Fighting money laundering
The challenges in Africa

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Introduction

International concern at the growing incidence of organised crime, corruption and terrorism and the debilitating effects these problems have on peace, security and development signals a need for concerted action. The United Nations Office on Drugs and Crime (UNODC) study on *Crime and development in Africa* (2005a) documents the emergence of organised crime on the continent and its links to conflict. It notes that the growth in international commerce and transport has made Africa, with its weak law enforcement capacity, an ideal conduit through which to extract and trans-ship a range of illicit commodities. Drugs, firearms and human beings are being trafficked, and gemstones and other minerals, petroleum, timber and ivory are being illegally extracted from the continent.

Recent studies have shown how organised criminal networks have succeeded in establishing a common criminal market for illicit goods that covers the entire southern African subregion (Gastrow 2001). There are well-documented examples of organised criminal groups corrupting, colluding with or penetrating state structures. At the same time, the criminal activities of West African crime networks, in particular, have attracted world attention because their activities have had a global effect (UNODC 2005b).

Crime undermines development by eroding Africa's social and human capital, affecting social and political stability; driving up the cost of business, thus driving investment and business away from the continent; and undermining the ability of the state to promote development. Proceeds of crime fuel corruption, which, in turn, facilitates the commission of crimes and debilitates enforcement efforts. In developing countries, with under-resourced and weak governments, this can have consequences which exacerbate distrust of democratic government and social and financial institutions (Goredema 2003).

Pervasive corruption is perhaps the most damaging factor affecting good governance and development. Programmes for poverty alleviation, for instance, are frequently undermined by corruption and the inability of existing institutions to prevent and combat it.

Africa's poverty trap may thus involve a range of mutually reinforcing economic and social ills, all of which require targeted interventions if momentum is to be maintained and the vicious circle broken. However, in order for this to happen, it is important to know and recognise Africa's special needs and the structural constraints which will have to inform any strategy for tackling the problem of money laundering and terrorism in Africa (Moshi 2003).

Crime undermines development by eroding Africa's social and human capital

The purpose of this paper is show that Africa is different – in the sense that the continent has a set of problems, some of them structural, which distinguish it from other regions of the world. The main focus here is sub-Saharan African countries, with the exception of the Republic of South Africa. The presence of this set of problems, unique to Africa, undermines the continent's capacity and pace in implementing AML/CFT (anti-money laundering/combating the financing of terrorism) measures.

The paper is organised as follows: This introduction is followed by an examination of the framework within which money laundering and terrorist financing should be analysed. The third section reviews both global and regional initiatives for addressing money laundering and terrorist financing. The fourth section focuses on the challenges Africa faces in tackling these twin problems by putting the emphasis on structural and

capacity constraints. The last section concludes the analysis by suggesting ways for enhancing the continent's capacity and progress in implementing AML/CFT measures.

Money laundering and terrorist financing

Being a clandestine operation, money laundering does not lend itself to empirical research, as criminals go to great lengths to hide the proceeds of their crimes and to conceal their money laundering activities. The methods and techniques they use change frequently. Furthermore, many money laundering activities take place across borders. As a result, it is very difficult to measure the amount of money laundering taking place anywhere in the world, and reliable estimates for Africa are particularly hard to obtain. But there is no country on the continent where the amount of illicit money generated by organised crime, trafficking, fraud and corruption is believed to be negligible. By all accounts, these funds are substantial and, in the wrong hands, can create significant problems in any country (Moshi 2002a, 2002b).

There is no country in Africa where the amount of illicit money generated is believed to be negligible

As the risk of detection and prosecution increases with improvements in law enforcement, corrupt individuals and other criminals take greater care to conceal the sources of their illicit wealth. Money laundering activities are also more likely to take place in jurisdictions with weak law enforcement and judicial institutions, or in countries where financial institutions are poorly regulated and inadequately equipped to detect and prevent such activities.

Criminal groups can conceal the origins of their funds and launder them by moving them through national and international financial systems. Complex international financial transactions can be abused to launder money or covertly fund terrorist activities. The different stages of that process can take place in any country of the world and often in several countries more or less simultaneously.

Money laundering usually has three stages: (1) the introduction of the proceeds of crime into the financial system (placement); (2) transactions to convert or transfer the funds to other locations or financial institutions (layering); and (3) reintegrating the funds into the legitimate economy as 'clean' money and investing it in various assets or business ventures. The placement stage is less applicable in Africa, because the continent's financial sector is underdeveloped and cash transactions are dominant.

There are various methods for laundering money. They include the use of internet services, online banking and new electronic payment technologies; international companies and shell companies; and trade in and false invoicing for the supply of goods or services, real estate, art, diamonds, and gold and other precious metals. These methods are readily adapted to new circumstances and evolve constantly, taking advantage of new technologies in order to avoid detection and thwart law enforcement efforts. This is why international AML organisations engage regularly in 'typology' exercises to identify these methods and share that information with one another. Some methods pose special challenges for law enforcement agencies in the collection and use of evidence to prosecute money laundering crimes.

Money laundering activities can also take place through various abuses of informal banking and financing channels and alternative remittance systems. These informal systems generally operate outside the regulatory system that applies to financial institutions. They allow users to transfer money or value across borders with minimal or no physical movement of money or paper transactions. Although these systems serve legitimate purposes, they provide a high level of anonymity and can be abused by money launderers and terrorist organisations to escape the scrutiny of financial regulators and law enforcement agencies.

Money laundering activities can occur in any country, but they may have a more significant impact on developing countries with relatively small or fragile financial systems or weak economies that are particularly susceptible to disruption as a result of illicit activities. The negative economic impact of money laundering activities and their effects on development are hard to quantify, but they are real. Uncontrolled money laundering activities are detrimental to development in a number of significant ways: they increase the profitability of crime, promote corruption and have a negative effect on good governance. They damage critical financial sector institutions, and they may scare away foreign investors and reduce a country's access to both foreign investment and foreign markets.

Banking institutions and other financial institutions such as insurance companies, securities firms and financial investment management firms are particularly vulnerable to the adverse consequences of money laundering. The practice erodes these important institutions and impairs their development. They find themselves exposed to financial and reputational risks as well as legal liabilities. Money laundering activities, once uncovered, can affect public confidence in the financial institutions involved and hence their stability. The confidence that foreign

investors and foreign financial institutions have in a developing country's financial institutions plays an important role in investment decisions and capital flows. That confidence is therefore crucial for developing economies, which rely on these decisions for future growth.

Laundered funds can also be used by criminals to acquire companies, gain control over private financial institutions or infiltrate and dominate whole industries or sectors of the economy. Such funds have also been used, in many instances, to corrupt public officials or to thwart the objectives of a government's privatisation initiatives. The use of proceeds of crime for such purposes introduces distortions which can weaken a country's financial institutions and compromise whole sectors of its economy. Laundered funds are often invested in ways which introduce artificial distortions in assets and commodity prices and create a risk of monetary and economic instability.

The prevention of terrorism also presents some very important challenges. Trying to cut terrorist groups off from their sources of financing is one. Significant political, religious and national considerations have prevented agreement on a universally accepted definition of 'terrorism'. However, since 1999, with the adoption of the International Convention for the Suppression of the Financing of Terrorism, there has been broader-based consensus around the need to intervene in various activities related to the financing of terrorist acts (Lyman & Morrison 2004).

International AML/CFT obligations are complex and can overwhelm countries with limited resources

Funds to support terrorist activities may come from either legitimate or illegitimate sources, including criminal activities. The legitimate sources may include gifts and donations from sympathetic groups, charities and foundations. In either type of situation, terrorist groups must conceal the sources and uses of their funds in order for these sources to remain available for future activities. The methods that they use to do so are very similar to those used by money launderers. Just like money laundering, terrorist financing activities are clandestine and therefore hard to detect. Reliable estimates of the prevalence of the problem are simply not available.

Global and regional initiatives

The international community has acted on many fronts to respond to the growing complexity and the international nature of rapidly evolving methods of laundering money and financing terrorism. The emphasis is on promoting international cooperation and establishing a coordinated and effective international AML/AFT regime. The specific obligations of countries in relation to AML/CFT vary depending on their adherence to various treaties. These obligations are quite complex and can overwhelm countries with limited resources and relatively underdeveloped financial, legal and regulatory institutions. Many international agencies have helped countries develop capacity to prevent and counter money laundering. Since September 2001, they have extended their mandate to address the financing of terrorism. The main elements of the global and regional initiatives are presented below.

The Financial Action Task Force (FATF) was established in 1989 by the G7 countries to respond more effectively to money laundering. It is the main policy body responsible for setting AML/CFT standards. It promotes legislative and regulatory reforms to prevent and combat money laundering and the financing of terrorism. In 1990 it adopted a set of 40 Recommendations on money laundering, which were revised and amended in 1996 and 2003 to reflect new developments in money laundering methods. In October 2001, the FATF expanded its mission to include combating the financing of terrorism, and it put forward a set of Nine Special Recommendations on the financing of terrorism, which, together with its initial 40 Recommendations on money laundering, constitute a compelling framework for preventing, detecting and suppressing both money laundering and the financing of terrorism. The FATF's work is also supported by a number of FATF-style regional bodies (FSRBs), four of them in Africa.

The FATF 40 Recommendations require the criminalisation of money laundering. In addition, the recommendations call on countries to adopt legislative and other measures in order to: freeze, seize and confiscate criminal proceeds: waive bank secrecy laws to permit financial institutions to monitor and report suspicious transactions; protect those reporting these transactions from civil and criminal liability; establish financial investigation units; and cooperate fully in international law enforcement efforts to combat money laundering. Other recommendations are directed at financial institutions, which are expected to strictly enforce customer identification ('know your customer', or KYC) rules, report suspicious transactions, pay special attention to complex and unusual transactions, maintain transaction records and cooperate with law enforcement agencies.

The FATF Special Recommendations require countries to criminalise the financing of terrorism, terrorist organisations and terrorist acts and to designate these new offences as money laundering predicate offences.

It also obliges countries to: take the necessary legislative and administrative measures to freeze and confiscate assets of terrorists and terrorist organisations; require financial institutions to report suspicious transactions related to terrorism and closely monitor and scrutinise wire transfers; regulate alternative remittance systems; prevent abuse by non-profit organisations; take measures to ensure that terrorists and other criminals cannot finance their activities and launder the proceeds of their crimes through the transportation of currency and cash equivalents from one country to another; and cooperate fully with law enforcement activities.

The FATF is also involved in monitoring the progress of members in complying with its recommendations. It does this through a two-stage process based on self-assessments and mutual evaluations. The FATF has also adopted 25 criteria for defining non-cooperating countries and territories (NCCTs). Until October 2002, these criteria were used to identify countries whose rules and practices impeded international AML/AFT cooperation. The list of NCCTs is now closed, but one African country is still identified as being on it and is taking accelerated initiatives to bring itself into compliance with international standards.

In October 2002, the FATF, the World Bank and the International Monetary Fund (IMF) adopted a single, comprehensive assessment methodology. It is used by the FATF and the FSRB in their mutual evaluations and by the IMF and the World Bank in the assessments they conduct under their financial sector assessment and offshore financial centres programmes. The method, revised in 2004, allows these institutions to assess a country's compliance with the two sets of FATF recommendations, known in combination as the 40+9 Recommendations.

The UN Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), the UN Convention against Transnational Organized Crime (Palermo Convention), the UN Convention against Corruption and the International Convention for the Suppression of the Financing of Terrorism all contain provisions relating to the tracing, freezing, seizing and confiscation of instrumentalities and proceeds of crime.

The Vienna Convention, adopted in 1988, calls for the criminalisation of money laundering in relation to drug trafficking offences. The Palermo Convention, which was adopted in December 2000, has been ratified by 38 African countries. It calls for the criminalisation of serious money laundering offences (those punishable by a sentence of four years or more), and all offences covered by the convention and its protocols.

The same convention calls for a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, the establishment of financial intelligence units, measures to detect and monitor movement cash across borders, and greater cooperation in enforcing money laundering laws. The convention also calls upon states parties to take a number of legislative and other measures to facilitate international cooperation in the areas of mutual legal assistance, law enforcement, asset freezing and forfeiture, victim and witness protection, and extradition. All of these measures apply to money laundering and, to a large extent, to the financing of terrorism as well. Most African states require assistance in implementing the complex legal reforms required to bring their laws into compliance with these new international obligations (Moshi 2003).

Most African states require help in bringing their laws into compliance with their new international obligations

The UN Convention against Corruption, adopted in 2003, has been ratified so far by 20 African countries – more than in any other region. The convention contains AML dispositions to deal with cases where the predicate offence involves a form of bribery or corruption. It requires that states establish mechanisms to review suspicious transactions, analyse financial data and exchange information. It also contains unique measures concerning the repatriation of assets diverted as result of acts of corruption. Several of its provisions specify how states should cooperate in order to facilitate the identification, recovery and repatriation of misappropriated assets.

The International Convention for the Suppression of the Financing of Terrorism, adopted in 1999, came into force in October 2002. It requires states to criminalise the financing of terrorism, terrorist groups and terrorist acts and to enact certain provisions concerning the role of financial institutions in the detection and reporting of evidence of financing of terrorist acts. In September 2001, the UN Security Council adopted resolution 1373, which established the Counter-Terrorism Committee and required all member states to ratify and implement the relevant international conventions against terrorist financing.

Financial regulation standards are also set by the Basel Committee on Bank Supervision (for banks), the International Organization of Securities Commissions (IOSCO) (for securities firms and markets) and the International Association of Insurance Supervisors (IAIS) (for insurance companies). Other self-regulatory

bodies, such as the International Federation of Accountants and the Wolfsberg Group of banks, have also set standards for their own areas.

In 1988, the Basel committee put forward some basic principles as part of its statement on the *Prevention of criminal use of the banking system for the purpose of money-laundering* (Commonwealth Secretariat 2000). These principles cover some important self-regulatory measures which bank managements are expected to adopt with respect to proper customer identification, high ethical standards and compliance with laws, cooperation with law enforcement authorities, and policies and procedures required in order to adhere to the statement.

In 1997, the Basel committee issued its *Core principles for effective banking supervision*. One of these principles deals with KYC policies and procedures. Finally, in 2001, the committee added new standards relating to customer due diligence, verification and KYC measures. These standards are important for the fight against money laundering, but they are also essential to the safety of banks and their investments and the integrity of banking systems.

In 1992, IOSCO addressed the issue of money laundering from the point of view of securities regulation and the reduction of systemic risks for investors. Its resolution on money laundering introduced a number of standards with which it expects its members to comply. They included standards relating to customer identification, record-keeping, cooperation with law enforcement and national regulators charged with prosecuting money laundering offences, investment monitoring practices, the use of cash or cash equivalents in securities and futures transactions, and procedures to prevent criminals from gaining control of securities and futures business. In 2002, the IAIS issued a paper on *Anti-money laundering guidance notes for insurance supervisors and insurance entities*. Finally, the Wolfsberg Group of banks, representing international private banks, has adopted, over the years, four sets of principles for private banking. They respectively deal with AML measures for private banks, the financing of terrorism, AML measures in the context of correspondent banking, and monitoring, screening and searching processes using a risk-based profile approach.

Many countries have established financial intelligence units (FIUs) as a focal point for their AML efforts and a point at which information is exchanged between financial institutions and law enforcement agents. Since 1995, a number of these units have began to work closely together to exchange information and to coordinate their AML efforts. They formed the Egmont Group, which facilitates international exchanges and cooperation among FIUs in relation to both money laundering and terrorist financing.

Several multilateral organisations offer assistance to countries wishing to implement the FATF 40+9 Recommendations. Some of them are particularly active in Africa, including the World Bank and the IMF, the Commonwealth Secretariat, which has a number of member states on the continent, and the UNODC, which has four regional offices in the region – in Dakar, Cairo, Nairobi and Pretoria – and a country office in Nigeria.

The World Bank and the IMF have accepted the responsibility to assist countries in implementing AML/CFT standards, particularly as they relate to banking supervisors and financial institutions. They provide AML/CFT technical assistance to members and are funding a project to assess members' compliance with international AML/CFT standards.

The IMF have accepted the responsibility to help countries implement AML/CFT standards

Closely related to the work of these institutions is that of the Financial Stability Forum on financial regulation and AML standards in offshore centres and that of the Bank of International Settlements on payment and settlement systems and their vulnerability to money laundering and terrorist financing.

As part of its work to promote good governance and fight corruption, the Commonwealth has long been involved in international AML/CFT efforts, particularly by supporting its developing member countries in implementing comprehensive AML and CFT systems that comply with international standards. In 1993, it made available a Commonwealth Model Law for the Prohibition of Money Laundering. In 1996, it produced *Guidance notes for the financial sector* which were revised in 2000 and in 2005, based on best practices.

For its part, the UNODC's AML/CFT activities in Africa are informed by its UN Global Programme against Money Laundering and its Terrorism Prevention Branch. The UNODC offices in Africa are currently managing several AML projects in various parts of the continent. In September 2005, at the Round Table for Africa organised by UNODC in Nigeria, a programme of action for the period 2006 to 2010 to address crime, security and development on the continent was endorsed by representatives of 47 African member states and by development partners and international organisations.

African initiatives

In addition to the global initiatives mentioned above, many conventions have been adopted and many cooperation initiatives launched by African nations at the continental and subregional levels. In 1999 the Organisation of African Unity adopted a Convention on the Prevention and Combating of Terrorism (Algiers Convention). In 2002, the African Union's Second High-Level Intergovernmental Meeting on the Prevention and Combating of Terrorism in Africa adopted a plan of action which highlighted specific areas for action. These included ten specific measures to suppress the financing of terrorism, including national legislation to criminalise terrorist financing and money laundering, setting up FIUs, training personnel to combat and prevent money laundering, and cooperation with international financial institutions. In 2004 the AU also adopted a protocol to the OAU Convention on the Prevention and Combating of Terrorism that captured the parties' commitment to implement fully the provisions of the Algiers Convention and, among other things, to identify, detect, confiscate and freeze or seize any funds or other assets used or destined to be used for committing a terrorist act and to establish a mechanism to use such funds to compensate victims of terrorist acts or their families.

Strengthening regional groupings can be crucial in preventing money laundering and terrorist financing

The African Peer Review Mechanism, an initiative of the New Partnership for Africa's Development (NEPAD), includes a focus on assessing and putting in place a corruption control mechanism. Fostering the implementation of banking and financial standards is a key focus area of NEPAD. In 2002, its steering committee proposed an action plan aimed at the adoption and strengthening of AML/CFT laws and promoting compliance with international AML/CFT standards (Goredema & Botha 2004).

In 2003 the AU adopted a Convention on Preventing and Combating Corruption which, unfortunately, has yet to be ratified by enough member states to come into force. The convention calls for the criminalisation of the use or concealment of proceeds from acts of corruption (article 4) and the laundering of the proceeds of corruption (article 6). It also establishes a regional cooperation framework for improved mutual law enforcement assistance, including extradition, investigations and the confiscation, seizure or repatriation of the proceeds of corruption.

Both the AU and the UN conventions were adopted in 2003, but the AU convention has been ratified by fewer states. In November 2005, at the First Pan-African Meeting of National Anti-Corruption Bodies in Lusaka, it was recommended that AU member states be given assistance in identifying the areas of convergence and divergence between the multilateral anti-corruption instruments so as to facilitate their implementation at the national level.

There are three regional AML groups, or FSRBs, that have been granted observer status at the FATF: the Middle East and North Africa Financial Action Task Force against Money Laundering and Terrorism Financing; the Eastern and Southern Africa Anti-Money Laundering Group; and the Intergovernmental Action Group against Money Laundering in West Africa. A fourth group is being established in the context of the Economic and Monetary Community of Central Africa and the Central African Monetary Union (known by their French acronyms, CEMAC and UMAC respectively): namely, the Groupe d'Action contre le Blanchiment d'Argent en Afrique Centrale (GABAC), or Action Group against Money Laundering in Central Africa. It has not yet been granted observer status with the FATF.

Developing and strengthening such regional groupings can play a crucial role in the prevention of money laundering and terrorist financing. The FSRBs not only have an advocacy and mobilisation role to play, but can also provide the mechanisms for monitoring developments in the AML/CFT field and for mutual evaluations. Some of them have now reached a point where they can conduct credible technical assistance needs assessments and deliver some of the technical assistance required. Although these FSRBs vary in strength, resources and sophistication, they provide important institutional frameworks for addressing AML/CFT issues in Africa.

Challenges in preventing and combating money laundering and the financing of terrorism in the African context

The adoption of AML/CFT laws by governments and the implementation of AML/CFT policies by financial supervisors and regulators, as well as banks, other financial institutions and equity markets, not only protects these institutions by introducing good principles of prudential operation, but also contributes to the development of good governance practices that are crucial to the future strength of these institutions. However, implementing comprehensive AML/CFT policies in developing countries poses unique challenges.

The ministerial conclusions of the Conference on Countering the Financing of Terrorism held in The

Hague in March 2006 noted that all countries face certain challenges in fully implementing the FATF 40+9 Recommendations, but that the capacity and resource constraints of low-income countries make it particularly difficult for them to implement all the necessary measures simultaneously. It should be recognised that the pace of implementation of the recommendations necessarily varies from country to country. The ministers recommended that, for countries with severe resource constraints, further consideration be given to assessment mechanisms and technical assistance processes that allow for the identification of clear priorities and a road map towards full implementation of the 40+9 Recommendations.

That approach is particularly relevant to the situation of most African countries, which must be encouraged to focus their efforts on the most fundamental requirements and threats first before proceeding to more comprehensive implementation efforts. In developing assessment and assistance strategies, international and regional organisations must take the particularities of the African context into consideration, especially the capacity and resource constraints of African countries and their need to establish clear priorities within their overall plans to promote development and good governance.

The programme of action adopted in 2005 during the Round Table for Africa identifies some AML/CFT priorities very broadly, but there still is a need for priority-setting at the subregional and national levels. Regional AML/CFT groups should be supported and encouraged to play a role in bringing together the demand and supply of technical assistance. Recipient countries must, however, remain in control of their own plans and strategies and empowered to align them with their own national strategies.

Financial institutions are all vulnerable, to some extent, to money laundering and terrorist financing, some more than others, and that is why they must all remain vigilant. There is no way of measuring the extent to which money laundering and terrorist financing activities are actually taking place within financial institutions in Africa and how much criminal organisations outside the continent are involved.

However, there are some widely known factors that are likely to increase the vulnerability of these institutions. Compared with financial institutions in other parts of the world, those in most African countries offer less access to international markets and are presumably less vulnerable to foreign attempts to launder money and move funds for terrorist organisations. On the other hand, because many of these institutions are relatively small and immature and are often struggling to maximise business opportunities in a competitive market, they may be less selective in their business and become more vulnerable to money laundering and terrorist financing.

The frequent absence of the required legislative framework, the lack of effective criminalisation of money laundering and terrorist financing, and the relative ineffectiveness of financial-sector supervision are all factors which render financial sectors in Africa alarmingly vulnerable.

Another major source of complications for African countries attempting to reduce their vulnerability to money laundering and terrorist financing is the fact that, if a country is at all successful in protecting its financial sector and reducing its vulnerability to money laundering and terrorist financing, it can expect some of those activities to be displaced to businesses and professionals in the non-financial sector, or even to parallel economies, underground banking and alternative remittance systems.

All financial institutions are vulnerable, to some extent, to money laundering and terrorist financing

There is some evidence that criminals are increasingly using and abusing the alternative remittance systems, and there is a concern that this practice may become even more widespread as the controls over the international banking system become more effective.

Throughout Africa, there is a significant cash-based and parallel economy in which money circulates outside the conventional financial system. Alternative value transfer and remittance systems play an important, valuable and legitimate role in most African economies. In many instances, these systems are critical to the functioning of national economies. They are, however, vulnerable to misuse for money laundering or terrorist financing purposes.

The FATF recommends that jurisdictions impose AML/CFT measures to cover all forms of money/value transfer systems. Money remittance and transfer services are financial services which move funds for individuals or entities though a dedicated network or through the regulated banking system. The informal money/value transfer system provides a financial service that transfers funds or value from one geographical area to another, usually outside the regulated financial sector. The nature of the system is such that the anonymity of its customers is assured and the transactions are almost impossible to monitor.

Recommendation VI of the FATF Special Recommendations on terrorist financing requires the following:

> Each country should take measures to ensure that persons or legal entities, including agents, that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all FATF Recommendations that apply to banks and non-bank financial institutions. Each country should ensure that persons or legal entities that carry out this service illegally are subject to administrative, civil or criminal sanctions.

In 2003, the FATF issued an international best practice paper on alternative remittance, dealing with various questions relating to the identification of systems, their licensing and registration, applicable AML regulations, compliance monitoring measures and sanctions. For many African countries, however, it is doubtful that the huge efforts required to identify, register, regulate and monitor informal value transfer services would be an immediate priority. In any event, it is unlikely that such efforts would produce a meaningful impact in terms of national AML/CFT strategy. In fact, they could conceivably have an adverse effect on local economies, which are very reliant on these systems.

An alternative approach to reducing the vulnerability to money laundering and terrorist financing introduced by the informal sector would involve a longer-term effort to help countries develop some flexible, accessible, relatively inexpensive and well-supervised value transfer systems that could compete with the less reliable and more costly informal ones. In the long term, the informal sector could lose some of its crucial importance to local economies and become more amenable to regulation and other forms of control. In the short term, it should be clear to all concerned that the informal systems that exist in Africa are not well known or understood. There is little systematic information on how these informal systems function in the African context, how crucial they are to the normal everyday transactions upon which the local economies depend and the manner in which they are abused for criminal purposes. Better information and research on these systems is a priority frequently acknowledged by regional and subregional organisations involved in AML/CFT.

Another issue presenting complexities that are perhaps unique to the African continent and its predominantly cash-based economies is that of cash movement and cash transactions that are neither documented nor traceable. Cash transactions are the norm rather than the exception in most of Africa. Introducing a requirement to report to the authorities all cash transactions that exceed a certain threshold and subjecting them to the usual AML/CFT controls is often proposed. It is also suggested that the use of cash be reduced as part of the 'best way forward' in AML/CFT strategies. Finally, others advocate outlawing cash payments for transactions above a certain threshold. Although such proposals may hold some appeal in the abstract and could perhaps be encouraged in certain instances, it is hard to imagine how they could form a realistic basis for action in most African countries. It is doubtful that any of these methods truly belong to an effective and suitable short- or medium-term AML/CFT strategy for African countries.

In theory, it may be possible to reduce the use of cash by improving the efficiency and accessibility of the national banking systems. Promoting greater access for all to sound, well-regulated and accessible financial services is a legitimate development objective, but it is one that will not necessarily be realised in the short term – and, given the current state of the financial institutions in most African countries, that approach would seem a rather weak basis on which to build short- or medium-term AML/CFT strategies.

It is relatively easy to move money and other valuable assets across borders without drawing the attention of the authorities

A related issue is that of the cross-border transportation of cash and other criminal proceeds. In Africa, it is relatively easy for criminals, money launderers and terrorist groups to move money and other valuable assets across borders without drawing the attention of the authorities. Cash couriers are obviously also used by criminals and traffickers to move criminal proceeds and to engage in illicit trafficking transactions. The FATF's special recommendation IX creates new obligations for countries to take measures to prevent terrorists and criminals from using cash couriers to finance their activities and launder their funds. A best practice note issued by the FATF in 2005 proposes a number of methods that may alleviate the problem. They consist for the most part in implementing a compulsory declaration system requiring everyone crossing a border and transporting currency or bearer-negotiable instruments of a value exceeding a certain threshold to declare it to the authorities. Countries must also develop effective measures to detect, stop or restrain and, where appropriate, confiscate the currency or instruments.

The efforts and resources required to implement such official declaration and interdiction systems are far from negligible, particularly in conditions such as those prevailing in Africa, where the physical movement of cash across borders is often necessary

to complete vital international business transactions and where international trade and exchange are often poorly supported by existing financial institutions. Implementing elaborate schemes to control and prevent the movement of cash across borders is not a strategy that most African countries should adopt lightly. The legitimate role that cash transactions across borders currently play in most of Africa, the weak and inaccessible services offered by existing financial institutions to support small-scale international trade, the weak institutional capacity of most African countries to effectively interdict such movements of cash and the potential for increased corruption created by such a system all dictate great caution in implementing such a strategy in the African context. For most countries of the continent, the strategy would seem to promise very low returns in exchange for a considerable investment and a risk of potentially negative economic and social effects.

Current FATF recommendations and other international standards do not appear to advance practical and realistic methods of preventing and detecting money laundering and terrorist financing in predominantly cash-based economies or in countries where reliance on a parallel banking system and informal value transfer methods is the norm. These are issues that are very relevant to most African countries, and they call for African solutions. African organisations, FSRBs in particular, will need to confront these challenges. Specific regional measures may have to be devised and implemented to reflect the nature of the financial systems, the problems they face and the specific ways in which they are vulnerable to money laundering and terrorist financing.

Africa is different from other continents, so a one-size-fits-all approach is bound to fail

In any country, law enforcement and financial sector supervision are complementary elements of AML/CFT. Financial sector supervision measures are primarily designed to prevent and detect money laundering and terrorist financing, while law enforcement agencies must deal with them once they are detected and use that information as a basis for the investigation and prosecution of the crimes and corruption the funds are related to. The interdependence of these two components is not always fully recognised and reflected in national AML/CFT strategies.

The question is particularly relevant to most African countries because they tend to have a very limited law enforcement capacity and are under pressure to address several other law enforcement priorities besides money laundering and the financing of terrorism. Organisations such as UNODC may be better equipped than other agencies to offer assistance in that area. However, all agencies involved in helping countries to develop an AML/CFT capacity should be aware of the serious limitations involved in any initiative that does not simultaneously address the need for an adequate law enforcement capacity.

It is generally acknowledged that a properly regulated and mobilised financial sector can make a substantial contribution to the prevention of money laundering and terrorist financing. It is also often suggested that a specialised capacity to investigate these practices can be developed within an FIU, more or less outside regular law enforcement organisations. These views are conveniently advanced by those who would narrowly target AML/CFT technical assistance activities and focus them on developing a capacity in each country to participate in the international AML/CFT regime, so that individual countries can cooperate and contribute information and assistance at the international level.

The extent to which this is possible or even desirable for any given country is something that remains to be considered carefully. National AML/CFT strategies that fail to address the need to develop a broader law enforcement and prosecution capacity, as well as the need to regulate the financial sector, are most likely misguided. They ignore the fact that the primary reason for fighting money laundering and terrorist financing is to prevent the crimes, corruption and terrorist acts which these practices hide and support. Care must therefore be taken to ensure that AML/CFT strategies developed in Africa are integrated in, rather than in competition with, broader justice, security and legal reforms at the national level.

Concluding remarks

The challenges facing Africa in implementing AML/CFT measures are enormous. They range from the structure of countries' economies to low human and institutional capacity and the scarcity of resources. All these underscore the fact that Africa is different from other continents, so a one-size-fits-all approach is bound to fail. This being so, it is important for the global and regional AML institutions not to put undue pressure on the African continent to implement AML/CFT measures without designing, in parallel, a solution framework to the challenges facing the continent.

In this regard, the yardstick by which African countries are branded either non-compliant or partially compliant in implementing the FATF 40+9 Recommendations is not realistic, because it does not take into consideration the core constraints on the countries in question. On the contrary, it tends to

place emphasis on risk, vulnerability or threat levels relating to money laundering or terrorist financing, or even a lack of political will, while ignoring systemic and structural constraints. Such challenges range from extreme poverty, highly under-resourced government apparatus, a severe lack of skilled human capital, a dominant informal sector and predominantly cash based economies to weak information and communications infrastructure.

As evidenced by the initiatives described above, undertaken at both national and regional level, it is clear that political will is not lacking. What is lacking, however, is a systematic means or comprehensive strategy for enhancing the capacity of African countries so that they are able to implement AMF/CTF measures effectively. The bottom line for such empowerment is to ensure that measures are tailored to be context sensitive, which is essential for generating a sense of ownership. Indeed, the FATF 40+9 Recommendations should aim to encourage countries to strive for accelerated progress, but their applicability should only be tested and judged against what is realistically achievable in the specific circumstances of the continent or the individual country.

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About this paper

A 2005 study by the UNODC on Crime and Development in Africa shows the emergence of organised crime on the continent and its links to conflict. It notes that the growth in international commerce and transport has made the countries of Sub Saharan Africa, with its weak law enforcement capacity, an 'ideal conduit' through which to extract and trans-ship a range of illicit commodities, ranging from drugs, firearms, human beings and minerals to timber and ivory. Because crime undermines Africa's development efforts, a wide range of initiatives have had to be undertaken, at both international and local level, to address money laundering and the financing of terrorism. However, the task of addressing these issues in the 'African context' remains a daunting one, raising a number of challenges. These include the scarcity of resources, highly informalised economies, cash-based economies, weak institutional frameworks, low awareness levels and competing socioeconomic development priorities.

The author argues that some of these challenges are unique to the countries of sub-Saharan Africa. It is critical for any strategy or programme addressing money laundering and terrorist financing to be informed by the African reality. The pace of implementation of measures to combat money laundering and terrorist financing will be determined by the progress achieved in addressing these challenges. Improved pace and progress will only be realised once the strategies and programmes are tailored to reflect the realities of the African continent.

About the author

Humphrey Moshi is a Professor of Economics at the Economic Research Bureau of the University of Dar es Salaam. He holds several degrees in business studies and economics from the University of Dar es Salaam and the University of Meunster, Germany. He has served as a visiting scholar at the International Monetary Fund, Washington, D.C. and at the University of Mannheim, Germany. Dr. Moshi's research interests span public economics, macroeconomics, financial corporate governance and private sector development. He has written, co-written and edited five books on economic issues, and published more than 60 scholarly articles. He has been a consultant to a number of international, regional and national organisations and numerous private corporations.

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