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Working Group A
Anti-Trafficking and the Role of the Business Community: How to Keep the Negative Economic Effects of Trafficking out of Legal Business

Summary of Country Reports

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Keeping the negative Economic Effects of Trafficking out of Legal Business is not just an issue of government-business cooperation. It is a function of conditions in a country and of government policies and activities, which have implications for businesses.

The single biggest problem with trafficking and the business community is that traffickers and related criminals mix with legal business and abuse it. Factors that worsen this phenomenon are: weak institutions, inability to fully implement legislation (especially anti-corruption and money laundering), large cash economies – where money remains outside of the banking system – and a climate of corruption, even it manifests itself as a tradition of offering "inducements" or "service fees." Country reports reflected a thorough understanding of the problem with sound steps to address it.

Some countries are faced with combating corruption and its facilitating factors on a broad scale, and undertaking comprehensive measures to mitigate them. Albania outlined an ambitious program in this regard. Croatia has introduced a law on preventing conflict of interest, which is an important facilitating factor for corruption. Other countries are working to separate trafficking and its negative effects from business by promoting the development of a vibrant private sector, especially small and medium enterprises (SMEs), and ensuring a climate conducive to business development. Azerbaijan is embarking on an aggressive program to promote entrepreneurial activity, and thanks to a presidential decree is working to rein in the extra-legal activities of some law enforcement agencies.

Many countries outlined steps to strengthen systems and institutions that implement and enforce laws and international obligations. This includes, as in Croatia, bringing international legislation on arms import and export in line with international standards and commitments. Good laws, properly enforced, on arms manufacture and trade, are critical to keeping the negative economic effects of trafficking out of legal business.

Specifically with arms trafficking, which is closely linked to the legal arms trade, many countries review arms export requests in multiple ministries, including the Ministry of Foreign Affairs, which advises on the political desirability of granting export licenses. Some countries, through their embassies, even investigate firms on whose behalf the export license is being requested, to ensure that the firms are legitimate. These steps help prevent cases where arms manufacturers may unwittingly sell arms to criminals.

There is great focus on industries typically used by traffickers and other criminals to launder profits. These include real estate, vacation properties, farms, clubs and restaurants. Poland is working to identify sectors where traffickers invest their proceeds and is impounding those proceeds. Similarly, states are focusing on identifying unusual transactions. Many states already require banks, exchange offices, casinos, insurance companies and stock brokers to report suspicious transactions. Liechtenstein requires due diligence in the financial sector, and actively promotes the “know your customer” concept.

Recognizing that criminals are often one step ahead of the law in finding ways to conceal and move assets, the Netherlands in 2001 began requiring traders in high value goods, such as art, cars, ships and precious stones to report unusual transactions, and in 2003 extended this requirement to non-financial service providers such as lawyers, notaries and real estate brokers. Sweden has made it an offense to launder proceeds of a serious crime, whether the laundering is intentional or by negligence.

As was mentioned in the opening plenary, a state’s transformation from being primarily a source or transit country to being primarily a destination country for trafficking is a perverse indicator of economic development. Somewhat in this same vein, the reports suggest that some states would consider it a luxury if they could devote significant energy simply to keeping the negative effects of trafficking out of legal business. Structural weaknesses and a climate of corruption make this extremely difficult.

Israel noted its “unwillingness to compromise with corruption,” and indeed, countries with low or less widespread corruption are primarily destination states for trafficking. In countries with strong economies and a low tolerance for corruption, governments and business are working together to separate trafficking and related criminal activity from legal business.

Swedish financial authorities have issued advice and general instructions for financial institutions for taking action against money laundering. The Netherlands works with businesses to determine where government regulation is needed and where self-regulation is sufficient. Indeed, there are promising trends in this regard. Self-regulation is on the rise, especially in banking, transportation and the chemical industry. In the Netherlands, some banks have voluntarily established preventative policies against money laundering, including transaction monitoring systems and software. In the Czech Republic, the Act on Measures Against Legalizing Crime Proceeds permits financial institutions to delay execution of suspicious transactions.

Countries are promoting corporate governance and responsibility with respect to safe guarding human rights and upholding labor standards. Business associations in the Netherlands are working to combat misuse of chemical products and abuse of the transportation industry, including in the latter case, raising awareness of trafficking among truck drivers and training them on identifying suspicious cargo. As in the arms industry the chemical industry often sees its products diverted for illegal use, and this sector has been particularly active in trying to control distribution of dual use products and diversion of precursors. In this respect, the European Chemical Industry Council has made great strides in self-regulation and standard setting.

The Netherlands also has an anonymous phone line to report criminal offenses; businesses can use it if they are approached to transport "dubious" goods. In the first eight months of operation, several tips resulted in 50 arrests and substantial drug seizures.

One last topic cannot be left out. Some OSCE participating States have legalized substances and activities that are illegal elsewhere in the OSCE space. The only observation to make here is that to the extent that <u>any</u> business is in the mainstream, including not being part of the grey economy, governments can monitor it, regulate it, prevent its abuse, and tax it.

In closing, based on the trends in the country reports, there are at least three areas where the OSCE might play a useful role in keeping the negative economic effects of trafficking out of legal business. The first is raising awareness and educating businesses on how they might be misused by traffickers and other criminals. Second is reducing the tolerance for corruption, and third is working with professional associations to promote self-regulation.