

CHAPTER 5

DEVELOPING A COMPREHENSIVE PREVENTION AND ENFORCEMENT FRAMEWORK AGAINST MONEY LAUNDERING AND TERRORIST FINANCING IN NAMIBIA, 2004 TO 2006

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Introduction

This chapter attempts, firstly, to analyse the nature of money laundering activities observed during the period 2004 to 2006. Real cases are relied upon to highlight the predicate crimes that generate funds that are subsequently laundered, the manner in which such funds are laundered and the state's initiatives to counter these activities.

Secondly, the presentation of case studies helps to distinguish between entities that were set up to corrupt and facilitate criminal enterprise and those that were corrupted by subsequent changes in ownership or changes in the economic environment.

Thirdly, the chapter describes legitimate entities that are corrupted by criminally exposed employees who facilitate the theft of funds from their employers through various corrupt activities. These funds are subsequently laundered by the employees and their external associates on a non-institutionalised basis. In other words, the leadership is not corrupt, but the entity is infiltrated by corrupt insiders.

Fourthly, there is an examination of entities that unwittingly or unknowingly become embroiled in money laundering, either because unqualified and inexperienced personnel are unable to detect money laundering, or because they are negligent in applying existing anti-money laundering mechanisms.

In Namibia during the last few years the entities that have been prone to the second and third scenarios are government institutions that generate large

sums of money through employee or public contributions and have an investment responsibility towards depositors. These include but are not limited to the Social Security Commission (SSC), the Overseas Development Corporation (ODC) and the Government Institutions Pension Fund (GIPF). The adverse consequences of the absence of anti-money laundering legislative and regulatory mechanisms are brought into sharp focus through a diagnostic examination of the criminal activities that have occurred at some of these institutions.

Fifthly, real cases are used to highlight the vulnerability of a developing country such as Namibia to money laundering as a result of the competition for foreign direct investment. On the one hand there is a need to ensure that the country complies with international obligations by adopting measures to promote and protect the integrity of its financial sector against money laundering, while on the other there is the socio-economic necessity to attract and retain foreign investment. Caught between a rock and a hard place, Namibia has decided in favour of fostering a clean business and investment environment by criminalising all forms of money laundering, preventing the financing of terrorism, and establishing institutions to enforce these objectives. As the cases show, it is not always possible to distinguish a genuine investor from a fugitive money launderer from another jurisdiction. The true circumstances of an individual's professed desire to invest in and make Namibia his home may or may never be revealed, even with the best mechanisms in place to detect and prevent money laundering.

Finally, the prevailing anti-money laundering framework and the adequacy of the state's responses are examined and measured against the backdrop of the successful perpetration of fraud and corruption against the institutions concerned.

Although law enforcement efforts in the area of prevention, prosecution and punishment have largely been preoccupied with predicate crimes, money laundering is so significant and pervasive that it deserves serious attention.

In Namibia, organised crime involves not only the traditional drug-trafficking associated with money laundering but other profit-influenced criminal activities such as illegal dealing in precious minerals, trafficking in endangered species, exchange control crimes, armed robberies involving huge amounts of money, fraud and corruption, and human trafficking.

A further worrying trend is the involvement of migrants in varying types of syndicated and sophisticated crimes such as piracy of intellectual property, abuse of telecommunications technology, kidnapping and extortion.¹

The falsification of identity documents and residence permits has been widely reported.² This is a troubling issue because it has the potential to facilitate the migration of money launderers and organised crime groups to Namibia.

Anti-money laundering framework: the banking institutions sector

The Bank of Namibia's regulatory and supervisory role

The Bank of Namibia (BoN), which was established in terms of the Bank of Namibia Act 1997 (Act No. 15 of 1997), is the central bank. It has regulatory and supervisory powers over the operation of banking institutions and bureaux de change in terms of the Banking Institutions Act 1998 (Act 15 of 1998). An important component of its supervisory role is the governor's power to issue directives (called "determinations") on any matter of banking activity. The BoN has the power under section 71(3)(b) of the Banking Institutions Act to issue general determinations on any matter for the proper regulation of the financial sector.

The Banking Institutions Act provides the regulatory framework within which banking institutions operate and defines the powers and authority of the BoN in its relationship with defined banking institutions.

The BoN is the licensing and regulatory authority for banking institutions and has powers to investigate instances of illegal banking activity, including the power to examine the financial affairs of any banking institution to ascertain its liquidity and viability. It can also require banking institutions to report to it any money transactions that indicate illegal activity.

Customer due diligence

Before the advent of legislation to criminalise money laundering in Namibia, the power to compel banks to be vigilant against money laundering was vested in the Governor of the BoN. In the exercise of such powers the current governor,

Tom Alweendo, issued determinations on money laundering and ‘know your customer’ policy.³ The determinations were influenced by the 1988 Statement on the Prevention of Criminal Use of the Banking System for the Purpose of Money Laundering, issued by the Basel Committee on Banking Regulations and Supervisory Practices (the Basel Committee). The object was to encourage the banking sector, through “a general statement of ethical principles”, to adopt a common position in order to ensure that they were not used to hide or launder funds acquired through criminal activities, in particular through drug trafficking.

As stated in Drage (1993), the central principles of the Basel Statement were:

- the implementation of ‘know your customer’ principles, requiring banks to determine customers’ true identity through effective procedures for verifying identity particulars;
- compliance with laws, requiring the management of banks to ensure that business is conducted in conformity with the law and with high ethical standards, and that a service is not provided where there is good reason to suppose that transactions are associated with laundering activities;
- co-operation with law enforcement agencies, requiring banks – within the constraints imposed by rules relating to customer confidentiality – to co-operate fully with national law enforcement agencies, including instances where there are reasonable grounds for suspecting money laundering;
- attention to staff training in matters covered by the statement; and
- implementation of specific procedures for retaining the internal records of transactions.

The BoN was also influenced and guided by the Forty Recommendations of the Financial Action Task Force (FATF) on the prevention of money laundering, which it adopted. Recommendations 9 to 29 deal with the enhancement of the financial system and are particularly significant.

Reporting obligations

The BoN adopted a proactive approach to promote and protect the integrity of the Namibian banking system. Section 50 of the Banking Institutions Act obligates banks to report suspicious transactions to the BoN. To implement this provision, the governor issued a determination specific to money laundering and another on reporting suspicious transactions and transactions above a stipulated threshold. A suspicion-based and threshold-based reporting regime is thus applied in Namibia.

The BoN set the agenda for banking institutions, determining minimum safeguards for them to detect and prevent money laundering. It specifically warned banks to be particularly careful with fund transfers, especially those involving international funds, as these could be used for layering the proceeds of crime or disguising the identity of the beneficiary.

The BoN has the power to suspend operations or, in the event of conviction under the Act for illegal banking activity, to close down the business altogether.

The banking sector’s response

Core banks carrying on business in Namibia are First National Bank, Nedbank, Standard Bank and Bank Windhoek. All have significant foreign shareholding, primarily South African. This has a number of positive implications for anti-money laundering efforts: important policy decisions are directed from South Africa; the banking practices pursued by these banks are the same as those followed in South Africa; and South African legal requirements, such as anti-money laundering provisions applicable in South Africa, are applied to Namibian banks.

In line with international standards and the directives of the BoN, banking institutions register and verify the identity of a customer before entering into any transaction or providing a service to the customer. In practice they register and verify financial transactions concluded in or from Namibia for establishing a long-term business relationship with a customer. The transactions and services include

- opening savings, current, securities and deposit accounts;

- providing safety deposit facilities;
- taking custody of securities, bank notes, cash, precious metals and other valuables;
- collecting dividends and interest;
- issuing bonds and negotiable instruments;
- making payments on life insurance contracts (in such cases the person paying the premium and the beneficiary are recorded and verified):
- payments by a customer to an unfamiliar individual beneficiary;
- transactions of an unusual nature; and
- issuing credit cards.

Banking institutions do not normally verify the identity of individual customers who exchange Namibian dollars in cash for South African rand as both are legal tender in Namibia because the country is a member of the Common Monetary Area (CMA). This may potentially facilitate money laundering.⁴

Identity verification for Namibian citizens is by means of a national identity document. In the case of foreign nationals, a passport with proof of temporary or permanent residence as well as proof of employment or business, may suffice. When additional verifying documentation is required, this may include municipal or telephone accounts. For companies and other corporate entities, proof of incorporation and registration is required. Legal entities incorporated abroad need to produce a notarised proof of foreign registration.

Banking institutions typically record the name and address of the client, and the nature, number, date and place of issue of the identification document produced by the client. A bank official will make a photocopy of the original identity document and record the nature of the transaction, including a description of the account opened and details about the value of the instruments or cash deposited. Banks rely extensively on their branches to implement 'know your customer' principles and to maintain accurate records. Bank clerks and branch managers therefore have an important responsibility as the first line of defence against the abuse of banking institutions for money laundering purposes.

Internal audit departments and money laundering control officers are a feature of the organisational and operational structures of banks. Reports relating to suspicious transactions and transactions involving amounts exceeding the limits set by the central bank must be made to them. Money laundering compliance officers are usually members of the internal audit departments or senior legal officers of the bank. They investigate reports made to them and decide whether the cases should be referred to the central bank in accordance with the determinations. In certain banking institutions they are authorised to report to the central bank before reporting to internal superiors. This enables them to make independent, objective and timely judgements when exercising the discretionary power vested in them, and reduces the incidence of baseless reports.

In addition, banks have defined training programmes on money laundering for staff members, including bank tellers, branch managers and senior personnel. These programmes are conducted continuously and involve in-house as well as external training in the form of seminars, conferences and workshops.

Over the years banking institutions have been united in combating money laundering. A clear manifestation of this unity of purpose is "Vigilance on Money Laundering Activities" – a public statement issued jointly on 22 March 2005 by the 'big four' banks, comprising First National Bank, Standard Bank, Bank Windhoek and Nedbank. This statement was significant for several reasons: it sensitised the public to the nature and threat of money laundering; it sent out a clear message to money launderers of the commitment by the banking sector to adopt measures to deal with the problem; and it prepared customers for impending legal and operational changes under the Financial Intelligence Centre Act (FICA), which would have far-reaching effects on the relationship between banks and their customers.

The Financial Intelligence Centre Bill has now been passed by Parliament after it was referred back in 2005 for corrections and amendments to key provisions. It awaits approval by the National Council, the reviewing body for legislation, before it is submitted to the President for signature into law.

The recent arrest of 54-year-old multimillionaire fugitive Kobi Alexander, an Israeli citizen and a resident of the United States of America, has significantly

vindicated the proactive approach of the central bank and banking institutions in the absence of legislation criminalising money laundering.

Money laundering prevention and enforcement: the non-banking financial sector

There is at present no prevention or enforcement framework for money laundering in non-banking financial institutions. However, a regulatory and supervisory body was set up in accordance with legislation to supervise and regulate activities within this sector. The body – the Namibia Financial Institutions Supervisory Authority (NAMFISA) – was established by legislation in 2001.⁵

The functions of NAMFISA are “to exercise supervision in terms of the Act or any other law over the business of financial institutions and over financial services; to advise the Minister of Finance on matters related to financial institutions and financial services, whether of its own accord or at the request of the Minister”.⁶

Financial institutions subject to supervision by NAMFISA include public accountants and auditors who are members of the Institute of Chartered Accountants of Namibia, pension and provident funds, friendly societies, money lenders, unit trust schemes, participation bond schemes, managers of participation bond schemes, licensed stock exchanges and brokers, medical aid funds, persons registered as Lloyds intermediaries, insurers and re-insurers, insurance agents and insurance and re-insurance brokers, boards of executors or trust companies, and any persons who render financial services as a regular feature of their businesses even if they are not registered.

Money laundering is not a matter within its statutory mandate. Adolf Denk, NAMFISA’s legal adviser, confirmed this, notwithstanding the fact that in the normal course of on-site supervisory inspections NAMFISA does cover vulnerability and exposure to money laundering and terrorist financing. However, in anticipation of financial intelligence legislation and the additional reporting obligations expected under such legislation as part of its supervisory requirements, NAMFISA has drafted a Bill that has been distributed within the non-banking sector for consideration. Among other things the bill seeks to combat financial crime, the definition of which includes money laundering and terrorist financing.

Prevention and enforcement: other commercial sectors and the informal sector

The current absence of anti-money laundering legislation is a serious weakness because money launderers use the broader commercial/retail sector to conceal the proceeds of crime by purchasing property, valuable movables and luxury goods. The informal sector can also be abused by operating small businesses and passing them off as the source of funds when in fact legitimate and illegitimate funds are being mingled to obscure the criminal source. There is a proliferation of informal liquor outlets, restaurants and taxis in Namibia. These are small but rapid cash-intensive businesses through which money laundering can be carried out. It is therefore necessary to implement measures to prevent money laundering in this area. A ministerial task force is looking into this, and the Prevention of Organised Crime Act (POCA), once it comes into force, will address this loophole.

Although the Namibian initiatives to address the phenomenon of money laundering were influenced by developments on the international front, an important role was played by civic, academic and research organisations inside the country and the influence of the BoN was crucial.

The cases described below demonstrate the rising incidence over the years of predicate crimes associated with money laundering, which galvanised efforts to criminalise this activity and adopt prevention and enforcement measures through legislation.

Anti-money laundering enforcement measures: the emerging regime

The criminalisation of predicate (underlying criminal) acts

Fraud and crimes involving theft and robbery are criminalised in terms of the common law of Namibia.

Legislation to combat corruption was passed in 2003 and came into force in 2005. The reach of this legislation is broader than that of common law bribery, which deals only with public officials. Corrupt activities in both the public and private sectors are encompassed by the legislation. An independent body

to investigate corruption, the Anti-Corruption Commission (ACC), was established in terms of the Act in February 2006. It consists of a director, deputy director and other members of staff. The director and deputy director are appointed for five years by the National Assembly after nomination by the President.

The ACC will now be the primary organ to investigate corruption cases, but is not the only organ that has this function. In terms of article 91(f) of the Namibian Constitution the ombudsman has “the duty to investigate vigorously all instances of alleged or suspected corruption and the misappropriation of public monies by officials and to take appropriate steps, including reports to the Prosecutor-General and the Auditor-General”.⁷ It was in fact through the exercise of the ombudsman’s function in this regard that the first SSC scandal came to light.

Illicit dealings and trafficking in drugs and prohibited substances are criminalised under the Combating of the Abuse of Drugs Act, a new piece of legislation passed in October 2006. It prohibits the consumption, trafficking, sale and possession of dangerous, undesirable and dependence-producing substances and prescribes jail terms ranging between 20 and 40 years and/or fines of between N\$300,000 and N\$500,000.

Namibia has not ratified the United Nations (UN) Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 because the legislation then in force was archaic. Deputy Minister of Safety and Security, Gabes Shihepo, told Parliament when he tabled the new Bill that ratification would be made once the new Act became operational.

Illicit dealing in diamonds is dealt with under the Diamond Act. In addition there is legislation in force to address illegal dealing in protected resources such as wildlife and natural resources. Motor vehicle theft is recognised as a serious and specific problem on its own and is dealt with under the Motor Vehicle Theft Act.

Criminalisation of money laundering and organised crime

The POCA was passed by Parliament in 2004 and assented to by the President. It is a comprehensive piece of legislation that deals with, among other things, money laundering control. It is not yet operational and has been dormant

since 2004 pending the fixing and publication of the commencement date and the promulgation of subsidiary legislation necessary to implement the provisions of the Act. The effectiveness of the Act will only be measurable over time, but the application and enforcement of its provisions is sure to determine the course of money laundering and organised crime control in Namibia.

The Act provides for measures to combat organised crime, money laundering and criminal gang activity. The Act creates an enforcement framework by prohibiting racketeering and criminal gang activities, creating the crime of money laundering, and making provision for the reporting of financial transactions. It further provides for the seizure, confiscation and forfeiture of assets associated with the criminal activity that falls within the framework of the Act. It also establishes a unit to deal with asset forfeiture, creates a Criminal Assets Recovery Fund and a Criminal Assets Recovery Committee, and criminalises human trafficking.

The essence of the crime of money laundering is disguising the unlawful origin of property. The crime is committed when persons who know or ought to have known that property is part of the proceeds of unlawful activities conceal or disguise the nature, origin, source, location, disposition or movement of such proceeds or their ownership or interest in them, or enable or assist other persons who have committed offences in or outside Namibia to avoid prosecution, or remove or diminish property acquired as a result of the commission of an offence, whether that acquisition occurred directly or indirectly.

The crime is also committed when a person assists another to benefit from the proceeds of unlawful activities. This occurs when a person who knows that someone has obtained the proceeds of unlawful activities enters into an agreement, arrangement or transaction with the other person to facilitate the retention or control of the proceeds. In addition, it is committed when a person acquires, uses, has possession of or brings into or takes out of Namibia property with the knowledge that it forms part of the proceeds of unlawful activities. The crime is also committed by a director, manager or secretary of a corporate body that commits a money laundering offence.

Forfeiture will take place within a framework in which the rights of innocent third parties are protected. Criminal and civil forfeiture are both provided for, and forfeiture is possible without a criminal conviction.

The Act further creates reporting obligations and duties if there is suspicion of money laundering. As the proposed FICA will also require the reporting of certain activities, there is a danger that two parallel reporting regimes will be created unless the two statutes are harmonised.

The Financial Intelligence Centre Bill

This Bill, which was initially tabled in Parliament in February 2006 but withdrawn to rectify numerous deficiencies, was tabled again in September 2006. It introduces mechanisms and measures to prevent and combat money laundering, and sets up a framework procedure that encourages voluntary compliance and self-regulation by institutions that can be exploited for money laundering purposes. It aims to promote and protect the integrity of the financial sector.

The Bill proposes the establishment of a Financial Intelligence Centre (FIC), described in Parliament as “a purely administrative institution whose main objective is to collect and analyse financial information”.⁸ However, it will have the power to freeze suspicious money found in the financial system and to investigate money laundering. Other functions include receiving reports, collecting information considered relevant to money laundering or the financing of terrorism, processing and analysing information, disseminating reports to law enforcement and supervisory bodies, directing accountable institutions, and issuing determinations to any supervisory body to enforce compliance by accountable institutions. It will also compile statistics and records, disseminate information territorially and extra-territorially and make recommendations. The FIC will have training and research responsibilities, and will report back on the outcomes of investigations to accountable institutions.

The FIC will operate within the BoN, although the latter, as a supervisory institution, will be required to report to the FIC.

The findings of the FIC will be sent to the relevant law-enforcement agencies for further investigation. One of the criticisms raised when the Bill was first tabled was that the functions of the FIC would overlap with those of other enforcement

bodies such as the Namibian police (NAMPOL), the Namibia Intelligence Services and the ACC. Deputy Finance Minister Tjekero Tweya insisted that these institutions would be complementary as “all cases investigated by these institutions will ultimately end up with the Prosecutor-General’s office and the courts”.⁹

The Bill lists 22 accountable institutions, including banks, insurers, auditors, accountants, lawyers, estate agents and casinos. Supervisory bodies include the BoN, NAMFISA, the Law Society, the Registrar of Companies, the Estate Agents Board, the Public Accountants and Auditors Board, the Namibia Stock Exchange and the ACC.

The Bill spells out the duties of accountable institutions in identifying clients when business relationships are established or single transactions are concluded, and in record-keeping.

Accounts may be monitored if a court order by a judge in chambers is obtained directing an accountable institution to report transactions of a specified person. There have to be reasonable grounds for suspicion of money laundering. Provision is also made for the protection of persons making reports, including whistle-blowers, and for the protection of confidential information.

The FIC will have the power to institute enquiries against accountable institutions reasonably suspected of committing an act, including negligence, which may constitute an offence, and to make findings and impose sanctions. The procedure for this is also set out in the Bill, which prescribes various general offences, severe monetary penalties up to N\$100,000, and prison terms of up to five years. In addition, specific offences by listed accountable institutions and supervisory bodies are spelt out.

The provisions of the Bill broaden the scope of institutions that may be abused for money laundering and the financing of terrorism, and the measures for prevention and enforcement. Currently only banking institutions supervised by the central bank are covered.

After the experiences of the SSC, the ODC and GIPF – statutory bodies that handle large portfolios of depositors’ funds – it is imperative to extend the reach of the FIC legislation to cover these institutions and to improve corporate

governance and accountability. A major weakness of the proposed legislation is its failure specifically to encompass these institutions.

Investigation of predicate activities and money laundering

The investigation of corruption falls primarily within the mandate of the ACC. The ombudsman also has a duty to investigate corruption and misappropriation of money by public officials. However, NAMPOL has the power and authority to investigate all criminal matters including corruption.

NAMPOL has specialised units within its structures that investigate criminal conduct of specified kinds. These units include the Protected Resources Unit (PRU) for diamond legislation transactions, the Commercial Crimes Unit (CCU) for serious fraud and theft, the Motor Vehicle Theft Unit (MVTU) for theft of motor vehicles and related conduct, the Drug Law Enforcement Unit (DLEU) for drug-related criminal activity, and the Serious Crime Unit (SCU) for crimes such as armed robbery that involve violence. When POCA becomes operational it is conceivable that a new specialised unit may be required with a mandate to investigate money laundering, organised crime and racketeering activities, and to handle asset forfeiture.

Prosecution and punishment

In general, criminal proceedings commence with a complaint filed with the police. However, complaints relating to alleged corruption can also be filed with the ACC in the first instance. The decision to prosecute rests in all cases with the Prosecutor-General, an independent constitutional authority responsible for prosecution in terms of Article 88 of the Namibian Constitution.

Namibian courts are independent. Magistrates' courts and the High Court of Namibia have jurisdiction to try criminal matters as courts of first instance, depending on the level of sentencing jurisdiction required in each case. The sentences stipulated in legislation generally represent the maximum sentences permitted. Legislation may also provide for mandatory sentences. However, whether a person is convicted of a common law crime or a statutory offence, sentencing remains largely a matter within the discretion of the court with due regard to precedent under the *stare decisis* principle.

Tracing and confiscating the proceeds

When POCA comes into force the tracing and confiscation of the proceeds of criminal activities will assume great importance. The Act provides for comprehensive measures and procedures to facilitate seizure, confiscation and forfeiture.

For the moment, confiscation and forfeiture procedures continue to be applied within the parameters established by the Criminal Procedure Act. This entails confiscation as part of the sentencing process or disposal of seized exhibits.

At present the court may deprive a criminal of the proceeds of his criminal conduct by suspending a portion of any prison sentence on condition that the convicted person makes full restitution.

Another way of recovering the proceeds of crime is through sequestration proceedings. In the scandal involving the SSC and Avid, the court turned sequestration proceedings into a public enquiry to trace and recover N\$30 million that had been invested by the SSC with Avid Investments. Andrew Corbett, counsel for the SSC, informed the court that the SSC expected to recover about \$25 million of the money that was misappropriated. The sequestration of Avid, Namangol Investments and the estates of their directors was not finalised during the period under review.

Measures to foster transnational co-operation

Awareness of global trends

The early adoption of the Basel Statement and the FATF recommendations by the BoN, and the subsequent application of the principles they contained even before money laundering legislation was enacted, are testimony to the awareness of global policy trends.

This awareness has grown as a result of Namibia's participation in international affairs. In addition, international bodies and academic and research institutions such as the Institute for Security Studies have facilitated training workshops, seminars and conferences on money laundering and

related issues that have been attended by government officials and by banking and law enforcement personnel.

Namibia is a member of the community of nations. Article 144 of the Namibian Constitution declares that “[u]nless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia”.¹⁰

Namibia is therefore bound by the provisions of Security Council Resolution 1373 of 28 September 2001 dealing with terrorism. It is also a party to the International Convention for the Suppression of the Financing of Terrorism (1999), having signed it on 10 November 2001.

Effectiveness of mutual assistance processes

Legislation is in force to facilitate the extradition of suspects.¹¹ A mutual legal assistance law also exists.¹² The International Co-operation in Criminal Matters Act 2000 (Act 9 of 2000), which deals with mutual assistance in criminal matters, has been in force for several years. The object of this Act is to facilitate the provision of evidence and the execution of sentences in criminal matters and the confiscation and transfer of the proceeds of crime between Namibia and foreign states. The states to which the provisions of the Act apply are those specified in a schedule to the Act or states that are party to an agreement with Namibia. At present the only states covered are SADC members, which clearly limits the ambit of co-operation.

Despite this apparent limitation the application of the Act is flexible, as shown by the level of co-operation between the United States of America and Namibia in the extradition request for Jacob Alexander (whose case is discussed below). A presidential proclamation specifying the United States of America as a state to which the Act applied was passed in record time to facilitate Alexander’s extradition.

The Extradition Act 1996 (Act 11 of 1996) recognises the principle of dual criminality. Extradition is authorised only in cases of what is termed “an extraditable offence”. This is an offence committed within the jurisdiction of a

country that has an extradition treaty with Namibia or is a specified country, and which constitutes an offence under the laws of that country, punishable by a imprisonment of 12 months or more, and which, had it occurred in Namibia, would have constituted an offence punishable by imprisonment of 12 months or more. Differences in terminology, categorisation or the constituent elements of the offence between Namibia and the requesting country are immaterial to whether Namibia would grant an extradition request.

In the past Namibia has pursued criminal suspects to South Africa and obtained their extradition. These include Ivan Ganes for fraud committed at Telecom Namibia, Hyacinth Nangisa and, most recently, Jason Awene for armed robbery. Extradited suspects have included both South African and Namibian citizens.

However, the extradition of Juergen Koch has been unsuccessful. The Namibian Supreme Court ruled that the state and through it Germany had failed to establish a *prima facie* case for extradition. The court cited shortcomings in the evidence presented by the requesting authority and technical failures, such as the failure to translate apostilles used to authenticate German documents. In freeing Koch, the court pointed out that the Extradition Act is cumbersome and the threshold of proof required so high that it is virtually impossible for the state to establish a *prima facie* case for extradition. It recommended the overhaul of the Act to make it easier to extradite criminal suspects.

The Koch judgement is potentially beneficial to Jacob Alexander when his extradition hearing commences. It further underscores the imperative for user-friendly and effective extradition legislation and the adverse consequences of the absence of such legislation.

Transnational structures to trace and confiscate the proceeds of crime

At present little priority is given to tracing and confiscating the proceeds extra-territorially because there is no legislative framework in force to deal with such issues. However, this does not imply that extra-territorial tracing and confiscation within the parameters of existing legal structures is impossible. For example, in the Jacob Alexander case the USA has indicated that it will seek to confiscate and forfeit a substantial amount of allegedly

laundered funds, some of which are held by banking institutions in Namibia. Namibian law enforcement authorities and the BoN have accordingly frozen these funds, pending further proceedings, in terms of their existing powers under the BoN Act, the Banking Institutions Act and the Criminal Procedure Act.

Once POCA and FICA become enforceable, appropriate structures to address these matters will be established. These will involve NAMPOL, Interpol, the BoN, the FIC, the Prosecutor-General, an envisaged asset forfeiture body, and the Directorate of International Affairs and Co-operation in the Ministry of Justice, which is the “competent authority” in matters of mutual legal assistance and extradition.

Co-operation agreements

Namibia has signed a number of SADC, African Union and UN conventions. These include the UN Convention against Transnational Organised Crime and two of its protocols, the UN and African conventions on combating corruption and SADC protocols on combating corruption.¹³ Namibia is not a party to the SADC Protocol against Trafficking in Illicit Drugs. It has not yet signed or ratified the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances because it is in the process of promulgating new legislation in the area of licit and illicit drugs. In October 2006 the Namibian Parliament ratified the SADC Protocol on Extradition and the SADC Protocol on Mutual Legal Assistance in Criminal Matters.

Namibia is also a signatory to the memorandum of understanding establishing the Eastern and Southern African Anti-Money Laundering Group (ESAAMLG) and subscribes to its objectives and programmes on money laundering control. It has undergone the mutual evaluation programme as part of its obligations.

Also ratified are seven of the universal instruments against terrorism, including the International Convention for the Suppression of the Financing of Terrorism (1999). It is also bound by Security Council Resolution 1373 of 28 September 2001. An anti-terrorism Bill is still being drafted and it would serve no useful purpose at this stage to comment on its proposed content.

Indicators of money laundering: some notable case studies

Money laundering occurs within and across territorial boundaries, and involves both local and foreign nationals. The cases examined below highlight the international dimension that often characterises money laundering, underscoring the imperative for international co-operation in countering organised crime, money laundering and financial crime in general.

The cases underscore the unlimited possibilities open to potential money launderers with huge financial resources. They can flee to countries where there are good prospects that they will be allowed to enjoy the proceeds of their criminality. In the process the proceeds of crime are moved through legitimate and illegitimate banking channels, and business links are established with influential locals, including lawyers or accountants. Such links are indispensable – not only for successful relocation and settlement but also to obtain advice on pertinent legal issues such as extradition, money laundering laws, immigration requirements and investment opportunities. Investments are made in legitimate business ventures and property. If the money launderers are not detected they can escape the reach of the law and live as respectable business people in their adopted countries. In the absence of effective anti-money laundering laws, as well as extradition and mutual legal assistance regimes, the possibility of arrest, detention and extradition becomes nothing more than a consequential business risk, and with unlimited financial resources the prospect of drawn-out legal proceedings becomes a challenge to be met and resisted at all costs.

The cases also demonstrate the vulnerability of developing countries desperate to attract foreign investment, and the extent to which they can be exposed to money laundering activities.

Case study: Vito Biggioni

Vito Biggioni di Mazara, an Italian millionaire, had been living in Namibia with his wife and children for several years. In 1999, with funds brought from abroad, he purchased La Marina, a three-coach train restaurant on the beach north of Langstrand between the towns

of Walvis Bay and Swakopmund on the Atlantic coast. He then spent millions of Namibian dollars¹⁴ to upgrade it to an ultra luxury restaurant and accommodation facility. He also invested in a fourth coach from Namrail (Transnamib), which was paid nearly a million Namibian dollars to place the coach on tracks in front of the other coaches. He made this huge investment intending to live in Namibia. The restaurant was later destroyed in a fire.¹⁵ At the request of the Italian government he was arrested pending deportation on allegations of involvement in organised crime and drug trafficking. The Italian authorities alleged that he was a member of the Sicilian Mafia and had been sought since 1995. However, the court found that the evidence produced for extradition purposes was insufficient and ordered his release from custody.¹⁶

In May 2004 the Italian authorities reported that he had been arrested in Venezuela following a joint international police operation. It was reported that he was one of Italy's most wanted suspects who had played a key role in international drug trafficking as the link between the Sicilian Mafia and Colombian drug cartels. Palermo prosecutor Pietro Grasso alleged that his role in cocaine trafficking "brought huge profits into the coffers of Cosa Nostra bosses in recent years".¹⁷ He was on a list of Italy's 30 most wanted fugitives, and Italian authorities claimed that during his years as a fugitive he had taken a larger role in the Trapani branch of the Mafia. He also helped other mob fugitives seeking refuge in Africa.¹⁸

According to reports, Biggione denies all the allegations. The current status of this investigation is not yet known.¹⁹

Case study: Hans Juergen Koch

A German citizen, Koch has been in custody since 14 October 2002 following his arrest at the instance of German authorities and has been fighting extradition since then in the magistrates' court, which ruled in favour of extradition, in the High Court of Namibia, which dismissed his appeal (prompting the Minister of Justice to sign the relevant authority) and in the Supreme Court of Namibia, where his final

appeal was heard in October 2006. The Supreme Court has since upheld his appeal against extradition.²⁰

Koch is wanted in Germany on 203 charges of fraud, involving the equivalent of N\$440 million, 12 counts of tax evasion involving the equivalent of N\$24 million, and four counts of falsifying documents. He allegedly defrauded dozens of German local authorities through the activities of a finance company that he ran in Germany between 1987 and March 2000. In the process he allegedly diverted millions of Deutsche Mark into his own bank accounts. The German ambassador claimed in the extradition request that between 1996 and 1999 Koch had misappropriated the equivalent of some N\$110 million for his own benefit from the financial transactions he had had with local authorities. It is believed that some of the proceeds of his alleged activities in Germany were transferred to Namibia and invested there.

Koch had been living and running La Rochelle, an upmarket game farm near the northern mining town of Tsumeb, which he had bought in 1994. The farm was a favourite destination for international hunters, mostly German.

Case study: Jacob Alexander

If the allegations against him are true, the Jacob 'Kobi' Alexander case shows the unlimited doors that ill-gotten wealth can open for a money launderer.

Alexander is an Israeli-born permanent resident of the United States of America, a former intelligence officer turned high-technology entrepreneur. He founded Comverse Technology Inc, a NASDAQ-listed telecommunications software company, and was its chief executive officer. Comverse is said to be the world's largest maker of voice-mail software.²¹

On 27 September 2006 he was arrested in Windhoek pending extradition at the request of the US Federal Bureau of Investigation (FBI). He had been on the FBI's 'Most Wanted' list since 31 July 2006 for failing

to appear in a New York court to answer charges of securities fraud. An international manhunt was launched after Alexander's disappearance from the United States in July 2006.

He "allegedly had a role in orchestrating a scheme to manipulate the granting of millions of dollars worth of company stock options to himself, his co-conspirators and other employees", achieving this "by fraudulently backdating options and operating a stock options slush fund".²²

His alleged co-conspirators – David Kreinberg, former chief finance officer of the company and William Sorin, former senior general counsel – surrendered in August and were released on bail. Both have since pleaded guilty to conspiracy and are now 'co-operating witnesses' for the government in the case against Alexander.

The case against the three men accuses them of making stock options more lucrative by backdating their exercise price to a low point in the stock value. This was possible because a stock option's exercise price usually coincides with the market value at the time of grant to give the recipient an incentive to drive the price higher.²³

It was further alleged in the complaint that from 1996 to 2006 Alexander exercised options and sold stock worth approximately US\$150 million (N\$1.152 billion), making US\$138 million (N\$1.05 billion) profit. Of that profit, US\$6.4 million was generated by backdating stock options.

Prosecutors also alleged that that Kreinberg and Sorin earned US\$1 million each from backdated options. The company also awarded thousands of stock options to fictional employees, then transferred the awards to an internal account under the name IM Fanton. The scheme enabled Alexander to award those options to real "favoured employees" and to himself without the approval of the board of directors.

Alexander faces a maximum 25 years if convicted for securities fraud, the most serious of the charges against him. The indictment also seeks an order for the forfeiture of about US\$138 million (N\$1.05 billion) of his assets. He faces 32 counts of crimes relating to an alleged 'slush fund', the backdating of stock options between 1998 and 2006, and money laundering.

Alexander was traced to Namibia through tracking the movements on bank accounts in the United States, Israel and Namibia. It is alleged that the funds were received through a lawyer's trust account in Namibia, which reported the largish receipts to the BoN. This led to further investigations, which ultimately involved US authorities.

He is alleged to have conducted a series of financial transactions with the proceeds derived from backdated stock options that he had exercised. He transferred US\$64.8 million from his accounts with Citigroup Smith Barney to two banks in Israel with the intention of concealing the tainted funds from law enforcement.

In the two months after his arrival in Windhoek from Israel with his family, Alexander transferred about US\$16 million²⁴ (N\$120 million) to Namibia from Israel, bought a house for N\$3.8 million, acquired a luxury motor vehicle, and enrolled his children at a local school. He established links with powerful lawyers, business partners and friends as he sought to make Namibia his temporary home while fighting attempts by the United States to extradite him. He invested US\$1.5 million (N\$11 million) in local low-cost housing and other start-up business ventures in partnership with certain Namibian citizens.

He obtained support from the Namibian Investment Centre and the local Jewish community, and was granted a two-year residence permit, having demonstrated a capacity to invest in Namibia and a commitment to making the country his home. He is on bail pending the conclusion of the extradition proceedings, which are scheduled to commence in the Windhoek magistrates' court in April 2007.

Predicate crimes associated with domestic money laundering

Predicate crimes associated with money laundering in Namibia have included fraud and corruption, theft, drug trafficking, illegal dealing in precious minerals (in particular diamonds), motor vehicle theft, armed robbery and exchange control violations. The motivation for the crimes is economic gain.

Fraud and corruption (investment fraud)

Two scandals rocked the SSC in the space of three years. In the first of these, insurance brokers with the collusion of certain employees of the commission were entrusted with millions of Namibian dollars worth of investment funds in return for kickbacks. The proceeds of fraud and corruption were subsequently laundered by the beneficiaries through various channels including 'splashing', the physical transportation of cash in and out of Namibia, and the purchasing of luxury goods as well as movable and immovable property. In one instance money was laundered through the trust account of a law firm.²⁵

In the second case, some of the persons originally involved in the first scandal connived to defraud the SSC, again with the assistance of certain employees, by channelling N\$30 million through Avid Investments, a special purpose vehicle set up to receive and launder the money. Once the SSC released the money to them, a portion of it was distributed among associates, friends and family while some was donated to churches. A substantial amount was exported to South Africa through normal banking channels. Some of it was subsequently transferred back in a similar manner to Namibia. The money was dissipated through various processes, including 'splashing', illicit diamond dealing, illicit foreign currency transactions, and the purchasing of movable and immovable property. None of the money has yet been recovered.²⁶

The prosecution and subsequent conviction of Emmanuel Mununga, a former Ministry of Defence official who abused his position in the ministry to defraud SANLAM Insurance of N\$5,425 million also highlights the incidence of fraud in the public sector.²⁷ Mununga, convicted on 186 counts of fraud, admitted that while employed as a personnel officer in the Ministry of Defence he submitted false claims for the payment of death benefits allegedly due to relatives of Namibia Defence Force (NDF) members who had died. He used the names of NDF members who had either resigned or retired and put these on old death certificates retrieved from the ministry's archives. He then submitted the claims to SANLAM Namibia. The payments were then laundered through bank accounts belonging to relatives and acquaintances. The money was invested in the popular, lucrative small businesses of shebeens, which were managed through third parties.

Acting Judge Christie Liebenberg sentenced him to a total of 20 years in prison. He also made a compensation order in favour of SANLAM for N\$5,425 million in terms of section 300 of the Criminal Procedure Act, which has the same effect as a civil judgement.²⁸ Mununga was initially charged jointly with the persons through whose accounts the monies were received, but charges against all of them were dropped after he decided to take full responsibility. This case underscores the need for anti-money laundering mechanisms in the public sector, particularly in those government departments or directorates that handle money.

The Offshore Development Corporation of Namibia (ODC) financial scandal, like the SSC scandals before it, is a *locus classicus* of investment fraud, corruption and money laundering.

The ODC is a government-owned company with a mandate to seek offshore investment opportunities and to accept funds placed with it for the purposes of such investment. The government has a 95% shareholding while board chairman Gerdus Burmeister holds the remainder. Since 2003 the ODC has invested N\$100 million with a Botswana-registered entity called Great Triangle Investments (GTI). When the investment became due the money was not paid to the ODC, prompting it to engage lawyers to assist in recovering the money. Investigations revealed that GTI was a private company registered with the Botswana Ministry of Trade in 1997. It operated a bank account. The directors were listed as Knight Maripe, a retired president of the Botswana People's Party, and a certain Philip Fourie, based in South Africa. At the time of registration, Maripe was about 80 years old and ailing at his village in Botswana and could not have known much about the investments. Fourie was believed to be in South Africa, having lost his job as CEO of the South African Water Board following allegations of improper financial dealings involving public funds. Apparently the ODC investments were handled by Tertius Theart of Stellenbosch, an alleged director of GTI, and a certain Vloog Theron, said to be "notorious for conning South Africans in the 1980s through a variety of imaginative investment and get-rich-quick schemes".²⁹ Investigations could not establish GTI's physical address.

The funds transferred from banks in Namibian to banks in Botswana were thereafter moved to bank accounts in South Africa and from there to banks in

Europe, and then back to South Africa. They vanished in an apparent money laundering process. Joint investigations by the Directorate of Corruption and Economic Crime (DCEC) of Botswana and South Africa's Directorate of Special Operations (Scorpions) revealed that GTI was an operational front for Fourie and Theart and that the two moved the money between other company accounts operated by them such as Comserve Investments (not to be confused with Comverse).³⁰

Subsequent investigations in Namibia indicated that Pieter Boonzaaier, one of the brokers involved in both SSC scandals, was the link between the ODC and the representatives of GTI and that he received commissions for his involvement. A sum of N\$100,000 has been traced to him. Investigations are still continuing.

In a related case Helene Naudé's investment with GTI disappeared.³¹ Windhoek pensioner Helene Naudé, 70, wishing to raise funds for a charitable bursary project she intended to set up, invested N\$7 million with GTI after being induced to cancel some of her Old Mutual investments by Johan Deysel, an Old Mutual adviser allegedly acting in concert with Pieter Boonzaaier. She was duped into believing that her funds would be invested with the United States Federal Reserve and that she stood to realise N\$9.8 million. The investment did not materialise on the due date. Subsequently Naudé instituted civil proceedings for the sequestration of the estate of Fourie and his wife in the Cape Town High Court. She also filed an application before the High Court of Namibia seeking an interdict to prevent the transfer of N\$3.2 million of Deysel's terminal benefits from Old Mutual to another fund. The civil proceedings are still pending.

These cases are significant for a variety of reasons:

- An analysis of the SSC and ODC cases reveals that these institutions were victims of premeditated fraud under the pretext of investment.
- They show a similar *modus operandi*, typified by the use of inside information, shell companies, collusion between insiders and outsiders, the use of family and social ties, and the targeting of institutions with

weak management, operational and internal control. All of this provides ample testimony of syndicate fraud and organised criminal activity of the racketeering variety.

- The same individuals tend to be involved, indicating a degree of specialisation in this type of conduct. Important criminological lessons can be drawn from these cases.
- They underscore an urgent need for the application of the same due diligence measures that have been implemented in the banking sector and for the operation of government institutions such as the SSC, GIPF and the ODC to be properly regulated and supervised.
- They show an imperative need for the appointment of suitably qualified and experienced managers with integrity in such institutions.
- The cases demonstrate a crying need for the ACC to probe the sources of income of people who lead ostentatious lifestyles not justified by their known sources of income.
- They demonstrate the importance of harmonising legislation and institutions to facilitate international co-operation among law enforcement agencies.
- They demonstrate that despite the best intentions of the BoN and banking institutions in Namibia, it is difficult to detect criminality in an environment where money, most of it legitimate, is routinely moving within the CMA.

Drug trafficking

When tabling the Combating of the Abuse of Drugs Bill, Deputy Minister of Safety and Security Gabes Shihepo told Parliament that drug abuse had reached "alarming proportions". He further told the house that Namibia was now internationally regarded as a consumer country for "all kinds of illicit drugs" and as a transit route for drugs destined for other countries. Of all the drugs seized by the Namibian Police, 90% were destined for the Namibian market. He further stated that drugs worth about N\$2 million were confiscated between May 2005 and November 2006 and there were 800 arrests.³²

Illicit diamond dealing

This is a historical phenomenon dating back to pre-independence times when it was considered part of the legitimate struggle against the apartheid regime. Those working in the apartheid-controlled mining companies who were able to steal diamonds from the mines were regarded as heroes and latter-day Robin Hoods. The pilfering of diamonds continued after independence, in spite of stringent security measures adopted by mining companies such as Namibia De Beers Mining Company (NAMDEB) and its subsidiaries. Some of these measures include incentives such as rewards consisting of large percentages of the value of recovered diamonds. The main reason for persistent illicit diamond dealing is that the profits from a successful operation far outweigh the risks involved.

Diamonds are typically stolen by mine employees, who smuggle them out of the mining areas and sell them to illicit dealers. One noted case involved an employee of NAMDEB at Oranjemund, an exclusive diamond mining area and security zone, who deposited ZAR1 million into a South African bank. The bank submitted a suspicious transaction report to the South African Financial Intelligence Centre which in turn alerted NAMDEB. However, no action was taken because there was insufficient evidence to prosecute the employee for violation of the Diamond Act or for money laundering. The latter was, in any event, not yet an offence. With the criminalisation of money laundering and the passing of financial intelligence legislation and the establishment of the FFICA, cases such as this one will not escape prosecution and the proceeds will be liable to forfeiture.

Another case involved two Namibians who were employed by NAMDEB at Oranjemund as sweepers in diamond processing areas. They became targets of a criminal investigation after being implicated in a cash-in-transit vehicle robbery involving N\$5.3 million at Brakwater near Windhoek. Shortly after the robbery largish sums of cash were deposited into their bank accounts at Oranjemund, a possible indication of the use of the proceeds of the Brakwater heist to purchase diamonds from them. The money had been deposited in batches of 50-dollar notes totalling N\$20,000 on each occasion over a period.

In total, N\$150,000 was deposited. The deposits were clearly not commensurate with their legitimate sources of income, but the state was unable to prove that they were involved in the robbery. This did not dispel the suspicion of involvement in illicit diamond dealing, for which they were not charged. Despite the evidence, they could not be charged with money laundering because no such crime existed at the time. Cases such as this will in future be investigated effectively and prosecuted as money laundering crimes. The absence of appropriate laws meant that they probably escaped punishment for criminal conduct and benefited from such conduct.³³

In a third case, evidence of illicit dealings in diamonds came to light during the hearing of a labour complaint brought by two Namibian males after they were dismissed from employment with NAMDEB. Evidence presented before the district labour court showed that in 2002 the Diamond and Gold Branch and the Organised Crime Unit of the South African Police, following a two-year covert operation into the illegal diamond trade (dubbed Operation Solitaire), searched the Scotia Inn at Port Nolloth after receiving information that illegal diamond transactions were being conducted there by a certain Carlos Viljoen with persons from Namibia. Documents recovered during the search yielded names of persons, account deposit slips and other evidence, including diamonds and ZAR1,585,900 and N\$11,710. Deposit slips were found for large amounts paid into the FNB Windhoek account of P.P. Enkali, a NAMDEB employee at Oranjemund, and similar payments into the FNB Ondangwa account of Malakia Petrus, also a NAMDEB employee at Oranjemund.³⁴ Further investigations confirmed substantial bank transfers and deposits into their bank accounts in Namibia, which led to their dismissals. NAMDEB drew the only reasonable inference it could from the facts, namely that the employees were involved in the theft of diamonds from its mining areas and were dealing illegally in such diamonds. Their joint complaint for unlawful dismissal was dismissed in 2006.

Against the background of acquittals in the courts and lack of effective criminal sanctions, this case is an example of the victim resorting to an alternative way of dealing with suspected theft. It is also illustrative of the predicate activities indicative of money laundering in the area of illicit diamond trading.

Conclusion

The influence of global anti-money laundering initiatives has led to legislative responses in Namibia and to the international co-operation highlighted in this chapter. These responses include the criminalisation of money laundering and measures to combat organised crime and racketeering and facilitate the tracing, seizure and confiscation of assets. The statutory powers of the FIC will widen the scope of prevention and enforcement measures to include non-bank financial institutions and other establishments that can potentially be abused for money laundering.

Money laundering is a new phenomenon for most state organs, including the police, prosecutors and the judiciary. As Namibia moves towards a comprehensive prevention and enforcement framework for combating money laundering and terrorist financing, technical assistance will be required to recruit and train personnel to staff the necessary institutions needed for training police personnel and prosecutors.

In this regard, and ahead of the promulgation of the Financial Intelligence Centre Act, the BoN and the United States Embassy announced a new technical assistance programme for the central bank.³⁵ Under this programme, the US Treasury Office of Technical Assistance (OTA) will assign an adviser to the Bank of Namibia to assist with the establishment of a Financial Intelligence Centre.

The importance of legislation to combat terrorism and the financing of terrorism in Namibia was underlined not by the events of 9/11 but by what happened on 2 August 1999, when a group of rebels carried out an abortive attempt to secede the Caprivi province from Namibia, in the process killing several civilians and members of the security forces. It is against the backdrop of the current trials of the alleged perpetrators of the violent uprising that issues of terrorism will be addressed.

The imminent staging of the football World Cup for the first time on the African continent raises the spectre of terrorist attacks before, during and after the tournament with consequences too ghastly to contemplate. Terrorism is therefore a real issue for Namibia and not a far-fetched threat.

Notes

- 1 *The Namibian*, 11 November 2004.
- 2 *The Namibian*, 3 October 2004.
- 3 These determinations were issued as General Notice No. 121 in *Government Gazette* No. 1899 published on 29 June 1998.
- 4 The countries that make up the CMA are South Africa, Namibia, Lesotho and Swaziland. "The South African Reserve Bank leads the way in setting monetary policy for the CMA countries," according to Tito Mboweni, the bank's governor in a talk at the Namibia Stock Exchange Scholar Investment Challenge dinner in Namibia. Quoted in *Informante*, 12 October 2006, p. 9.
- 5 Namibia Financial Institutions Supervisory Authority Act 2001 (Act 3 of 2001), known as NAMFISA.
- 6 NAMFISA, section 3.
- 7 Constitution of the Republic of Namibia, Article 91(f).
- 8 Stated by Tjekero Tweya, Deputy Minister of Finance, when he tabled the Bill in Parliament in September 2006.
- 9 Ibid.
- 10 Constitution of the Republic of Namibia, article 144.
- 11 Extradition Act 1996 (Act 11 of 1996) as amended.
- 12 International Co-operation and Mutual Legal Assistance Act 2000.
- 13 See the Minister of Justice and the Attorney General of Namibia's Statement to the High Level Segment of the 11th UN Congress on Crime Prevention and Criminal Justice, Thailand, 23 April 2005.
- 14 N\$1.00 = ZAR1.00.
- 15 *Namibian Economist*, 23 February 2001 and *The Namibian*, 21 February 2001.
- 16 *Vito Biggione v the State*, High Court of Namibia Case No. CA 15/2000 (unreported).
- 17 *The Age* 30 May 2004; *Studio Cataldi*, 29 May 2004.
- 18 Ibid.
- 19 *Windhoek*, July 2006.
- 20 *Hans Juergen Koch v the Minister of Justice & Others*, Case No. SA 13/2005.

- 21 <www.vietnamnet.com> September 2006.
- 22 FBI Crime Alert published on the Internet.
- 23 *The Namibian*, 28 September 2006, citing US authorities quoted by Associated Press and the *Wall Street Journal*.
- 24 Namibian authorities confirm that the money was transferred through the trust account of a Windhoek law firm, which prompted a report to the BoN and subsequent enquiries into the source and beneficial owner of the funds. The FBI were then alerted and its agents flew to Windhoek and were there from July working with Interpol to effect a provisional arrest. It was anticipated that the formal extradition request would be filed with Namibian authorities within 30 days of the arrest.
- 25 Evidence given during a presidential commission of enquiry in 2003.
- 26 Evidence heard during a Companies Act enquiry in the High Court of Namibia in 2005 to liquidate Namangol Investments and Avid Investments, which had been used to launder the money.
- 27 *The State v Emmanuel Mununga*, High Court of Namibia Case No. CC 8/2004.
- 28 *Ibid.*
- 29 *The Namibian*, 16 August 2005.
- 30 *The Namibian*, 7 September 2005.
- 31 *The Namibian*, 8 November 2005, 21 November 2005 and 15 December 2005.
- 32 *The Namibian*, 23 November 2006.
- 33 *The State v James Hyacinth Nangisa & Others*, High Court of Namibia Case No. CC 4/2002.
- 34 NAMDEB security department intelligence report, filed in the Windhoek District Labour Court, Case No. DLC 373/374//2002.
- 35 *Namibia Economist*, 27 October 2006.

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