Originally Published in the Book "Fighting Corruption in Asia", Editited by John Kidd & Frank-Jurgen Richter. Published by World Scientific Publishing

The Asian Money Laundering Explosion

Whilst it is universally accepted and used incessantly, the phrase "money laundering" has no single — or accepted — definition. Many perceptions still endure in the collective psyche of what money laundering is: ranging from the suspicious character turning up at a bank counter with a suitcase overflowing with used notes, to the dictum that money laundering is solely drugs related predominantly, if not exclusively, focused on the nefarious activities of south American gangs. Certainly this latter version of "reality" has been promoted by the US government and reinforced by various Hollywood blockbusters. It is only recently becoming clear (or at least clearer) that money laundering is a robust, corrosive, all consuming and dynamic activity that has a series of processes which have far reaching financial, economic and social consequences and effects. At their zenith these effects engulf financial institutions, capital markets, currencies, interest rates, national economies and ultimately national, regional and international security.

Drug money, although still an important part of the funds that need to be washed, is merely one facet of a wide range of criminal activities that generate the money to be laundered. Such money is effectively useless unless the original source of it can be disguised, or preferably obliterated. Thus the money laundering dynamic lies at the corrupt heart of many of the world's social and economic problems. The list of crimes generating the dirty money includes— but is definitely not limited to — political corruption, illegal arms sales, terrorism, human trafficking, fraud, blackmail/extortion and customs and VAT fraud. Added to this list — or at least according to the pre-Bush US administration — is tax avoidance. But the new Bush Administration seem to be looking to allow more open 'avoidance' systems to be enacted in the US. In May 2001, the Malaysian finance minister, Daim Zainuddin commented that the washing of dirty money gives "wicked legitimacy to proceeds acquired through drug trafficking, extortion and arms smuggling".

Not only is money laundering difficult to define but also the amounts involved are impossible to estimate. The United Nations Human Development Report of 1999 stated that global criminal activity generates $1.5 trillion each year; other estimates have concluded that money laundering accounts for between 2 and 5 per cent of GDP — giving a global total of up to $3 trillion per annum. Whilst such estimates have been dismissed in some quarters as alarmist, inaccurate or incorrect (or all three), it is actually highly likely that such staggering totals are an under estimate, rather than the widely assumed opposite. One minor yet recent example was offered by The Wall Street Journal Europe, 18 July 2001 which reported that the Central Bank of Kazakstan confirmed that a "grey money" amnesty brought in $480 million The month long "no questions asked" amnestywhich ended in the middle of July 2001 drew in money from over 3,000 people — but only 11.4% of the cash was repatriated from foreign bank accounts. Views on the purpose of the amnesty were mixed: some commentators saw it as an antidote to previous chaotic tax regimes, whilst others saw it as a method of legitimizing massive amounts of money obtained through bribery and corruption by officials.

Money laundering is simultaneously both a staged process (placement, layering, integration) and a cyclical dynamic — with the end result that the profits from crime can be washed only to be reinvested in further criminal activities, which can be the same as those which originally generated the funds or new ventures. One obvious by-product of this dynamic flow is that the conditions and effects of the original environment(s) that facilitated the criminal events and resultant profits are maintained, reinforced and reinvigorated. The explosion in money laundering that has been ignited in the last few years has been fueled by some key factors, such as:

- The globalization of markets, financial flows and information — most prevalent in the single global market of the Internet. Virtual money laundering is now a reality with money being transferred across the globe in nano seconds

- Just as there is no global definition of money laundering, there exists no consistent or coherent anti-money laundering regulation or legislation (in fact in some Asian countries, there is simply no regulation or legislation whatsoever). Added to this important problem is lack of co-operation between individual countries co-operation is increasingly needed to tackle pan-global washing of funds

- A global unregulated market puts at its pinnacle the need for profit — sometimes at any cost. Criminal organizations and the funds that they generate can, and do, yield great influence in their relationships with the legitimate businesses that are driven by the need for turnover and profit. Simultaneously such unfair competition can drive legitimate concerns out of business, and at its extreme can threaten the economies of whole countries.

- Running as a parallel stream to these factors is the rapid, and ever increasing, pace of technological-driven change. Criminals operate at the cutting edge of technology; sadly regulators and law enforcers do not
-

The global impetus to fight money laundering comes from the basic premise that dirty money is the lifeblood of all criminal activity: if it can be identified and seized then crime will be stifled, and ultimately halted. Well, at least that's the theory…

The Increased Relevance of Asia in the Global Money Laundering Dynamic.

The increased realization of the importance of Asia in both global geopolitical and geoeconomic terms has meant that money laundering has become a key issue in the region. That is not to say that money laundering in the area is a new event — quite clearly it is not — rather that it is now being discussed and (to varying extents) addressed. However because of the rapid pace of globalisation — as typified by the spread and reach of the Internet — discussion of money laundering purely in Asia is, in many ways, an artificial distinction. Moreover it is also important to distinguish between domestic money laundering (which is essentially money generated by crime and laundered in the banking system of the same country) and transnational money laundering (where the original criminal activity and the laundering are separated by one — if not numerous — national borders).

It is not only because of these factors that generalizations relating to this problem in Asia are difficult. As a recent paper by the Malaysian central bank, quoted by Agence France-Presse on 21 May 2001, observed

"Since money laundering is an international problem, a collective international and regional response is necessary in the fight against it — with globalization it has become an issue of global dimensions"

Notwithstanding such caveats, estimates have placed the amount of money laundered annually in Asia at around 200 billion US dollars, or at least one fifth of the global total. Japan, for example, investigated at least seven billion dollars worth of suspicious transactions in fiscal 2000 — a rate of between 100 and 200 each week.

Interestingly though, The Financial Action Task Force (FATF) seem to have somewhat overlooked problems in Asia when that organization named countries that are uncooperative in dealing with money laundering. The two FATF "blacklists" issued in June 2000 and 2001 have included three Asian countries: Indonesia and Myanmar (included in the 2001 list for the first time) and the Philippines (which is on both lists, and in the June 2001 list, is one of the top three targets for action, together with Nauru and Russia) (FATF, 2000a, 2000b, 2001a, 2001b). There are some factors which are unique to Asia (or parts of it) that facilitate money laundering. These include:

- An economy still based on cash transactions, which in turn leads to a willingness to conduct large transactions by cash (This creates special difficulties for a "western"-based money laundering regulation system, which has as a fundamental tenet the highlighting of large cash transfers as being suspicious transactions)

- Numerous underground banking and remittance systems (such as "hawala" or "hundi") which operate as traditional cash and trust based processes. In India, Pakistan and Dubai, the Hawala system creates significant money laundering problems. And of course one of the problems is that it is very difficult to distinguish between legitimate transactions and those involving money laundering. Because such systems are not designed to deal with "official transactions" they provide complete confidentiality and no paper trail. They are essentially based on trust, and involve no physical transfer of funds: rather a hawala broker in one country essentially arranges for his client for a broker in another country to make a payment to the intended beneficiary. Increasingly the funds to be "transferred" are paid in gold to the brokers, who have later to rationalize their own 'interbanking' levels and fund flows. The 'transfers' are between the brokers so will consist of both legitimate transactions and money laundering.

- The region contains various major narcotic production areas, the two principle being the Golden Crescent of Afghanistan, Iran and Pakistan and the Golden Triangle of Thailand, Burma and Laos. Whilst the obstacles of money laundering and corruption are present in each of these countries the most corrosive effects can be seen in Myanmar. The Government has arranged a series of cease-fire agreements with rebel groups for decades; however such agreements have simply meant that drug cartels have been able more easily to traffic their opium, heroin and morphine. Such production (which has increased since 1989) effectively means that the economy of Myanmar is propped up by dirty money which is being laundered there.

- Across Asia there are serious problems with product counterfeiting — computer software and music CDs are the most usually reported illegal products; however there are many more — China is a substantial producer of counterfeit cigarettes, for example. Such widespread illegal manufacturing activities are almost exclusively the domain of organized crime groups, most of whom are both highly efficient and very influential. Their activities create substantial volumes of funds that need to be washed and these give them the ability to corrupt weak officials and politicians, and to infiltrate their ranks.

- In 2001, the US Department of State commented that in Asia "weak governments with poorly developed and financed law enforcement infrastructures provide fertile environments in which drug trafficking organizations have flourished" (US Department of State, Bureau for Inter-national Narcotics and Law Enforcement Affairs, 2001).

And as if to show both the diversities of the region and the flexibility and agility of money launderers, the washing cycle is encouraged and achieved by countries that either:

(i) have highly developed banking systems (thus compliant professional advisors), or
(ii) in those countries with underdeveloped banking and legal systems.

In the former, laundering can be hidden, and in the latter there is little risk of detection. Global money laundering has been substantially aided by the Internet explosion. In this respect Asia has a further handicap: the region lags behind in the related areas of computer security, the prevention of cyber crime, and its investigation and prosecution.Criminals optimize the benefits of cutting edge technology, and thus Asia's lack of relevant laws and resources to tackle the problem may well prove to be the biggest security threat in the region. Each day millions in Asia log onto the Internet, in Japan alone there are 60 million mobile phone users, and China's population now have more mobiles than are owned in the United States. Interpol has highlighted that hacking is already a considerable problem: in South Korea incidents (or we should say reported incidents) against state and business organizations rocketed by 400% in 2000 (as reported by the Australian Broadcasting Corporation on 27 February 2001). The overflow of such activity in Asia has already been felt the world over, thanks to the "I love you" virus which originated in the Philippines but caused worldwide computer disruption and damages estimated in the region of 18 billion dollars. Whilst many now realize the real threats posed in Asia by the criminal usage of technology, relevant laws are still few. It has been argued that Asian firms lag behind the United States by 18 months to three years in security developments. Evidence already available supports that view that organized crime groups in Asia show no such resistance to technology, and are already maximizing its use (Lilley, 2000).

Money Laundering Typologies in Asia

The money laundering typologies utilized (or at least those that have been identified) in Asia are virtually identical to those utilized across the world. The only key differentiating factor is that the actual composition of methods may vary from other regions. Particularly prevalent are:

- Cross border smuggling of cash and/or money orders and bank drafts
- The use of telegraphic transfers
- The utilization of bearer instruments (including bank drafts, stock certificates, insurance certificates, bonds)
- The purchase of items of value to launder funds (such items include the usual favorites of luxury goods, gold, cars, and real estate)
- The opening of accounts at financial institutions in false names
- False invoicing

Transparency International, in their annual Corruption Perception index, which in turn is a telling evaluation of those countries with severe money laundering problems, highlights the wide disparities present in Asia. In the 2001 index (Transparency International,2001), covering ninety-one countries, Singapore was ranked the fourth least corrupt country in the world, with Hong Kong the fourteenth. Other Asian countries faired less well: Taiwan (27), Malaysia (36), South Korea (42), China (57), Thailand (61), Philippines (65), India (71), Vietnam (75), Pakistan (79), Indonesia (88) and Bangladesh (91). Such findings are reflected in various other surveys that uniformly place Singapore and Hong Kong as the least corrupt jurisdictions, and Indonesia regularly is being named as the most corrupt nation, which raises serious causes for concern. Such surveys — whilst interesting to read and quote — also have a discernible effect on the international perception of countries. For instance, it may influence the international credit rating agencies' evaluations of such countries and their financial institutions.

Money laundering is migratory — thus countries perceived as being corrupt actually attract further sums to be laundered, and attract also the criminals behind this money. It is only a small step onwards for the launderers to influence financial, political and economic institutions in the relevant country and this in turn affects national or regional security issues. In such a situation, money laundering feeds corruption as proceeds of crime are paid to bank officials, politicians, businessmen, law enforcement and government personnel in return for the acquiescence or, even better, active cooperation. The migratory effect would then continue with foreign criminals being attracted. Ultimately such a pervasive environment of crime, money laundering and corruption will have social effects in that citizens will lose trust in the country's banking system and political structures. Foreign corporations (and thus their investment) will avoid such countries, and international bodies will advise against investment and dealings with these countries. Of course what I have just described is a theoretical chain of events. Regrettably though reality is not so dissimilar — both Indonesia and The Philippines seem to exhibit many of these traits.

The corrupt environment in Indonesia is immediately apparent in escalating money-laundering problems: it is estimated by US law enforcement that West Africans and Southeast Asians using West African Couriers wash some $500,000 on a weekly basis (Lilley, 2000) The general picture in Indonesia is sadly familiar, with a critical factor being that the Indonesian National Police lack sufficient resources, training or expertise to tackle the serious problems that they face.

Organized crime groups in Asia

It is almost impossible to catalogue the many and various organized crime groups that exist in Asia. The region has groups that specialize in every area of criminal activity encompassing highly profitable drug cartels, armed terrorist groups, and financial fraud specialists. In Myanmar, as noted above, the Government has negotiated cease-fires with United WA State Army (UWSA), the Myanmar Democratic National Alliance Army (MNDAA), the Mongko Defence Army (MDA), the Shan United Revolutionary Army (SURA), the Kachin Defence Army (KDA) and the Eastern Shan State Army. It has been persuasively argued that many of these groups, who are now officially tolerated, are nothing more than armed terrorists who generate funds through narcotics.

In Japan, the influence of the Yakuza on the country's business and banking sectors were severely underestimated until their activities emerged as a key facilitator and cause of Japan's financial turmoil. Estimates as to the membership of the Yakuza hover around the 100,000 mark, with an annual turnover of up to US$ 90 million per annum (Lilley, 2000). Such estimates make the Yakuza by far and away Japan's biggest business. They have cornered the market in Japan for property and loan fraud, together with prostitution, debt collection and extortion rackets. The downturn in the domestic economy has meant that the Yakuza has spread out from their traditional family/national base and taken up investments and business opportunities in Hawaii, Australia, the Philippines and other areas of South East Asia.

The intricate network of Chinese criminals, which are commonly referred to as Chinese Triads now operate in every major center of the world having a sizable Chinese population. From their origins in the seventeenth century it is now estimated that there are up to 100,000 current members organized in six main gangs that are rivals at local levels, but which co-operate globally. The Triads are heavily involved in gambling, illegal prostitution, human trafficking,extortion, fraud, loan sharking, counterfeiting, drug trafficking and money laundering. Apart from, and in addition to, the vast range of domestic organized crime groups Asia is a particularly appealing location for foreign crime groups to extend their business activities to. Already Russian gangs and Nigerian/West African groups are heavily active in the region. Further, it should not be forgotten that there is increasing reliable intelligence that confirms that many individual criminal gangs are now co-operating with similar gangs from different countries to their mutual benefit (Lilley, 2000).

Offshore Financial Centres in Asia — A Growing Threat

Palau has a land area of 458 square meters, a population of about 18,000 — and unless you have an interest in advanced geography is impossible to find on a map. The island in fact used to be called Belau, and is in the Pacific Ocean east of the Philippines. Such jurisdictions give a frightening indication as to where money laundering in Asia and other geographically close locations may go next. Palau appears to be setting itself up as an offshore financial center, or tax haven. Courtesy of the Internet you can buy a Palau offshore banking license — well, you do not (strictly speaking) have to apply for a banking license, merely register a normal company and say somewhere in the objectives that your company is going to act as a bank. Governments in many minor jurisdictions are setting up similar offshore financial centers and thus stimulate (if not totally maintain) the local economy. Already across the world, locations that you have probably never heard of have escaped from poverty and debt by providing a panoramic variety of financial services and corporate vehicles. International pressure has to a large degree forced traditional and established offshore centers to substantially clean up their acts — thus gray opportunities exist for new entrants, willing to attract new customers. Already it has been reported that the Nepalese government is planning to establish an offshore center in Katmandu — I suspect that others in Asia will follow. The key criteria to watch out for are:

- Corporate structures that can be created or bought quickly, easily and cost effectively
- A financial center that maintains absolute secrecy and confidentiality

- The absence of any tax burden
- A non-existence of any treaties to exchange tax information with any other countries
- Excellent communication links
- No exchange controls
- Predominant use of a major world currency, preferably dollars
- The ability to disguise the ownership of corporate vehicles through the use of nominee directors and bearer shares
- The absence of normally accepted reporting requirements for companies such as annual financial returns
- The absence of normal accepted company supervision

Of course to a certain extent Asia already has some key offshore centers, such as Hong Kong — and various lesser-known ones, such as Labuan (Malaysia). Hong Kong provides offshore banking licenses, trust and management companies and has at least 500,000 International Business Companies. However Hong Kong is perceived as having tight anti-money laundering controls and crucially has criminalized money laundering beyond drugs. Brunei, Macau, The Philippines, Singapore and Thailand also offer varying levels of offshore financial services and products.

A Country by Country Evaluation of Money Laundering Problems in Asia

Afghanistan

The US Government position is that Afghanistan is a major drug producing and/or transit country that has not been certified as trying to combat the problem. Even though the country is one of the largest producers of opium, because the banking system has effectively been destroyed by political upheaval it is not used by domestic (or international) money launderers. The major problem in the country (as far as the thesis of this book is concerned) is that it is estimated to be the world's second largest producer of opium poppy; major regions are Helmand, Kandahor, Uruzgan and Nangarhar provinces. There are no international organized crime problems as such, but as the opium poppy is the country's main cash crop it obviously provides a substantial source of revenue and thus influence. As there is no "official" government, an official position is difficult to gauge, although it is now suspected that the Taliban are involved in narcotics trafficking. Like some other Asian countries, profits from drugs have made substantial in roads into the legitimate economy through construction and commercial projects.

Armenia

Armed organized crime has a heavy presence; the gray economy is massive; public corruption is widespread. The situation is made worse by high unemployment, low salaries and a large underground economy. However as Armenia is not a major international financial center, the problems are predominantly domestic ones.

Azerbaijan

Strong organized crime presence, weak legal system and endemic corruption are present in Azerbaijan. The country does not have any anti-money laundering legislation but the problems are mostly domestic and specifically related to tax evasion.

Burma (Myanmar)

The Country is the world's second largest producer of Opium. Money laundering problems are exacerbated by a cash-based economy, and whilst anti money-laundering legislation exists it is not enforced. Details are sketchy but because of the major drug producing levels it must be suspected that domestic money laundering is substantial. Commentary suggests that Casinos on the country's borders are used for money laundering, as these establishments are entry points to the international financial system. The government actively encourages drug groups to invest their profits in legitimate enterprises, and it is rumored that the Government itself is involved in drug trafficking. There is no problem with international organized crime as such, but domestic groups obviously present as part of the drug production and distribution culture.

The Burmese government cease-fire agreements with drug groups in various areas (particularly the Shan State) have in effect legitimized the production of narcotics and the resultant money laundering — in fact the government have encouraged such groups to launder funds through investments in hotels and construction enterprises (Lilley, 2000). Thus the laundering of drugs cash is a significant factor in the Burmese economy — appearing in major infrastructure projects, banks, airlines, real estate. In fact some drugs money has been used to supplement government funding of development projects. This environment is further worsened by rumors that government and/or army officials are heavily involved in drug production, or are corruptible to allow others to engage in such businesses without constraint.

Cambodia

Cambodia's law enforcement bodies are chronically under resourced and lack even basic relevant training. The long history of internal disputes mean that the country has endemic corruption problems, which are further exacerbated by low levels of pay for civil servants, a weak judicial system, and a perception that justice can be "bought". However such corruption and money laundering are merely two difficulties in a country that is poor, fragile and developing. One of the most difficult issues is that this state of affairs makes the country particularly vulnerable to organized crime groups, especially bearing in mind the country's position as a transit country for heroin from the Golden Triangle.

China

China has a complete range of organized crime groups and escalating crime rates together with increasing domestic drug problems. Official corruption is widespread in the country, but greater effort is being focused on the money laundering, one reason being that the government views such activities as one way of simultaneously tackling corruption (Lilley, 2000).

Hong Kong

Hong Kong is an obvious target for money launderers, particularly the washing of proceeds from the sale of illegal drugs. A variety of factors contribute towards the importance of Hong Kong as a money laundering target:

- The strength and high level of infiltration of Chinese organized crime groups
- A low tax system
- Acting for China as its offshore banking center
- Sophisticated financial environment and infrastructure
- The absence of any currency and exchange controls
- The presence of various offshore company structures that can be used by non-residents.

Money laundering in Hong Kong extends to all serious crime. All banking and financial institutions must take customer identifications, and report suspicious transactions to a central unit. However because of the size and complexity of Hong Kong's financial world there still remain problems - exhibited by:

- The relatively low level of suspicious reports - the vast majority of which come from banks, with very few coming from insurers or professional advisors like solicitors and accountants
- The opening of accounts with forged documents
- The operation of cash cleansing through bureaux de change and money remitters

India

Money laundering is a growing problem in India but is mainly confined to domestic activities that are far from being only drugs related: fraud, corruption and smuggling being obvious additional ones. The laundering dynamic is exacerbated and facilitated by the hawala alternative remittance systems. The legal position in India in relation to money laundering is also confused.

Indonesia

Indonesia lacks comprehensive anti-money laundering legislation. These are needed urgently because the country's economy is particularly vulnerable to money laundering. The reasons for this are:

- The geographical location of Indonesia
- Strict banking secrecy
- High levels of corruption
- Various banking scandals including fraudulent schemes

Although most money laundering in Indonesia has related to domestic narcotics trafficking and the proceeds of corruption, urgent action is required.

Japan

Japan has significant domestic problems with the Yakuza who are alleged to have in excess of 100,000 members. They were key factors in the collapse of various major Japanese Banks due to the some-what irregular loan arrangements that were set up with them. First hand evidence from my own research confirms that until fairly recently Japanese banks accepted all kinds of funds without questioning their provenance. Because Japan is a major financial center, any weaknesses in the country's banking systems means that the proceeds of domestic crime have an easy entry point into the world's banking system — particularly that of the United States.

Kazakhstan

The country is on the transit route of drugs from Afghanistan and Pakistan together with being an opium producer itself. Widespread and endemic corruption doesn't help matters, neither does the country's fairly advanced financial services environment. The country has, however, criminalized money laundering in relation to drugs and other serious crimes. Unfortunately the enforcement of the relevant laws is weak.

Laos

Laos is the third largest producer of opium in the world, although much of it is consumed domestically. The country has no antimoney laundering legislation, even though it is a regional financial center. Because Laos has strict laws on the exporting of currency it is suspected that laundering out of the country is achieved through alternative remittance systems.

Mongolia

Whilst details are sketchy there is some intelligence that suggests Russian organized crime groups are making use of the country's banking system.

Nepal

Nepal has no anti-money laundering legislation. It has, however, problems with drugs, currency smuggling, and the trafficking of human beings. High levels of corruption are suspected, and commented on by internal governmental reports (Lilley, 2000). The Government also has plans to establish an offshore financial center in Katmandu.

Pakistan

The country is a major distribution and refining center for opium (mainly in the Khyber region, and northwest frontier province). With it's formal economy in tatters, various political scandals that contain allegations of money laundering by various former leaders, a costly nuclear programme, and a military government that has placed the cleaning-out of corruption at the top of its agenda. Pakistan has more than enough domestic problems to contend with.

Philippines

No effective legislation, much political uncertainty and public corruption, and existing as a transshipment route of opium and other drugs from China, Organized crime groups from China, Taiwan and Hong Kong are all active here. There is strict banking secrecy. What more does one need? The country has no basic antimoney laundering regulations or legislation. The US treasury has already issued an advisory note recommending enhanced scrutiny for transactions involving the Philippines. Recent local media coverage has described Manila as "Asia's Money Laundering Capital", drawing attention to anonymous safe boxes, tight bank secrecy laws, and the irony that being awarded such a dubious provenance actually attracts a substantial inflow of funds.

Singapore

Singapore is simultaneously a major financial center with many shops trading in high value goods and a country that has a strong anti-drug culture. Additionally there exists a persistent underground banking system, which when allied to the various shops selling high value goods provide a strong conduit for the washing of Asian heroin dealer's cash. To make this situation worse there are no controls on currency being brought in or taken out of Singapore. The anti-money laundering laws apply to banks, insurance companies, and bureaux de change and money remittance companies, but are currently only drugs related. The regulations mean that suspicious transactions must be reported and customers engaged in significant currency transactions should be identified.

Taiwan

The country has more than 60,000 heroin addicts and is a transshipment point for Chinese heroin, thus creating a substantial money laundering risk. The presence of sophisticated organized crime groups and persistent corruption makes the situation worse. It is estimated that at least half of the funds laundered through Taiwan are then transferred abroad.

Thailand

The country is trying to combat its money laundering problem. But, because of its cash based economy and geographical position, Thailand is particularly prone to money launderers, particularly funds generated by illegal drugs in South East Asia.

Vietnam

There exists little evidence to suggest that money laundering is a serious problem in Vietnam, but the country has a substantial gray economy that makes the identification of dirty money difficult. Vietnam, because of its geographical position, is a transshipment country for drugs from the Golden Triangle together with being an attractive target for overseas crime groups.

Some Solutions To The Asian Money Laundering Explosion

"The art of war lies in thwarting the enemy's plans, in breaking up his alliances, and then, only then, in attacking his army": Sun Tzu circa 5BC(Sun Tzu ,1995).

It is not at all difficult to suggest solutions to the money laundering problems encountered in Asia. What is difficult is to implement such solutions. This is particularly so when severely affected Asian countries cannot hope to successfully tackle the washing of criminal funds in isolation, but only as part of a co-operative robust set of actions to deal with the underlying and interlinked causes (and effects) of organized crime, drug production and corruption. The worldwide initiatives against money laundering provide the framework, ground rules and benchmarks for a national anti money laundering regime. The key documents are:

- The United Nations convention against illegal traffic in narcotic drugs and psychotropic substances, issued in 1988 and known as the 'Vienna Convention' (United Nations, 1998)
- The prevention of criminal use of the banking system for the purpose of money laundering, issued by the Basle committee on banking supervision in 1988 (Basle committee on banking regulations and supervisory practices, 1988)
- The forty recommendations to tackle money laundering issued by the Financial Action Task Force on Money Laundering (The FATF) (The Financial ActiForce, 1999)

One of the many positive joys of the Internet is that you can download each of the above documents at the click of a mouse, thus I do not intend to repeat secondhand all of the information that each of the above contain. That being said, it is important to highlight the key elements where they may provide a way forward for countries in Asia.

The Vienna Convention provides extensive advice and guidance for countries in the control of illegal drugs. Specifically in relation to money laundering the United Nations urges member states to implement the following:

- To establish a comprehensive legislative framework to criminalize money laundering related to serious crimes; and to prevent, detect, investigate and prosecute money laundering by:

  - identifying, seizing and confiscating the proceeds of crime.
  - including money laundering in mutual legal assistance agreements to ensure assistance in international investigations, court cases and judicial proceedings

- the establishment of an effective financial and regulatory regime to deny access to national and international financial systems by criminals and their illicit funds through:

  - Customer identification and verification requirements
  - Financial record keeping
  - Mandatory reporting of suspicious activities

– Removal of banking secrecy impediments to anti-money laundering efforts

- The implementation of enforcement measures to provide for:

  - Effective detection, investigation, prosecution and conviction of criminals engaged in money laundering activity
  - Extradition procedures
  - Information sharing mechanisms

The prevention of criminal use of the banking system for the purpose of money laundering, issued by the Basle Committee on banking supervision in 1988 set out best practice guidelines to "encourage vigilance against criminal use of the payments system". Key recommendations are:

- To implement customer identification (the "Know Your Customer" principle)
- Banks should run their business to high ethical standards, and not be associated with any transactions they suspect are associated with money laundering
- Banks should co-operate with law enforcement agencies
- Banks should retain key records and train staff

It should also go without saying that such principles should not only be applied to banks, but other corporate entities that can be utilized for money laundering, such as bureaux de change, moneychangers, securities traders and so on.

The FATF's forty recommendations are now very much the cornerstone of national antimoney laundering programs, and are a benchmark against which such programs are measured. The key issues of the recommendations are:

- Each country should ratify and implement fully the Vienna Convention
- Multilateral co-operation, mutual legal assistance and extradition treaties are stressed
- The importance of Know Your Customer procedures and the statement that "Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names"
- Necessary records should be maintained for five years so that relevant transactions can be reconstructed
- Policies, procedures, controls, ongoing staff training and compliance testing are all

Recommended

- The final set of recommendations promotes international cooperation through the exchanging of intelligence, and bilateral and multilateral agreements facilitated by common legal concepts. The tools to achieve this include financial institutions which are to produce records, identifying, freezing, seizing and confiscating criminal proceeds, together with extradition and prosecution agreements.

Of particular relevance to Asia is the advice given to compliant nations that they should be particularly wary of business relationships and transactions that involve countries that do not apply the recommendations. In other words unless Asia as a whole and/or specific nations do not clean up their act then it is almost certain that sanctions will be forthcoming
To enact anti-money laundering legislation, politicians must be convinced of the necessity of such a step. But willpower in itself is not enough: financial and manpower resources are both a prerequisite for a successful regime. Even if these are available relevant laws will only work if they are:

- Simple to understand and implement
- Efficient and effective
- Able to co-exist and supplement existing laws and procedures
- Have a strong deterrent element
- Are comprehensive

Money laundering is the lifeblood of crime, to cut off this supply should prevent criminals from retaining the proceeds of their activities by:

- Restraining or seizing property pending investigation and prosecution
- Confiscating property upon conviction
- Restraining and confiscating property where launderers have fled the country.

Crime can only succeed if the dirty money generated by such activity can be washed, and thus legitimized. If such cleaning can occur then the original (and subsequent) criminal activities expand and flourish. Money laundering is the key tool to enable this dirty dealing. Much activity, legislation, regulation and enforcement has taken place in the West to tackle the money laundering problem: but it still exists and shows no sign of abating. If the individual countries of Asia (both independently and collectively) do not begin to robustly and uniformly tackle the problem they run the very real risk that they will become ostracized and marginalized from the global economy, with devastating financial (not to mention social) results.

Postscript

This chapter was written in August 2001, and thus predates the terrorist atrocities of 11 September 2001. In many ways those events provide the most dramatic example of the social and political effects of money laundering. The Al Quada network could never have mounted such attacks without extensive laundering of their funds through the world's banking networks and systems, whilst the actual amounts needed to mount the September 11 attacks were relatively small, the key underlying volume of funds to support global terrorist activities are enormous. Much of this money is both generated in Asia and placed into the global banking system there. Thus the immediate need for unified worldwide enforcement action against money laundering has never been greater. Neither has the critical requirement for individual governments in the Asian continent to put their houses in order been more vital. Similarly the likelihood of severe enforcement action against non-compliant countries is now not just a probability but a certainty.

References and Further Reading.

There are (as far as am aware) very few — if any — books that solely focus on money laundering problems in Asia. This is probably just as it should be, bearing in mind the global nature of the problem. In writing this chapter I have made use of the following reports and books as background material:

Basle committee on Banking regulations and Supervisory Practices (1988),
Prevention of criminal use of the banking system for the purpose of money laundering. Basle.
Lilley P (2000) Dirty Dealing, Kogan Page, London.
The Financial Action Task Force (1999) The Forty Recommendations, Paris.
The Financial Action Task Force (2000a) Annual Report XI, Paris.
The Financial Action Task Force (2000b) First FATF Review to Identify
Non-Cooperative Countries or Territories, Paris.
The Financial Action Task Force (2001a) Annual Report XII, Paris.
The Financial Action Task Force (2001b)
FATF Review to Identify Non-Cooperative Countries or Territories: Increasing the Worldwide Effectiveness of Anti-Money Laundering Measures, Paris.
Sun Tzu edited by Clavell, J (1995) The Art of War, Hodder & Stoughton, London.
Transparency International (2001) Corruption Perception Index 2001, Berlin.

United Nations (1998) Convention against illegal traffic in narcotic drugs and psychotropic substances, Vienna.

US Department of State, Bureau for international narcotics and law enforcement affairs (January 2000), Narcotics Control Report, Washington.

US Department of State, Bureau for International Narcotics and Law Enforcement Affairs (January 2001) Narcotics Control Report, Washington.

Additionally many if not all of the documents and guidelines referred to can be found in full on the internet, links to all relevant sites are listed at my firm's website, www.proximal-consulting.com.