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To: Members of the Executive Board
From: The Acting Secretary
Subject: Report of the Financial Action Task Force on
Money Laundering - Information Note

There is attached for the information of Executive Directors a note on the report of the financial action task force on money laundering.

Mr. Leipold (ext. 8381) is available to answer questions relating to this paper.

Att: (1)

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INTERNATIONAL MONETARY FUND

Information Note on the Report of the
Financial Action Task Force on Money Laundering

Prepared by the Exchange and Trade Relations Department

(In consultation with other departments)

Approved by L.A. Whittome

June 25, 1990

During their July 1989 Economic Summit meeting in Paris, the Heads of State or Government of the G-7 countries discussed drug trade and money laundering issues. Stating that the drug problem had reached devastating proportions and stressing the need for decisive actions, they convened a Financial Action Task Force from summit participants and other interested countries with a mandate to "assess the results of the cooperation already undertaken to prevent the utilization of the banking system and financial institutions for the purpose of money laundering, and to consider additional preventive efforts in this field."

In addition to the United States, Japan, Germany, France, the United Kingdom, Italy, Canada and the Commission of the European Communities, eight countries (Sweden, the Netherlands, Belgium, Luxembourg, Switzerland, Austria, Spain and Australia) were invited to join the Task Force. Under the presidency of France, the Task Force was divided into three working groups, focusing respectively on money laundering statistics and methods under the presidency of the United Kingdom, on legal questions under the presidency of the United States, and on administrative and financial cooperation under the presidency of Italy.

The Fund staff was invited to participate in the first of the three working groups. The staff explained the scope and limitations of using Fund statistics (international banking statistics and capital account balance of payments data) to identify and trace money laundering activities, concluding that such data may include drug money but that this activity could not be singled out from the data.

The presidency of the Task Force has addressed the group's final report to the finance ministers of the participating countries, who will submit it to their heads of state or government and circulate it to other competent authorities. The recommendations of the Task Force are to be discussed at the upcoming Economic Summit of G-7 Heads of State or Government, to be held in Houston on July 9-11, 1990. The report has been made available to the public.

In accordance with the Task Force's mandate, the report discusses the extent and nature of the money laundering process, reviews programs already in place to combat money laundering and offers specific recommendations on preventive measures which participating countries might adopt. Annexes to the Report provide additional detail and background regarding the Task Force's findings and deliberations on the first two topics.

The present paper, for the information of Executive Directors, summarizes the main findings and recommendations of the report (sections 1 and 2), and outlines work the Fund might be asked to do in this area in the future (section 3). The latter could be further identified and developed following the conclusion of the Houston Summit.

1. The scope and modalities of money laundering and existing preventive measures

While emphasizing the considerable difficulties involved in determining the size of the illegal drug market and its associated laundering activities, the Task Force estimated that sales of cocaine, heroin and cannabis amount to approximately US\$122 billion per year in the United States and Europe, based on data on world-wide drug production, street yields, the consumption needs of drug abusers and actual seizures of illicit drugs. Of this amount, over 60 percent is estimated to come from sales of cannabis and 30 percent from cocaine.

Estimates of funds available for laundering are sensitive to assumptions regarding profit margins and the degree of concentration. For example, while the street value of cocaine consumed in the United States was estimated to total around US\$30 billion, its wholesale value is thought to be considerably less, at around US\$5 billion. Although in the aggregate much higher profits are involved in the final retail sales, these are believed to be more widely dispersed and to give rise to proportionately less international laundering. The report estimated that as much as US\$85 billion per year could be available for laundering or investment, but noted the view of one Task Force member that profits at the main dealer level, which might be most subject to laundering, might be around US\$30 billion per year.

The unusually high cash-intensiveness of the drug trade gives rise to the need to convert the cash itself into more easily transferable and manageable forms. Moreover, in concealing the true origin and ownership of illegal proceeds, the criminal organizations need to use techniques which will not leave a traceable audit trail. The Task Force noted the wide range of methods used to launder money; presentations by the participants and reviews of case studies consequently focused on key stages for the detection of money laundering common to all techniques. It was concluded that points at which laundering operations may be detected are operations where (i) cash enters the domestic financial system, (ii) cash is sent abroad, often to offshore tax havens, to be integrated into the legitimate financial system at a later stage, and

(iii) laundered funds are repatriated as transfers having a legitimate appearance.

In discussing the programs already in place to combat money laundering, the Task Force noted the efforts of various international organizations or groups and also the United Nations Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the "Vienna Convention") as well as the Statement of Principles of the Basle Committee on Banking Regulations and Supervisory Practices (the "Basle Statement of Principles"). The Vienna Convention, adopted December 20, 1988, deals with drug trafficking in general, but contains specific provisions related to the laundering of drug money. It creates an obligation for signatories to criminalize laundering of money related to drug trafficking, contains provisions to facilitate international investigations and extends extradition to money laundering cases. It also sets out the principle that banking secrecy should not interfere with international cooperation related to criminal investigations. While the Vienna Convention has been signed by each of the Task Force countries (as well as 65 other countries), none of the former has yet ratified it. The Basle Statement of Principles, agreed to on December 12, 1988, applies to banks and recommends that they should make reasonable efforts to determine the true identity of their customers, refuse to knowingly assist money laundering operations, and cooperate with law enforcement officials to the extent permitted by local regulations relating to confidentiality. Although the statement is not a binding document, member countries of the Task Force have made its principles an obligation for their domestic banking systems through a variety of means, and as a result banks in most Task Force countries are bound by detailed and precise norms in these areas.

The Task Force noted that while national programs to combat money laundering are in place in some countries, much remains to be done in most countries. Legislation has already been approved or is pending to make money laundering a specific criminal offense in eleven Task Force countries; in four countries there is no specific sanction. Most countries criminalize intentional laundering, but fewer countries criminalize negligence leading to money laundering. 1/

None of the Task Force countries permit anonymous bank accounts. However, only in some countries does the obligation to identify extend to beneficial owners. While all countries have record keeping requirements, the conditions for access to these records vary considerably across countries and usually require judicial proceedings. In countries having specific detection programs, the responsibility for initially

1/ In late April 1990, the U.S. House of Representatives passed a bill that would give Federal regulators the power to revoke a bank's charter or withdraw its deposit insurance if the bank and its directors or officers are convicted of money laundering; the bill also applies to savings and loans associations and credit unions.

detecting suspicious flows falls to financial institutions themselves. Two Task Force countries, the United States and Australia, require banks to routinely report on cash transactions above US\$10,000 and A\$10,000 respectively. In many Task Force countries, bank secrecy rules either prevent banks from reporting suspicious transactions or render them liable for intrusions of bank secrecy should the suspicions prove to be unfounded.

2. Recommendations of the Financial Action Task Force

The Task Force noted that many of the current difficulties encountered by international cooperation were due to restrictive standards of bank secrecy, the fact that money laundering is not today universally an offense, and inadequacies in multilateral cooperation and mutual legal assistance. The usefulness and importance of the Vienna Convention were reaffirmed and countries were called upon to proceed to ratify and fully implement it without further delay. It was recommended that financial secrecy laws should be drawn up so as not to inhibit the implementation of the Task Force's recommendations.

The Task Force noted that, in order to avoid traffickers exploiting discrepancies between national measures to fight money laundering, minimum standards should be adopted which build upon and enhance the Basle Statement of Principles and which would be harmonized internationally in their most practical aspects.

a. Improvement of national legal systems

In their recommendations regarding national legal systems, the Task Force urged that all countries explicitly criminalize drug money laundering and that the concept should at least extend to cases where objective factual circumstances would indicate that laundering could be involved. It was further suggested that, where possible, corporations and not just employees should be held criminally liable. Sanctions against money laundering should include confiscation of property related to money laundering operations. To enable the competent authorities to apply such sanctions, they should be granted the authority to trace property subject to confiscation, carry out provisional measures such as freezing and seizing, and take any other appropriate investigative measures. Countries were also recommended to consider introducing monetary or civil penalties.

b. The role of the financial system

The report includes numerous recommendations regarding the role of the financial system in the effort against drug money laundering, while keeping in mind the need to preserve the efficient operation of national and international financial systems. Notably, it recommends that its suggested measures should also apply to nonbank financial institutions, an important channel for the entry of drug money cash into the system, which is however unregulated or virtually unregulated in many

countries. A working party was proposed to establish a list of nonbank financial institutions and other professions dealing with cash which should be subject to the Task Force's recommendations. Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names. They should take reasonable measures to obtain information regarding the true beneficiaries of any account, and records of transactions and customers' identities should be maintained for at least five years in a form which allows for swift compliance with information requests from competent national and international authorities, in the context of relevant criminal prosecutions and investigations.

The report recommended that financial institutions should be permitted or required to play a more active role in bringing suspicious activities promptly to the attention of law enforcement officials. As a complement to this, institutions should be legally protected from criminal or civil liability for any breach of confidentiality in association with good faith reporting to competent authorities. Institutions reporting to the competent authorities should not inform their customers and should comply with instructions from such authorities. The Task Force recommended that financial institutions should develop programs against money laundering which would at a minimum include development of internal policies, procedures and controls, an ongoing employee training program and an audit mechanism.

Recognizing that enhanced measures to combat money laundering within their own countries could lead to a move of laundering operations to countries with insufficient controls, the Task Force recommended that financial institutions should give special attention to transactions involving persons, companies and financial institutions from such countries. Suspicious transactions should be examined as far as possible, with findings established in writing and made available to the competent authorities. Additionally, branches of financial institutions from the Task Force countries which are located in countries with lax money laundering controls should maintain the standards recommended for the Task Force countries, so far as the local regulations permit.

In addition to recommending that countries adopt the specific measures mentioned above, the Task Force recommended that the feasibility of measures to detect or monitor cross border movements of cash be studied, subject to strict safeguards on the proper use of this information and avoidance of any impediments to the free movement of capital. The Task Force also recommended that countries consider the feasibility of establishing universal reporting of all cash transactions above a fixed amount.

The Task Force recommended that the competent supervisory authorities overseeing banks and other financial institutions be charged with the responsibility to see that the institutions under their surveillance have adequate programs against money laundering. In cases where there are professions or institutions dealing with cash which are virtually unregulated, the report recommended the establishment of

competent authorities to ensure an effective implementation of the Task Force's recommendations. Competent authorities should establish guidelines, which would be developed and adapted over time, to assist financial institutions in detecting suspicious behavior. Also, the Task Force noted that the competent authorities should take appropriate measures to avoid control of financial institutions by criminals or their confederates.

c. Strengthening of international cooperation

In discussing areas where international cooperation could be strengthened, the Task Force recommended that national administrations give consideration to recording international flows of cash in whatever currency, so that estimates could be made of cash flows and reflows from various sources abroad. It was recommended that such information be made available to the IMF and the BIS "to facilitate international studies". Competent authorities such as Interpol and the Customs Cooperation Council should be charged with informing national authorities about latest developments in money laundering and money laundering techniques.

The report recommended that, subject to strict safeguards, information should be exchanged internationally "upon request" between competent authorities regarding suspicious persons, transactions or corporations. On a bilateral or multilateral basis, countries were enjoined to try to ensure that different legal standards do not affect the ability or willingness to provide mutual legal assistance. The Task Force encouraged cooperative investigations and recommended the establishment of procedures for mutual assistance regarding access to financial records, and searches and seizures for the purposes of obtaining evidence in investigations related to money laundering. It was recommended that consideration be given to devising mechanisms for determining the best venues for prosecution in the interests of justice and for coordinating seizure and confiscation proceedings. The Task Force suggested that all countries should have in place procedures for extraditing individuals charged with money laundering and that each country should recognize money laundering as an extraditable offense.

In its conclusions, the Task Force agreed that decisions from the forthcoming summit of the heads of state or government of the G-7 countries would be crucial to the implementation of the report's recommendations and further work and studies. It emphasized the utility of widening as far as possible the number of countries adopting the proposed measures and noted that it would be useful to have a regular assessment of progress across countries in enforcing measures to combat money laundering.

3. Possible future work of the Fund in this area

In line with the Task Force's recommendations, the Fund (and the BIS) may be requested to analyze information which could be made

available to it by members on international movements of cash. The Fund set up, earlier this year, a Working Party on the Measurement of International Capital Flows. ^{1/} The Working Party will aim to identify measures to improve the overall quality of data on international capital movements with a view to permitting a better understanding of the major components of capital flows. In this context, the Working Party was inter alia requested "to investigate ways in which to assess the magnitude of unrecorded international capital flows that constitute the international underground economy" (EBD/90/68, 2/27/90).

In its regular surveillance activities, the Fund would continue to encourage member countries to take steps to improve capital account data and the transparency of capital flows, thereby complementing the thrust of the Task Force's proposals. It is also intended that future staff reports on developments in international capital markets discuss some of these issues, with due attention to the reconciliation of the necessary efforts to prevent the use of the financial system for criminal purposes with the favorable trend toward the liberalization of capital controls internationally.

A short follow-up on these issues for Executive Board consideration could, if appropriate, be prepared following the conclusions of the Economic Summit in July 1990.

^{1/} The Working Party, chaired by Baron Codeaux of Belgium, has had two meetings to date (in March and May 1990); an interim report is to be presented to the Managing Director by the end of 1990 and a final report by end-1991.

