffective if importing countries do not verify recipients of imported chemicals and confirm that the recipients received chemicals identified under import notifications.

Drug-producing countries do not have the resources to exercise these controls. Internal country controls are weak in countries that produce and traffic in drugs. For example, Colombia, the largest manufacturer of cocaine, does not require advance notice of domestic chemical trade. Moreover, domestic purchasers and recipients as well as chemicals traded are reported only semiannually; as a result, investigations of suspicious shipments are delayed.

In Europe, the EC regulation requires the identification of consignees, or end users, of chemical shipments. Identification becomes obscured when chemicals obtained from one European manufacturer are purchased by a European trader and stored until the market price increases. While the originating manufacturer may have dutifully reported the transaction, the trader may assume that the reporting requirement has been met.

According to a European official, chemicals are freely traded within the community. Free trade within Europe provides the potential for diversion, especially if the EC admits Eastern European countries that have virtually no ability to control diversion. In addition, some EC countries do not have the resources to follow up on the end users of chemicals traded.

As controls tighten on established trafficking routes, traffickers will seek new unregulated sources. For example, after the U.S. Chemical Diversion and Trafficking Act went into effect in 1989, U.S. chemical shipments to Colombia decreased 40 percent. At the same time, Colombian import permits issued indicate that European chemical shipments increased. Although the 40-percent decrease in U.S. chemical shipments is significant, according to the U.N. International Narcotics Control Board, U.S. chemical shipments were still diverted to Latin America in 1990. More recently, U.S. officials stated that chemical controls could be improved. It is too soon to determine how effective the EC controls on chemical trade will be.

Countries in Eastern Europe and the Commonwealth of Independent States, which have few controls, offer another avenue for illicit trafficking. These countries will need training and assistance to establish control infrastructures and to implement controls. The U.N. International Drug Control Program is coordinating the efforts of international bilateral donors to provide necessary training and equipment.

## Proposed Enforcement Mechanism

Customs officials and police organizations are largely responsible for enforcement of chemical controls. But according to CATF reports, most drug-producing countries lack the personnel to verify the legitimacy of export or import organizations and to follow up on suspicious transactions. Some European countries do not have the personnel to monitor end users of their controlled chemicals. Latin American countries may have the political will and strong laws or agreements to control chemicals, but they lack the means to control domestic transshipment and usage. Moreover, some Latin American countries lack the resources necessary to control shipment between countries. Some Asian countries where heroin is manufactured also lack resources, compatible data bases, and general infrastructures to administer drug controls.

To verify the legitimacy of manufacturers, traders, and recipients, the DEA proposed in 1992 to Germany, the Netherlands, Belgium, and the EC to establish a joint working group on chemical investigations. The proposed group would share information and conduct investigations. The

investigations would target shipments of listed chemicals destined for the cocaine-producing and -processing regions of South America and the heroin-producing areas of Asia. The group would report suspicious transactions to relevant government offices for appropriate action.

European chemical-manufacturing countries declined in March 1993 to form the working group because they already have government organizations responsible for enforcing chemical controls. According to one European official, such an investigative group would usurp responsible offices' authority. Moreover, chemical-manufacturing countries mindful of the economic value of exports would likely fear adverse publicity if they did not stop a shipment identified by the group as suspicious.

## An International Data Network Has Not Been Established

The international community does not have a centralized data exchange mechanism necessary to monitor controlled chemicals. CATF recommended establishing such a mechanism and assigning codes to control chemicals. The establishment of an effective centralized information system to exchange existing regulatory and law enforcement information among CATF members has proved impossible to date due to the diverse universe of existing systems. However, an effective international data network maintained by the U.N. International Narcotics Control Board is key to such monitoring.

The network contains unclassified and nonproprietary information on the licit and illicit movement of controlled substances, including tariff codes being assigned to precursor and essential chemicals by the Customs Cooperation Council.[5] When circumstances are suspicious, countries can query identified enforcement organizations. Through reciprocal agreements, users will be able to identify the pertinent national authorities, laws, and control measures. The network provides information on chemical manufacturers and companies or individuals known or suspected of diverting chemicals.

While the data exchange is a good start, it will be some time before it is universally used. Moreover, its effectiveness may be limited because many countries do not comply with reporting requirements required by the U.N. conventions and data reported to the Board are sometimes incomplete. Furthermore, some countries may be reluctant to provide information on

[5]The Customs Cooperation Council, comprised of 109 members, focuses on controls over the import and export of goods, the detection of contraband, and reports on drug seizures.

their citizens or on chemical commerce. For instance, as of November 1992, 82 states and territories had submitted data for 1991, as required by the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. This figure represents 42 percent of the total of 193 states and territories requested to supply the information. The response rate for 1989 and 1990 was 51 percent and 49 percent, respectively. Of the 101 countries and territories requested to respond to the 1961 Single Convention on Narcotic Drugs, 68 submitted only partial data, and three of these were major manufacturing and exporting countries.

# International Control of Illicit Drug Profits

The 1988 U.N convention and the Financial Action Task Force (FATF) have succeeded in demonstrating to the international community that money laundering is a worldwide problem that can only be fought collectively. Controlling money laundering is difficult because financial systems vary, laws governing money laundering vary, and money laundering schemes are complex. Traffickers attempt to launder drug money by placing cash into commercial financial systems, called placement; transferring smuggled money through exchange houses; and using businesses—both legitmate companies and shell companies—to transfer money into financial systems or to purchase commodities or goods that are later sold at less than their value.[1] Even when emplaced, a uniform system of money-laundering controls will not prevent money laundering but can force money launderers to shift to methods that are more vulnerable to detection or more complex, time-consuming, and expensive, such as using brokers or establishing shell corporations.

At FATF's inception in 1989, few member governments criminialized money laundering or instituted money-laundering controls. Today, nearly all members have made money laundering a criminal offense or are considering doing so. Moreover, FATF members have agreed to institute the task force's 40 recommendations, and FATF members have agreed to mutual evaluations of their financial institutions. FATF tries to persuade countries that are not members of the task force to comply with its recommendations. FATF efforts have led to bilateral agreements with member and nonmember countries to provide assistance in drug-related matters, such as freezing and forfeiting drug profits, and have led to the establishment of technical programs by international organizations. U.S. officials consider FATF's success remarkable given that it enables various disciplines (finance ministry officials, central bank officials, foreign ministry officials, prosecutors, and law enforcement officials) to exchange information on money laundering. They also recognize that universal implementation of money-laundering controls is needed as traffickers continually seek weak links in financial systems.

While FATF members have legislated money-laundering controls and sought universal implementation of its recommendations, controls are not globally instituted and cooperatively enforced because nations have divergent drug control policies. For example, investigations and prosecutions may be dependent upon cooperation with countries that consider only drug-money laundering a crime, require bank secrecy, or do not have harmonized legal systems to facilitate investigations. Even when

[1]The Drug War: Extent of Problems in Brazil, Ecuador, and Venezuela (GAO/NSIAD-92-226, June 1992).

such cooperation is successful, as demonstrated by the disruption caused by Operation Green Ice—a multinational investigation into Colombian cartel money laundering—investigations and prosecutions may disrupt the operations of drug cartels but not eliminate them. Moreover, countries fear that controls will be costly and impede financial commerce. Additionally, some drug-producing countries, which are often economically dependent on the illicit drug trade, lack the resources to implement controls.

## Task Force Recommendations Target Money Launderers

Worldwide drug-trafficking revenues are estimated to total hundreds of billions of dollars a year—much more than the international community spends to counter drug-trafficking activities. Identifying the amount of illicitly derived money laundered internationally can be difficult because these funds are mixed with and are often indistinguishable from huge amounts of legal currency and monetary instruments (such as cashier checks or bearer securities). Moreover, electronic fund transfers, which are used by banks and other financial institutions to make legitimate transactions, are also used to launder money and can involve financial institutions in many countries. More recently, cartels in Latin America are using intermediaries called brokers to launder U.S. drug proceeds.

To address this situation, FATF called for the establishment of a global network of money-laundering controls. Because FATF member governments' financial systems, money-laundering problems, and laws and regulations vary, FATF recommended 40 measures (see app. III) to control money laundering and to promote international cooperation in addressing this complex issue. In its recommendations, FATF addressed

- criminalizing money laundering and removing legislative barriers, such as bank secrecy laws, to investigations;
- seizing and forfeiture of illicit proceeds or other assets;
- reporting suspicious transactions;
- regulating nonbanking and banking institutions; and
- assisting other governments in financial investigations.

Although FATF is not a formal mechanism and has no authority to enforce recommended controls, its members agreed to implement the recommendations and evaluate member countries' bank financial systems. FATF identified expert financial examiners who were to determine if FATF members had established mechanisms—laws, regulations, reporting channels, for example—to enforce money-laundering controls and encourage cooperation with officials within and outside their

governments. Individual FATF member evaluation results, considered confidential among FATF members, identify strengths and weaknesses in anti-money-laundering programs and are shared with members in an effort to improve money-laundering controls. FATF evaluated the financial systems in Australia, Austria, Belgium, Canada, Denmark, France, Italy, Japan, Luxembourg, Sweden, Switzerland, the United Kingdom, and the United States between 1991 and 1993. The U.S. evaluation showed that the United States had substantially complied with the 40 FATF recommendations. However, the report noted that U.S. controls over the nonbanking sector—that is, unregulated businesses that perform banking services, such as money transmitters, cashing of checks, and currency exchanges—were not comprehensive and that the number of agencies involved in financial controls presented challenges. In addition, the report stated that, given the size and complexity of the U.S. financial system, the currency reporting system was the best one for the United States. However, it also noted that the system was burdensome for financial institutions. It also suggested that the United States pay more attention to suspicious transaction reporting. Citing their commitment to adhere to "an understanding among [FATF] members to treat [individual member evaluations] as confidential," U.S. officials provided us only the U.S. evaluation.

## The United States and International Groups Promote the Task Force Recommendations

FATF members have agreed to adopt the recommended money-laundering controls and to promote such controls among nonmembers. Although FATF does not provide technical assistance in establishing and strengthening financial controls, it cooperates with countries or organizations that do and plans to identify training and technical assistance needs for member and nonmember states. FATF has identified training requirements and will share these with other international organizations, such as the U.N. International Drug Control Program, which asked FATF members to provide technical expertise to develop U.N. training programs. FATF will also continue to identify new or modified money-laundering schemes; produce interpretive notes to the recommendations, as appropriate; and evaluate members' implementation of the recommendations.

EC, the Council of Europe, and OAS have also developed regulations implementing—and sometimes expanding—the FATF money-laundering provisions.[2] These efforts have resulted in progress. According to U.S.

[2]The Council of Europe promotes regional coordination of common issues. Its members are Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, the Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

officials, Switzerland, a member of the Council of Europe and one of the world's leading financial centers that is known for its bank secrecy, has virtually ended the legendary numbered Swiss bank account. However, some countries have been slow in adopting these regulations, and other countries lack the resources to implement them.

## The United States

Even before the task force made its recommendations, the United States had passed legislation requiring reports on currency transactions, criminalization of money laundering, and supervision of the financial industry. The 1970 Bank Secrecy Act, for example, contains various regulatory and criminal provisions and requires financial institutions to keep records and report currency transactions exceeding $10,000. The Anti-Drug Abuse Acts of 1986 and the Anti-Drug Abuse Amendments Act of 1988, the Crime Control Act of 1990, and the 1992 Annunzio-Wylie Anti-Money Laundering Act also address money laundering by expanding controls over banks and nonbanking financial institutions. The United States also established the Treasury's Financial Crimes Enforcement Network to analyze and coordinate financial intelligence. In addition, the Drug Enforcement Administration and Customs Service promote controls and interdict illicit proceeds. Moreover, the United States has taken the lead in promoting asset sharing and permits sharing of forfeitures as a means of encouraging international cooperation in multinational forfeiture efforts.

The United States requires all businesses, including banks, nonbanks, and automobile dealerships, to report on all currency transactions over $10,000. These institutions must keep customer identification records for transactions between $3,000 and $10,000 and report suspicious transactions, regardless of the amount. The transaction does not have to be linked to a particular illicit activity, such as drug trafficking.

Currency transaction reporting is a tool to identify patterns or suspicious transactions in order to facilitate investigations. U.S. banks file millions of currency transaction reports annually.[3] To relieve reporting burdens, banks can raise the reporting threshold for some types of regular customers that frequently make large deposits, like grocery stores. Nonetheless reporting can be costly. For example, in 1992 banks spent an estimated $3 to $15 to file each transaction. By 1996, the number of reports filed could nearly double to about 92 million. Although law enforcement

[3]Money Laundering: The U.S. Government Is Responding to the Problem (GAO/NSIAD-91-130, May 1991).

agencies say that these reports facilitate investigations and have played a significant role in controlling money laundering, the volume of reports makes it difficult for law enforcement authorities to access and analyze the data.[4] Treasury is conducting a review of its money-laundering activities, including the requirements of the Bank Secrecy Act, which requires reporting on currency transactions.

Most recently, the United States, which is primarily concerned with cocaine trafficking from Latin America, has experienced an increase in traffickers' use of intermediaries, called brokers, to convert drug proceeds into local currency. To add another layer between cartel operations and law enforcement officials, brokers buy drug-derived U.S. dollars from cartels at as much as a 25-percent discount and sell the money to legitimate businesses in Colombia, a non-FATF member. According to a U.S. official, Colombia recently loosened its regulations on the amount of cash that can be deposited in financial exchange houses. Brokers also use drug dollars to purchase goods or commodities and sell them at below market values.

## Europe

EC's policy directive to implement the 1988 convention includes FATF recommendations such as requiring banks to report suspicious transactions. The directive, which became effective in January 1993, requires member states to make money laundering derived from drug trafficking a criminal offense. Also required are customer identifications, record-keeping of transactions, reporting of suspicious transactions without disclosure to customers, cooperation with law enforcement authorities, and establishment of internal control systems. In addition, penalties can be imposed for not reporting money-laundering activities. The EC reporting threshold for transactions is about $18,300. To date, only Belgium, France, Italy, and the United Kingdom have fully implemented the EC directive. The other EC countries are at various stages of enacting legislation and regulations for implementation.

Like the EC directive, the Council of Europe convention on money laundering calls for members to criminalize money laundering.[5] The convention prescribes procedures for confiscating illicit proceeds and for sharing investigative data. It identifies the parameters for cooperating in

[4]Money Laundering: The Use of Bank Secrecy Act Reports by Law Enforcement Could Be Increased (GAO/T-GGD-93-31, May 1993).

[5]"Convention on Laundering, Search, Seizure and Confiscation of the Proceeds From Crime," dated November 8, 1990.

confiscating assets, including the content of requests for cooperation, refusal or postponement of cooperation, and restrictions on using shared information.

## South America

The Organization of American States is encouraging member countries to adopt harmonized money-laundering controls—some of which the 1988 U.N. convention and task force recommended. In 1992, OAS approved model regulations for member nations to use in developing money-laundering controls.[6] In addition to criminalizing money laundering, these regulations provide for the seizure and sharing of property and proceeds both within and outside the region and for strengthening the financial system against money laundering. The regulations also require financial institutions to relax their secrecy laws, maintain transaction records, and report suspicious transactions. Reporting thresholds are set by members. Most important, the regulations make financial institutions responsible for employees' compliance. OAS has conducted implementation seminars and is planning training and technical assistance to help governments adopt and implement money-laundering laws.

## Money-Laundering Laws and Reporting Requirements Vary

Most FATF members have established money-laundering laws that cover criminalization, reporting, and confiscation of illicitly derived assets, primarily cash, but the scope of these laws differs. Most members, including France and the United Kingdom, punish money launderers when money is derived from drug trafficking. Other members, including the United States, use broader criteria to identify illegal money-laundering activities and consider laundering of money derived from specified unlawful activities punishable. Criminal activities covered include bank fraud and insider trading of stocks. In the United States, these broader criteria include noncash transactions and permit prosecution of "legitimate" concerns, such as established corporations, and confiscation of illicitly gained proceeds that come from legitimized sources, such as real estate or legitimate businesses. Recently, however, the U.S. Supreme Court held that fines levied against offenders, specifically the seizure of legitimate property obtained by or used in illegal activity, are subject to constitutional limitations.[7] In Canada, courts must approve three requests from foreign governments to seize illicitly derived assets. The differences

[6]"Model Regulations Concerning Laundering Offences Connected to Illicit Drug Trafficking and Related Offenses," dated March 13, 1992.

[7]Austin v. U.S., 113 S.Ct. 2801, 61 U.S.L.W. 4811, June 28, 1993.

among FATF members' transaction reporting as well as variances in seizure laws pose barriers to quickly exchanging information and to extraditing and prosecuting offenders.

## Bank Secrecy Laws Vary

One of FATF's recommendations called for international cooperation in financial investigations. Once a member country suspects money laundering, it is expected to share that information with other investigating authorities and countries and, if appropriate, to seize the assets of the illicit traffickers and share the evidence. To comply with this recommendation, countries must relax their bank secrecy laws by reporting on customers' transactions when they meet designated thresholds and sharing information within and outside their governments. While some progress is being made in this area, the degree of relaxation of bank secrecy laws varies, and international cooperation is sometimes inconsistent.

Even in countries committed to controlling drug-related money laundering, criminal and civil laws permit only limited departure from bank secrecy laws in the reporting of suspicious drug-related transactions. Some European countries believe increased government scrutiny impinges upon individual rights to privacy and invites closer scrutiny by tax authorities. These views are reflected in European countries' money-laundering controls. For example, although EC regulations require reporting on any suspicious illegal transaction, some FATF member countries limit reporting to suspected drug-related transactions. Other FATF member countries, like Austria, which permits two categories of anonymous accounts, do not require banks to report suspicious transactions to authorities. Some FATF members still do not prohibit financial institutions from warning their customers that reports are being made. In some EC countries, suspicious transaction reports are sent directly to financial ministries rather than enforcement authorities.

Additionally, some FATF member countries have stronger domestic money-laundering controls than exist in their dependencies, some of which, according to the State Department International Narcotics Strategy Report, are known money-laundering centers. One such dependency, a non-FATF member, increased its worldwide deposits by 200 percent between 1987 and 1989. Under FATF member sponsorship, the Caribbean Financial Action Task Force is promoting money-laundering controls. Some Caribbean countries have just recently agreed to amend bank secrecy laws. A U.S. mutual legal assistance treaty with Panama, the

second largest money-laundering concern in the Western Hemisphere, should expedite access to bank documents and other evidence used in money-laundering investigations. The treaty awaits U.S. ratification.

Differences in countries' bank secrecy laws impact on FATF members' cooperation in investigating suspicious financial transactions. Nearly all FATF member countries are willing to cooperate with international investigations. Cooperation varies however. For example, according to the State Department 1993 International Narcotics Strategy Report, Germany (a FATF member) denied U.S. requests to freeze accounts containing drug proceeds. The clearest example of international cooperation was Operation Green Ice, during which seven countries cooperated to infiltrate organizations of Colombian money launderers through the use of undercover agents. Begun in 1990, the operation had frozen 140 bank accounts and seized about $47.7 million as of October 1992.

## Reporting Requirements Vary

As one means to control money laundering, FATF targeted the placement of currency in financial institutions by recommending that financial institutions report on suspicious transactions and pay special attention to complex, large transactions. FATF sought to interdict traffickers' profits before they entered international financial systems. While FATF member financial institutions report on transactions, the criteria for reporting are not well defined, and reporting thresholds differ among FATF members.

Some countries require their financial organizations to pay special attention to all transactions, and others require recording or reporting only transactions that may be drug related. In the latter case, banking officials are responsible for assessing the origins of large suspicious transactions that may be drug related. Such determinations are difficult to make. Penalties established by countries for not complying with established controls provide the banking industry with an incentive to cooperate, but banks may not have the capacity or knowledge to comply with the reporting requirements. Although bank employees are supposed to generally target nonregular customers or customers from drug-producing countries, banks in some FATF-member countries have been reluctant to jeopardize customer relations by reporting on suspicious transactions. Moreover, the institutions and employees themselves may fear civil or criminal liability from reporting or not reporting on suspicious transactions.

While FATF recommended reporting large transactions, the transaction thresholds that must be reported differ among FATF members. For example, the United States has required financial institutions and certain businesses, such as casinos and money transmitters, to record and report on customer transactions over $10,000. However, the United States does not consistently require reporting on transactions between accounts or financial institutions and only recently required reporting on nonbanking institutions' transactions. The United Kingdom has agreed to use the EC threshold of about $18,300 and reports only on suspicious transactions. Switzerland, which is not an EC member, recently reduced its reporting threshold from about $65,000 to about $16,000. Some European countries do not report on nonbanking institutions' transactions. As banks have exercised increased money-laundering controls, FATF has identified recent trends in money laundering that show a shift from banks to nonbanks and is identifying measures to control cash payments and money laundering through these institutions.

## FATF Members Are Evaluated

In its evaluations of Australia, Austria, Canada, Denmark, France, Italy, Japan, Luxembourg, Sweden, Switzerland, the United Kingdom, and the United States, FATF determined whether countries had established money-laundering laws, including criminalization; modified bank secrecy procedures; reported on suspicious transactions; and shared information with other countries. FATF also determined whether the countries evaluated had established mechanisms to enforce the laws and had cooperated within and outside their governments.

In its evaluations, FATF identified effective money-laundering control systems. Identified strengths and weaknesses in financial controls were shared with members so that effective control mechanisms could be voluntarily adopted or financial systems could be improved. To improve financial controls and facilitate cooperation in financial investigations, countries have had to pass legislation on exchanging information and evidence. For example, the United Kingdom has passed legislation that permits the proceeds from drug-related offenses of traffickers convicted in other countries to be transferred to the prosecuting country. France, which strongly supports combating money laundering, has enhanced its money-laundering controls by establishing an automated tracking system that relies on data collected from customs or legal proceedings. Although the system can make referrals for prosecution, it lacks enforcement and investigative authority.

Generally, FATF found that while member countries had made progress in establishing money-laundering controls, some areas needed to be strengthened. For example, FATF acknowledged that the criteria for what constitutes suspicious transactions had to be well defined before banks would more readily identify them. In addition, a FATF evaluation indicated that even when suspicious transactions were reported, designated government investigative authorities could not exchange information with enforcement authorities quickly enough to facilitate investigations. Moreover, some investigative authorities do not have access to criminal records. One FATF member country evaluated had reported relatively few suspicious transactions, and none of those that were reported were stopped. Other countries, like Australia and the United States, require mandatory reporting to enforcement organizations.

Although FATF's evaluations will measure members' legislative compliance with the task force's recommendations, FATF has no authority to enforce money-laundering controls within member nations. In most countries, controls are exercised by financial institutions. Penalties imposed by countries for not complying with established controls provide the banking industry with an incentive to cooperate, but as noted above, banks may not have the capacity or knowledge to institute them. Moreover, many central banks may not have the resources either to provide the technical guidance necessary to comply with reporting requirements or to assess their banks' money-laundering controls.

## Other FATF Initiatives

Unlike CATF, FATF has become institutionalized and will, through its members, continue to assess money-laundering techniques, seek implementation of FATF recommendations by its members, identify data base requirements governing laws and regulations of members, and seek members' cooperation in persuading non-FATF member countries to control money laundering. FATF continues to evaluate measures to prohibt unlawful use of shell corporations. FATF member efforts have encouraged the establishment of the Caribbean Financial Action Task Force and held seminars in several Eastern European countries. Although FATF does not provide technical assistance on establishing or strengthening financial controls, it does cooperate with countries or organizations that do. One of the future FATF objectives is to identify training and technical assistance needs for member and nonmember states. FATF will share its technical expertise and advise international organizations, like the U.N. International Drug Control Program, on how to develop their own training programs.

# Parties to the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

| Country | Date |
|---|---|
| Afghanistan | February 14, 1992 |
| Antigua and Barbuda | April 5, 1993 |
| Argentina | June 28, 1993 |
| Armenia | September 13, 1993 |
| Australia | November 16, 1992 |
| Azerbaijan | September 13, 1993 |
| Bahamas | January 30, 1989 |
| Bahrain | February 7, 1990 |
| Bangladesh | October 11, 1990 |
| Barbados | October 15, 1992 |
| Belarus | October 15, 1990 |
| Bhutan | August 27, 1990 |
| Bolivia | August 20, 1990 |
| Bosnia and Herzegovina | September 1, 1993 |
| Brazil | July 17, 1991 |
| Bulgaria | September 24, 1992 |
| Burkina Faso | June 2, 1992 |
| Burma | June 11, 1991 |
| Burundi | February 19, 1993 |
| Cameroon | October 28, 1991 |
| Canada | July 5, 1990 |
| Chile | March 13, 1990 |
| China | October 25, 1989 |
| Colombia | June 17, 1993 |
| Costa Rica | February 8, 1991 |
| Cote d'Ivoire | November 25, 1991 |
| Croatia | July 28, 1993 |
| Cyprus | May 25, 1990 |
| Czechoslovakia | June 4, 1991 |
| Denmark | December 19, 1991 |
| Dominica | June 30, 1993 |
| Dominican Republic | September 21, 1993 |
| European Economic Community | December 31, 1990 |
| Ecuador | March 23, 1990 |
| Egypt | March 15, 1991 |
| El Salvador | May 25, 1993 |
| France | December 31, 1990 |
| Ghana | April 10, 1990 |

(continued)

| Country | Date |
|---|---|
| Greece | January 28, 1992 |
| Grenada | December 10, 1990 |
| Guatemala | February 28, 1991 |
| Guinea | December 27, 1990 |
| Guyana | March 19, 1993 |
| Honduras | December 11, 1991 |
| India | March 27, 1990 |
| Iran | December 7, 1992 |
| Italy | December 31, 1990 |
| Japan | June 12, 1992 |
| Jordan | April 16, 1990 |
| Kenya | October 19, 1992 |
| Luxembourg | April 29, 1992 |
| Madagascar | March 12, 1991 |
| Malaysia | May 11, 1993 |
| Mauretania | January 1, 1993 |
| Mexico | April 11, 1990 |
| Monaco | April 23, 1991 |
| Morocco | October 28, 1992 |
| Nepal | July 24, 1991 |
| Netherlands | September 8, 1993 |
| Nicaragua | May 4, 1990 |
| Niger | November 10, 1992 |
| Nigeria | November 1, 1989 |
| Oman | March 15, 1991 |
| Pakistan | October 25, 1991 |
| Paraguay | August 23, 1990 |
| Peru | January 6, 1992 |
| Portugal | December 3, 1991 |
| Qatar | May 4, 1990 |
| Romania | January 21, 1993 |
| Russian Federation | December 17, 1990 |
| Saudi Arabia | January 6, 1991 |
| Senegal | November 27, 1989 |
| Seychelles | February 27, 1992 |
| Slovakia | June 30, 1993 |
| Slovenia | July 6, 1992 |
| Spain | August 13, 1990 |
| Sri Lanka | June 6, 1991 |

(continued)

| Country | Date |
|---|---|
| Suriname | October 28, 1992 |
| Sweden | July 22, 1991 |
| Syria | September 3, 1991 |
| Togo | August 1, 1990 |
| Tunisia | September 20, 1990 |
| Uganda | August 20, 1990 |
| Ukraine | August 28, 1991 |
| United Arab Emirates | April 12, 1990 |
| United Kingdom | June 28, 1991 |
| United States of America | February 20, 1990 |
| Venezuela | July 3, 1991 |
| Yugoslavia | January 3, 1991 |
| Zambia | May 28, 1993 |

# Chemicals Covered Under the 1988 U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

| Category 1[a] | Category 2[b] | Category 3[c] |
|---|---|---|
| Epherdrine | Acetic anhydride[d] | Acetone[d] |
| Ergotamine | Anthranilic acid | Ethyl ether[d] |
| Lysergic acid | Phenylacetic acid | Methylethyl ketone[d] |
| 1-phenyl-2-propanone | Piperidine | Toluene[d] |
| Pseudoepherdrine | Isosafrol (cis+trans) | Potassium permanganate[d] |
| N-Acetylanthranilic | Piperonal | Sulfuric acid[d] |
| 3, 4-Methylenedioxy-phenyl-2-propanone | Safrole | Hydrochloric acid[d] |

[a]Category 1 chemicals are precursors that become part of a synthetic narcotic and are the most tightly controlled.

[b]Category 2, or essential, chemicals are needed to manufacture synthetic drugs and have wider legitimate use than category 1 chemicals.

[c]Category 3 chemicals have vast legitimate uses and would be difficult to control universally; thus control is targeted to drug-producing and -trafficking regions.

[d]An essential chemical used to refine natural narcotics like cocaine and heroin.

# Synopsis of the Forty Recommendations of the Financial Action Task Force

FATF recommended that each member country take the following actions:

1. Implement the 1988 Vienna Convention.

2. Do not permit financial institution secrecy laws to inhibit the recommendations.

3. Increase multilateral cooperation in money-laundering investigations.

4. Criminalize money laundering.

5. Extend money-laundering offenses beyond narcotic trafficking.

6. Apply the offenses to knowledge of the money-laundering activity.

7. Subject corporations, where possible, to criminal liability.

8. Enable authorities to confiscate laundered proceeds or property.

9. Apply recommendations to nonbanking financial institutions.

10. Take steps to ensure that the 40 recommendations are implemented on as broad a basis as possible.

11. Consider identifying nonbanking financial institutions dealing with cash and making them subject to these recommendations.

FATF recommended that financial institutions take the following actions:

12-13. Eliminate anonymous accounts and identify and record the identity of clients.

14. For at least 5 years, maintain records on domestic and international transactions.

15. Pay special attention to complex, unusual, and large transactions and unusual patterns of transactions that have no apparent economic or visible lawful purpose.

16. Permit or require financial institutions to report suspicious transactions, and protect financial institutions from criminal and civil liability.

17. Do not permit financial institutions to warn customers about transaction reporting.

18. Comply with instructions from competent authorities when reporting.

19. When no requirement to report suspicious transactions exists, deny assistance to customers executing suspicious transactions and close their accounts.

20. Develop programs against money laundering.

21. Pay special attention to business from countries without financial controls.

Individual countries should take the following actions:

22. Apply the FATF recommendations to branches abroad.

23. Study ways to detect cash at borders.

24. Consider the feasibility of reporting on all domestic and international transactions above a fixed amount.

25. Encourage secure money management, such as checks or direct deposits.

FATF recommended that regulatory and administrative authorities take the following actions:

26. Ensure that supervised institutions have adequate money-laundering programs.

27. Designate authorities in other professions dealing with cash.

28. Establish guidelines for detecting suspicious behavior.

29. Guard against control of financial institutions by criminals or their confederates.

FATF recommended that national administrations take the following actions:

30. Consider recording in the aggregate international flows of cash.

31. Designate international authorities to gather and disseminate information on money-laundering developments.

FATF recommended that countries take the following actions:

32. Cooperate to exchange information on suspicious transactions, persons, and corporations.

33. Ensure, on a bilateral or multilateral basis, that variances in standards do not affect mutual legal assistance.

34. Support international cooperation with a network of agreements based on generally shared legal concepts to effect mutual assistance.

35. Encourage international conventions.

36. Encourage cooperative investigations among appropriate authorities.

37. Establish procedures for mutual assistance in criminal matters.

38. Ensure means to expeditiously respond to foreign requests to identify, seize, freeze, and confiscate proceeds or other property of money-laundering activities.

39. Consider mechanisms to facilitate prosecution of defendants charged in more than one jurisdiction.

40. Establish procedures to extradite individuals charged with a money-laundering offense.

# Comments From the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

United States Department of State

*Washington, D.C. 20520*

OCT 14 1993

Dear Mr. Conahan:

Thank you for the opportunity to comment on your draft report, "ILLICIT NARCOTICS: International Efforts to Control Chemical Shipments and Money Laundering," GAO Job Code 711009. Comments are enclosed separately addressing chemical shipments and money laundering.

If you have any questions concerning this response, please call Stephanie Deaner, INM/C, at 647-4867.

Sincerely,

Carolyn S. Lowengart
Director
Management Policy

Enclosure:
As stated.

cc:
GAO - Ms. Martin
State - Ms. Deaner

Mr. Frank C. Conahan,
Assistant Comptroller General,
National Security and International Affairs,
U.S. General Accounting Office.

DEPARTMENT OF STATE RESPONSE
TO DRAFT GAO REPORT
ILLICIT NARCOTICS: INTERNATIONAL EFFORTS
TO CONTROL CHEMICAL SHIPMENTS AND
MONEY LAUNDERING

The General Accounting Office has asked for comments from the Departments of State, Treasury and Justice on your draft report concerning international efforts to control money laundering. We understand that you will receive separate comments from Treasury and Justice. We have also replied separately to your request for a copy of the mutual evaluation report on the United States by FATF experts.

See comment 1.

The title would suggest that the report embraces the whole of the US international effort with respect to money laundering, a reaction enforced by the Executive Summary which indicated GAO would measure the international community's response to the 1988 UN Convention.

See comments 1 and 2.

The principal thrust of the report is apparently to examine the workings of the Financial Action Task Force. Unfortunately, even this more narrow assessment is incomplete. Moreover, a number of passages in the report give the impression that GAO is in fact talking about the world community and not just the 26 FATF governments. In the end, the report, given these problems, lacks precision and focus.

From a micro perspective, we can and do concur in the technical comments drafted by Treasury's Office of Financial Enforcement, which were shared with you.

Similarly, we think the material which Treasury subsequently provided on FATF helps give a broader perspective of the organization and its workings. We are adding still another paper on FATF which focuses upon the external relations program -- an essential aspect to understanding of the FATF which the report does not adequately address.

See comment 3.

It is in that macro perspective that we have our major concerns. There is an international consensus reflected in the recommendations of FATF, in the policy directive of the Commission of the European Communities, and in the covenants of the Council of Europe convention on asset sharing. Moreover,

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it is a consensus which has emerged since 1989. In that period, FATF has become the premiere policymaking body on international money laundering, and its works have enjoyed the endorsement and support of the World Bank, IMF, OECD and others.

See comment 4.

Broadly stated, there is a consensus that money laundering must be a criminal offense, that the proceeds of drug-related crime and other predicate offenses must be subject to forfeit, and that those persons and corporations which facilitate money laundering must be subject to prosecution and sanction. The consensus on these matters leads to agreement that the veils of bank secrecy must be lifted to ensure that authorized law enforcement investigations have access to the data needed to prosecute the crime of money laundering. Removal of these legislative barriers in turn leads to the consensus that banks should report suspicious transactions.

Application of these tenets generates still further agreement, among them that money laundering policy must account for the real-time demands of a global financial payments system, yet still reckon with the problems created by wire transfers, shell corporations and the like.

See comment 5.

Not least among the experiential realities which have emerged since 1989 is that it is not sufficient to have a consensus among the 15 major financial center countries, or even the 26 FATF members. Seizures of documents from crime organizations reveal that a single group may operate bank accounts in as many as 40 countries. Indeed, the 1993 International Narcotics Control Strategy Report (INCSR) reported on money laundering activities in more than 100 countries and territories.

See comment 5.

Your report does not adequately set this scene. The report does not elaborate the challenge facing FATF and the world's financial and enforcement communities. The combined actions of these entities cannot be understood without it.

See comment 6.

The essence of FATF is that it brings together central bankers and other regulators, financial and judicial ministries, law enforcement agencies, foreign policy experts, and policy analysts, altogether about 150 experts, who are thus equipped to examine every facet of a problem. The reason that FATF has been successful in obtaining an international reputation for progress is that the world community has recognized the assessment of a total policy approach. This does not come through in the report, wherein reference after reference is to the banking community and financial systems.

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See comment 7.

The draft report strongly tends to treat all governments as unitary, as though there were a universal financial system. There are at least 172 different financial systems, responding to the differing needs of at least that many countries and territories. There has never been an agreement that every government should adopt the same laws, standards, criteria, etc., because it would be illogical to do so. That is why FATF concentrates on policy rather than statutes.

See comment 8.

For example, while the report notes that cash transaction reporting systems are costly, it tends to criticize governments for not having such systems. Indeed, throughout the report, there is a need to distinguish between recording and reporting requirements. The fact is that, with two major exceptions, governments believe they do not need central reporting. They do need and have taken steps to ensure that banks maintain adequate records, and, increasingly, governments are requiring banks to report suspicious transactions.

The report states that the FATF recommendations are not globally instituted or enforced. FATF is a continuing process because the achievement of a truly global consensus requires that continuum, which has many dimensions. Not only do the 26 have to continually refine their assessment of money laundering practices and techniques, but we have to share it with an ever larger audience. Thus, if it is true that one of the reasons we do not yet have globally uniform implementation is because nations have divergent drug control policies, it is also true that today we are concerned about money laundering in countries and territories which were not a problem four years ago.

Governments face different money laundering situations, and FATF has long been agreed that their progress, as well as their adoption of laws and policies, must be assessed in the context of the problem they face.

See comment 9.

The report appears to be too negative in tone. There are stellar examples of progress which were made known to GAO which are not in the report. It is too general to say that industrialized countries fear that controls will be costly and impede financial commerce. Three of the governments which were a major concern when FATF was founded have adopted very strong controls -- the United Kingdom, Switzerland and Luxembourg -- and continue to refine and expand those controls. The wording suggests that governments don't want to lose the drug profits;

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there is indeed concern about the costs of controls and restrictions on commerce, but that doesn't mean governments haven't adopted the controls, and the reports of FATF bear this out.

See comment 10.

The report lacks the precise analysis and understanding essential to an assessment of so complex a subject. There are just too many broadly stated generalities, too many instances where the choice of words gives a meaning that is different from reality. We hope that our comments will be helpful in clarifying the generalities and presenting the issue more realistically.

The following are GAO's comments on the Department of State's letter dated October 14, 1993.

## GAO Comments

1. The objective of this report is to identify recent efforts to counter illicit drug trafficking. To meet this objective we have, as requested, (1) identified signatories to the 1988 U.N. Convention Against Illicit Drugs and Psychotropic Substances, which provides the legal framework for countries to legislate controls, and (2) provided a snapshot of the Chemical and Financial Action Task Forces' implementation of recommended control measures. The Financial Action Task Force actively promotes universal implementation of control measures because traffickers seek countries with the weakest controls in which to launder their illegal profits from drug trafficking. Moreover, a FATF objective is to identify trends in money laundering in non-FATF member countries and to persuade them to implement controls. We have included information on non-task force members, such as Colombia, that are signatories to the 1988 U.N. Convention and important to the U.S. drug control effort.

2. We acknowledge that the Financial Action Task Force is only one component of international efforts to address complex drug issues. We have limited this report to a macro overview of the variances in countries implementing controls. We agree that collectively these efforts demonstrate progress in the war on drugs, but we believe it is important to recognize that the task force objective of universal implementation of such controls will take many years.

3. We have recognized the international consensus of the 26 members of the Financial Action Task Force in identifying measures to control money laundering. While FATF members agree to implement recommended control measures, the individual governments construct their implementing policies according to their legal systems and political policies.

4. We identify these measures recommended by the task force in chapter 3 and in appendix III.

5. We acknowledge that any deliberative body—especially one like the Financial Action Task Force, which involves so many governments and interests—considers the reality of global financial systems when identifying pragmatic measures to control the many facets of money laundering. We have modified our report to identify some of the many

ways that money may be laundered. In its comments, the State Department has criticized our report for including information about non-FATF members' financial controls (see paragraph 3) and for not adequately reflecting that more than 100 countries and territories are potential targets for money laundering. In acknowledging that FATF seeks universal implementation of its recommendations because it recognizes that traffickers seek weak financial systems in which to launder proceeds, we believe we indicate the enormity of the problem facing the task force.

6. We believe that this report reflects the major focus of the Financial Action Task Force initiatives, which are identified in appendix III. According to country officials, FATF focused initially on criminalizing money laundering and instituting controls in financial institutions, which of course involve regulators and financial and judicial ministries. In financial institutions, these controls initially concentrated on cash deposits, customer identification, and record-keeping, because controlling money laundering is easiest at the cash placement stage. Traffickers' use of wire transfers, shell corporations, and brokers is more difficult to address and remains the focus of the FATF.

7. Since each FATF member country considers evaluation of its financial systems confidential and exclusive to its membership, we did not attempt to provide detailed information on individual financial systems. Also, we did not presuppose the universal adoption of recommended money-laundering controls; however, we reported on the degree to which FATF members implemented basic control measures, such as record-keeping, identifying customers, or informing customers of reported transactions. We obtained this information largely from the State Department's 1992 International Narcotic Control Strategy Report.

8. We have clarified our report to distinguish between record-keeping and reporting requirements. We have also clarified that transaction reporting applies to the United States. We note here that task force recommendations on record-keeping and reporting present some burden on financial institutions.

9. We have modified our report to include some specific examples of countries' compliance with task force recommendations. While acknowledging the progress made by FATF member countries in instituting money-laundering controls, we believe it is important to note that countries like Luxembourg, with over 180 international banks, lack the resources necessary to regulate controls. We do not imply that

governments or their employees do not want to lose drug profits, nor do we imply that the cost of controls prevents their adoption. We do note, based on the United Nations International Narcotics Board, Financial Action Task Force, State Department international narcotics strategy reports, and other U.S. agency reports, that businesses within some countries are willing to trade with traffickers or their agents for economic gain. The 1992 Department of State International Narcotics Control Strategy Report, for example, raises some of the same concerns raised in our report. Specifically, the report notes the reluctance of some bankers and governments, used by traffickers to launder money, to adopt antimoney-laundering regulations in place of voluntary controls.

10. We have incorporated suggested changes of the Departments of State, Justice, and the Treasury as appropriate in order to provide a technically accurate assessment of this complex subject. We believe that the report identifies progress and weaknesses in the implementation of recent efforts.

# Comments From the Department of Justice

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

U.S. Department of Justice

Washington, D.C. 20530

SEP 22 1993

Frank C. Conahan
Assistant Comptroller General
National Security and International
Affairs Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Conahan:

The following information is being provided in response to your request to the Attorney General, dated September 2, 1993, for comments on the General Accounting Office (GAO) draft report entitled, "ILLICIT NARCOTICS: International Efforts to Control Chemical Shipments and Money Laundering." The Department believes that GAO should expand its discussion of some aspects of this subject in order to provide a more complete picture of the achievements in the international efforts to control chemicals and money laundering. The report, as currently written, fails to mention some significant undertakings and successes in these global efforts.

See comment 1.

International Chemical Control. GAO should strengthen its discussion of U.S. efforts and successes in chemical control. The United States has had an aggressive and effective chemical control program for over 4 years. It was the first major producing country to enact comprehensive chemical control legislation. Our successful implementation of this legislation demonstrated to the world community that chemical control was an effective law enforcement measure which could be managed with a minimum of burden on legitimate commerce and minor additional administrative responsibilities by government authorities. The Drug Enforcement Administration (DEA) and the Bureau of International Narcotics Matters, Department of State, have been emphasizing this point to major European chemical producers.

The Chemical Action Task Force (CATF), provided an effective vehicle for promoting this message. While the U.S. chemical control program had been effective at greatly reducing the diversion of U.S. chemical exports, our program had little impact on illicit drug production as drug traffickers simply turned to Europe as a source for their chemicals. To implement the recommendations of the CATF, the European Community now has strengthened regulation of chemical control and other nations

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have enacted chemical control legislation.1/ However, it was not the goal of the CATF or of any of DEA's initiatives that countries simply enact legislation. International chemical control must deny traffickers access to the chemicals which they require to produce illegal drugs such as heroin and cocaine. Thus, the Department has consistently worked toward the creation of an international system of effective chemical control.

See comment 2.

The only valid criterion by which such a system can be judged to be effective is the extent to which it denies traffickers access to the chemicals which they need to produce illegal drugs. In that respect the report does not adequately describe the success of the U.S. chemical control program. Specifically, in the case of Colombia, we have dramatically reduced the number of Colombian firms which may import chemicals from this country. In addition, through our efforts, the United States is no longer a significant source of the chemicals used in the illicit production of cocaine in Colombia. This is a major change from the situation which existed prior to the implementation of our legislation. Globally, we have stopped 31 export shipments representing over 2,210 metric tons of chemicals on the basis of evidence that the chemicals might be diverted.

Since the task of GAO was to identify the international community's progress in implementing control on chemical diversion and money laundering, we would suggest that GAO also discuss pending activities in this area. GAO has not mentioned three significant ongoing efforts to enhance international chemical control.

First, with respect to U.S. efforts to control diversion, DEA is implementing Task Force Checkmate (Chemicals Denied to Cocaine Kingpins through Multi-Agency Teamwork), a multi-agency task force effort to develop intelligence concerning the diversion of chemicals. The task force will provide the information it develops to law enforcement agencies for law enforcement purposes. The objectives of the program are to deny trafficking organizations access to chemical supplies, maximize current regulatory efforts affecting the transfer of chemicals and develop evidence to support domestic or foreign prosecutions of traffickers.

Second, Congress is considering legislation, S.440 and H.R.1331, the Chemical Control Amendments Act of 1993, that would significantly strengthen the U.S. commitment and ability to

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1/ The Europeans do not yet have a functioning mechanism to implement their chemical control programs and other major chemical producing countries have yet to undertake the investigation of chemical shipments.

control chemical diversion. The proposed legislation would broaden the ability of DEA to regulate chemicals and those who deal in chemicals. The bill would allow DEA to focus its regulatory activities on the possible uses of a chemical rather than on its status as a precursor or essential chemical, i.e., a chemical destined for Colombia would be treated differently than if they were consigned to a Canadian company.

Third, European nations are considering a DEA initiative to foster cooperation among DEA and European law enforcement officials. At the Rome Conference on Chemical Operations in June of this year, DEA proposed that interested parties exchange information concerning the purchase and purchasers of precursor and essential chemicals. European nations are currently considering this proposal.

International Control of Money Laundering. In addition to joining with the Departments of State and the Treasury to comment on the money laundering aspects of this report, the Department is providing the following information that is specific to its efforts to combat money laundering. International forfeiture cooperation is important to the efforts to control drug-related money laundering and should be discussed in the GAO report. Both the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the Financial Action Task Force (FATF) include international forfeiture cooperation as vital and mandatory components of their "charters."

Article V of the Vienna Convention provides that member countries assist one another to: identify, trace, and freeze or seize drug proceeds and instrumentalities; obtain bank, financial or commercial records; and obtain drug-related forfeiture orders or to enforce the drug-related forfeiture orders rendered by another member country. Recommendation 8 of the FATF Report provides that countries should adopt measures to confiscate property laundered, proceeds from, instrumentalities used in or intended for use in the commission of any money laundering offense, or property of corresponding value.

The international community has responded by executing mutual legal assistance treaties, executive agreements, and multinational agreements, which obligate countries to provide assistance to one another in drug-related matters, including the freezing, restraining, repatriation, and forfeiture of drug profits or other criminally derived wealth. The United States is a party to a number of these agreements that provide for law enforcement cooperation in forfeiture matters. Moreover, the United States has powerful forfeiture laws, both civil and criminal, at its disposal to forfeit criminally derived proceeds, even when those proceeds have been placed beyond our borders. In

Mr. Conahan 4

addition, many foreign countries, in response to Vienna Convention and the FATF recommendations, have enacted their own domestic forfeiture laws, including statutes which allow for the recognition and enforcement of forfeiture orders rendered by the courts of another country.

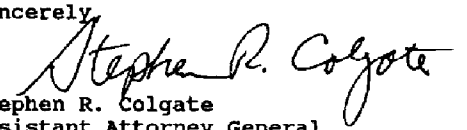
See comment 3.

As a means of encouraging international forfeiture cooperation, the United States has devised an international sharing program which creates an economic incentive for law enforcement agencies to work together in multinational forfeiture efforts. Under this program, the Attorney General and the Secretary of Treasury are vested with statutory authority to share forfeited assets with foreign countries that assist in the seizure and/or forfeiture of assets under U.S. law. Since August 1989, the Department has transferred nearly $18 million to 11 countries that assisted in the forfeiture of approximately $70 million in assets in the United States. Similarly, foreign countries have shared forfeited drug proceeds with the United States where we have advanced foreign forfeiture efforts. In May of this year, Switzerland transferred $884,742 and the United Kingdom transferred $570,616.27 in forfeited drug proceeds to the United States. We anticipate that other countries will also adhere to reciprocal sharing arrangements in cases successfully prosecuted through multinational law enforcement efforts.

Finally, DEA has taken the lead in informing other countries about its efforts to combat money laundering. It has accepted the invitations of host countries to brief their respective law enforcement agencies on virtually every continent. DEA has made presentations within Europe from London to Moscow and underwrote Operations Green Ice, which created an international network of officers dedicated to investigating the money laundering enterprises of the Cocaine Cartels. DEA has also been instrumental in providing expertise to the FATF in their seminars throughout Europe and Asia.

We have forwarded minor comments on this report under separate cover and understand that changes will be made as appropriate. We appreciate the opportunity to comment on the draft report and hope that you find our comments both constructive and beneficial.

Sincerely,



Stephen R. Colgate
Assistant Attorney General
for Administration

The following are GAO's comments on the Department of Justice's letter dated September 22, 1993.

## GAO Comments

1. Although one of the objectives of this report was to provide the status of progress on implementing CATF-recommended controls to prevent the diversion of chemicals, we recognize that the individual countries and international organizations also work to achieve controls. We do, however, welcome the additional information provided by the Department on DEA's efforts.

2. We acknowledge (see ch. 2) that since the 1989 passage of U.S. legislation that implemented controls, U.S. exports to Colombia have decreased by about 40 percent.

3. We modified our report to include more information on international forfeiture cooperation and to recognize that the United States has taken the lead in making this an incentive for law enforcement cooperation. The June 1993 FATF report notes that nearly all members have laws enabling confiscation of illicit proceeds. However, according to a U.S. report, many FATF members have not enacted laws to require the sharing of seized narcotics assets with other governments.

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