

# Gruppo italo-russo per il contrasto al narcotraffico

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Lavori svolti con il coordinamento del Presidente Franco Frattini

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## ABSTRACT

*The activity of the Italian side in the Italo-Russian working group is the result of a rich scientific research and a great documentary:*

*It is necessary a review of traditional patterns with a focus on new scenarios of prevention and counter-narcotics, a new method of proactive approach, the development of judicial and police cooperation to prevent and combat drug traffickers on-line.*

*It is also necessary to implement national rules to combat money laundering and international terrorism by bringing together the laws of model states such as Russia and Italy, with particular attention to cybelaundering. It is appropriate and necessary to emphasize the strategic importance of the economic and patrimonial contrast to the phenomenon of drug trafficking, including through the confiscation and its management.*

*It would be useful to map operation of transnational organized crime, with a focus on the phenomenon of "narcotics".*

*Finally, it is necessary to update the list of new drugs, especially the synthetic ones.*

*Operational proposals by the Italian delegation, updated in view of the meeting of January 29 at the Ministry of Justice of the Italian Republic.*

### Legenda

*Briefly, the activity of the Italian side in the Italo-Russian working group has been focused for each component, on some principles or deliverables, as indicated below: the drafting technique, streamlined and concise, takes into consideration the objective of presenting the document at UNODC in Vienna, on the occasion of the special session on anti-drug program in March 2016.*

*The formulated deliverables are equipped with a rich scientific research and a large base of references, which will be attached to this paper.*

I lavori del gruppo di studio italo-russo sono il risultato di una ricca ricerca scientifica e di un'enorme base documentale:

- È necessaria una revisione degli schemi tradizionali con attenzione verso nuovi scenari di prevenzione e di contrasto al narcotraffico, una nuova metodologia di approccio proattivo, lo sviluppo della cooperazione giudiziaria e di polizia che tenga conto anche del particolare traffico di stupefacenti on line.
- Occorre altresì procedere ad implementare le normative nazionali per il contrasto al riciclaggio degli ingenti capitali illeciti rivenienti dal narcotraffico e del finanziamento al terrorismo internazionale, accostando le legislazioni di Stati modello come Russia ed Italia, con particolare attenzione al cyberlaundering.
- È opportuno e necessario sottolineare l'importanza strategica del contrasto patrimoniale, oltre che personale, al fenomeno del narcotraffico, anche mediante l'istituto della confisca e della gestione dei beni confiscati ai fini sociali.
- È utile una mappatura dell'operatività della criminalità organizzata su scala transnazionale, con particolare riguardo al fenomeno dei "narcostati".
- Infine, occorre aggiornare l'elenco delle nuove droghe, soprattutto sintetiche, mediante una costante analisi territoriale con raccolta di dati attendibili, anche sotto il profilo epidemiologico.

## 1. Italian deliverables

di Andrea Giannotti e Massimo Labartino

It is necessary to revise the traditional approach of geopolitical reconstruction of the phenomenon of drug trafficking and, in particular, both as regards the Eurasian region, and Latin America (heroin - cocaine), with specific attention paid to the new scenarios that require a global and universally shared strategy.

It is necessary to make a parallelism between markets and trades traditionally considered as different and separated, with a clearly outdated strategic: on the other hand it is necessary to elaborate a new method of proactive approach to contrast upstream drug trafficking causes, and its historical, economic and geopolitical aspects, focusing on the reconversion of the production areas.

Giudice Federica Tondin

It is essential the development of judicial and police cooperation, including through the creation of a network of experts on a global scale, of joint investigative bodies (article 19 UN conv. 2000), mechanisms for information sharing, in order to reach more effective action to prevent and combat, taking into account the characteristics of the demand for drugs, as well as the offer, and in particular on drug trafficking online. Cap. Giuseppe Panzarella

It is also necessary to implement the harmonization of national rules to combat money laundering of large amounts of capital stemming from illicit drug trafficking and connected to international terrorism, and in this direction the legislations of Russia and Italy could be represent a model, with particular attention to the Cyberlaundering.

Prof. Avv. Ranieri Razzante

It is appropriate and necessary to emphasize the strategic importance of the economic and patrimonial contrast, to the phenomenon of drug trafficking, including through the establishment of the confiscation and management of seized assets for social purposes.

Cons. Giovanni Tartaglia Polcini

It would be very useful to map operations of organized crime in its various forms, involving transnational drug trafficking, with primary regard to the phenomenon of "narco-states" and

the interests of the growing' Isis, Al Qaeda and other Islamic terrorist groups in managing the major streams, the most significant routes and storage of drugs on a large scale.

Proc. Armando D'Alterio

It is necessary to update the list of new drugs, especially the synthetic ones, through constant spatial analysis with collection of reliable data, including its epidemiology.

## 2. A latin american survey according to the united nations guidelines in the field of countering drug trafficking and transnational crime networks

di Massimo Labartino

Any initiative headed to draft and distribute handbooks or guidelines collections on transnational crime seems to be desirable and highly appreciated. There could be, for instance, manuals based on compilations, organized by substantive issues, of lessons learned and demonstrated by the collected cases, to help national authorities in the criminal justice response to organized crime and in the implementation of the Palermo Convention. It is suggestible that a common Digest should not present good practices in terms of universally valid recommendations, rather as possible solutions to be evaluated in the light of the specific national circumstances. In this sense, such documents should not be universally based instrument, as not every country has joined the same level of compliance to international standards.

The Palermo Convention has had so far a considerable impact as a criminal policy instrument, and many countries have adopted legislative and other measures in line with the basic approach of that instrument to the various criminal justice phases. Several specific criminal cases indicate when and how much that convention was utilized as direct legal basis for international cooperation, in particular mutual legal assistance and extradition.

It could also be desirable to include in those manuals a chapter on substantive criminal law and on the scope of application of national laws concerning organized crime, hopefully not only restricting the document to criminal law issues but also encompassing public security matters.

In many cases reported by the Latin American and Caribbean authorities in the field of drug trafficking and relevant money laundering, they have successfully identified and confiscated a variety of assets. The problematic issue of the management of seized and confiscated assets has to be emphasized, with particular regards to the management of livestock and the measures taken in this regard, even though, normally, in all the countries of the region specialized administrative entities were established. Of course, there will always be pros and cons of the management system in each particular country, but, generally speaking, the legal possibility of selling seized assets, not yet confiscated, could represent a way to avoid the assets perishing or losing value. The question was also mentioned of how to clarify the grey zone existing between legal and illegal activities carried on by criminals. On this purpose it is important to study alternative measures (including regulatory measures) that could effectively intervene to stop the corrupting penetration of legal business by organized criminal groups.

Another priority is the need to strengthen the national legislation with regard to extradition: when there is no bilateral agreement with the country of the victim's destination it is suggest-

ible the advantageous application of the Palermo Convention as legal basis for extradition requests in the absence of extradition treaty or extradition based on domestic legislation.

Addressing the money laundering is particularly difficult because criminal organizations rely currently on worldwide networks of financial enterprises and other companies, dedicated to the laundering of proceeds of crime.

#### National Laws and Concepts of Organized Crime

##### Scope of application of national laws on organized crime

Most of the LAC countries criminal cases include a wide range of different criminal organizations, as well of offences committed by them. Consequently they assumed that national laws on organized crime are more effective when their scope is equally wide or sufficiently flexible. That is due to a “fluid” concept of organized crime. Such analysis should not lead to comparison between national systems in the LAC region, rather should be used to explain the functionality of the criteria used in order to cover an adequate area of organizational typologies of criminal conduct and offences. In this latter regard we emphasize the importance of developing flexible legislation in order to comprise all forms of manifestation of organized crime, including so called “emerging” or new crimes: sometimes present national legislations do not permit so yet.

Almost all States Parties to the Palermo Convention have in their law the offence of participation in an organized criminal group in line with art. 5 (which includes conspiracy as an alternative). Such criminalization should be analysed when it is in relation to cases where the participation is not a separate charge but only an aggravating circumstance. Some national legislations allow the prosecution of persons that act for the benefit of a criminal group even if they are not members of it. On another point, what about the problem of the “serious crimes” in the Palermo Convention (for that instrument crimes are “serious”, and thus covered by it, when punishable by four years imprisonment)? Therefore, it maybe would be desirable that, when dealing with the criminalization of “emerging” crimes, national legislators respect that punishment threshold so enabling the use of the Palermo Convention as a basis for international cooperation.

It can be also noted that, in spite of the frequent and sometimes complex intermingling of various national criminal jurisdictions, due to the transnational nature of the offences, not always in the Latin American experience shows the capability to solve existing situations of positive or negative conflict of jurisdiction. Equally delicate is the relation between exercise of jurisdiction and extradition. There should be an international consensus on the appropriateness of agreements, to be adopted as soon as possible, on the exercise of jurisdiction in all cases where the international cooperation takes special incisive forms as those (controlled delivery, joint investigative teams) that lead to, so to say, a co-sharing of the investigations.

At present no international agreement has been reached yet on the matter of penal liability of legal persons (or application of civil or administrative sanction), in spite of the mandatory nature of the Palermo Convention norms on this matter. This is a new subject in many jurisdictions, where the legislation has not been consistently developed. Brazil and Spain are examples of countries with convictions under this subject, but it is a limited representative of the international community.

In the investigation and prosecution field maybe we should pursue a deeper understanding of “proactive approach”. The Palermo Convention should be used as a basis for a general proactive approach on organized crime and for a subsidiary definition on proactive investigations. We could consider various types of action (intelligence-led investigations, special investigative techniques, etc.) relevant to that approach.

Often the investigative cases show a multitude of different institutional settings, thus there are discussions concerning various aspects of the organizational structure of law enforcement

and prosecutorial authorities. The two aspects of specialization and centralization have to be analysed, including two problematic issues: which level – i.e. what category of crime (organized crime vis-à-vis more restricted categories such as drug trafficking, cybercrime, trafficking in persons, etc.) – determines the special competence and jurisdiction of a specialized office or unit; and whether centralization of information is a self-standing, useful means, or should be accompanied by exclusive jurisdiction for the operations. However, in this latter regard the need of a central database for the unification of information is a desirable solution in the future, even when there is a lack of cooperation and commitment among different national law enforcement agencies. d.

#### Special investigative techniques

In the area of special investigative techniques the discussion is very rich, touching upon both aspects, the legal requirements to adopt them and the practical features they present. The discussion is also frequently focused on the “transnational” use of such techniques, where two or more countries are involved in the law enforcement activity. Particular attention is usually paid to controlled delivery (and border surveillance) and undercover operations (and informants). The Palermo Convention, article 20, does not contain detailed rules governing these techniques and appropriately calls for bilateral and regional agreements. Such agreements can only in part be replaced by case-by-case arrangements made, for instance, by liaison officers.

#### Law enforcement cooperation

The discussion touches upon many aspects of the law enforcement cooperation. Maybe it could be taken into consideration art. 27 of the Palermo Convention as a guiding text in analysing the various forms that such cooperation can take, including the sharing of enquiries and knowledge on general features of criminal phenomena. In addition, that article may work as direct legal basis for the exercise of cooperation. Usually, the agents focus on the nature of law enforcement cooperation, underlining both the advantages of its informal nature, in comparison to the necessarily formal judicial cooperation, as well as the need to reinforce it by bilateral or regional agreements which could fix stable frameworks, thus facilitating the coordination of action in specific cases. Ad hoc MOU, in relation to single cases, could also represent a useful tool. Of course, the important contribution of Interpol at global level and of regional existing offices (e.g., Europol and Eurojust for the European Union area) has to be stressed as a fundamental structural component of the international cooperation. The availability and the role of liaison officers and the problematic issue of confidentiality is one of the most problematic issues.

#### Judicial cooperation

The wide discussion on judicial cooperation is due to the fact, as UNODC notes, that a minimum of 50% of the investigative cases include recourse to judicial cooperation. The Palermo Convention has a role as a modern instrument in judicial cooperation alternative to other legal instruments. The importance of regional bodies in facilitating cooperation and the value of the creation of specific legislation such as Mutual Legal Assistance Acts have to be reinforced. In any case, often the formal rogatory letters might be fruitfully prepared by previous informal activities and could be facilitated by standard and systematic means, as well as by institutional intervention like the exchange of liaison judge/prosecutor. In this case, peculiar difficulties could be encountered when assistance is requested to more than two countries, because timing and modalities of the answers are always were difficult to combine. All the methods that could be used to speed and facilitate such mutual legal assistance, then, should be welcome.

There are various aspects of confiscation of proceeds of crime. Confiscation has a high functional value in relation to a criminal policy centred on the dismantling of the organized criminal groups. The various types of confiscation could be identified in relation to the crimi-

nal offences, or to the range of the subjected assets or to the procedure adopted (e.g., criminal confiscation versus non-conviction-based confiscation). Naturally, there is an important role that the issue of provisional measures such as freezing and seizure can have, as well as to the complex area of financial investigations. In this latter regard the relation between those investigations and the investigations to simply ascertain the criminal liability of persons is quite discussed. Probably, the most desirable way of acting is to start financial investigations as soon as possible, as an integral part of the investigative process in all organized crime cases. It should be expected, on the other hand, that the law leaves the possibility to expand financial investigations beyond the time of ordinary investigations, given their complexity.

The management of seized and confiscated assets, in this framework, represents a very complex challenge that not always has found a desirable institutional solution in all the countries of the region.

With regard to international cooperation for the purpose of confiscation, the discussion revolves around two issues. First: which type of international agreement can constitute the basis for the execution of confiscation upon a foreign request. Beside criminal law conventions which contain specific provisions to that purpose, the recourse to general mutual legal assistance treaties has been indicated as an effective tool. Second: the above mentioned varied typology of confiscation measures may create difficulties in international cooperation. In addition, while the international debate highlights a tendency of national legislations to broaden the scope of application of confiscation (extended confiscation being a clear manifestation of such tendency), still a formal restriction is faced at the international level, where the Palermo Convention and other treaties provide only for cooperation in confiscation of instrumentalities and proceeds of crime (following a conviction).

#### **Human trafficking**

The main topic of the discussion regards the role of victims in the criminal proceedings. The use of cultural mediators could represent a form of assistance to victims, formally classified as assistant agents to law enforcement and prosecution. What maybe is of the utmost importance is a general implementation of victim identification programs.

#### **Smuggling of migrants**

Emerging patterns of smuggling, such as obtaining visas through bogus marriage with a local citizen or recognizing the paternity bond of a foreigner are the emerging modalities of this crime.

#### **Firearms trafficking**

The harmonization of national legal measures by the international community is probably the most desirable measure in order to create a unique system of punishment for those illicit acts. One of the main issues is the tracing of firearms, with particular regard to the relation between marking, registration and the request of international cooperation. New techniques on profiling have also to be considered.

As far as the prevention measures are concerned, the regulation of Article 31 of the Palermo Convention comes into the light. There are some existing prevention methods to avoid organized criminal groups penetrating the public administration and legal business that could be more widely spread, as an example of 'Anti-Mafia Certificate' required by the Italian legislation as a regulatory measure for the establishment of new companies. On another hand, connection existing between regulatory framework of the production/ trade of firearms and the criminalization of illicit trafficking is a valid preventive tool.

To keep the international cooperation in the transnational crime field as a living tool, what has to be expected in the future is, hopefully, a closer contact and exchange with the academic world, as to deepen the subjects of international policies in the global governance of

crime countering and justice. At the same time law databases could also represent a global instrument of transnational crime cooperation, covering several jurisdictions with the aim of increasing the number of prosecutions and convictions related to the wide range of crime figures recognised by the Palermo Convention, through the collection and dissemination of qualitative information.

#### LATIN AMERICA & THE UNITED STATES, A CHANGE OF PHILOSOPHY?

Since 2012, more or less, there have been more fundamental changes in the scenario of the policy concerning drugs in Latin America and in the United States than in all previous decades combined.

Three fundamental changes have occurred, each of which would be particularly important by itself alone. Together they may constitute a decisive factor to put an end to the disputed and disagreed war on drugs in the Latin American hemisphere.

Foremost, the referendums on legalizing marijuana in the States of Colorado and Washington (USA) in November 2012 have to be taken into the utmost consideration. For the first time, a few voters in the country that is the biggest consumer of illegal drugs generally, and of cannabis in particular, approved proposals to legalize possession, production and distribution of cannabis.

While in Oregon a similar initiative failed and proposal 19 – calling for a cannabis limited legalization – was defeated in California in 2010, results in Colorado and Washington sent a strong message to the rest of the United States and of the international community. These results have not only created a conflict between federal law and the law of the States, but they also indicate a noticeable change in the American attitude.

The President Barack Obama's reaction before voting in Colorado and Washington was significant too, since they are in which he easily won as candidate for re-election. The legal and political problems involved by the American people's decision are not minor: marijuana remains an illegal substance according to federal legislation and the UN international conventions on drugs and psychotropic substances adopted by United States. Moreover, it's an issue still very delicate: although opinion surveys in the 2012 polls indicated for the first time a small majority in favor of legalization, opponents are still very vehement about it. President Obama, in an interview in December 2012, made three innovative statements to be taken into account. First, he said that the enforcement of the federal law on marijuana in Colorado and Washington was not a priority of his Government, because he had "more important things to do".

Secondly, he reiterated his opposition to legalization, but then added: "at this very time". For the first time a President of the United States, in the exercise of his functions, was implying in some way a possible change in future policy.

Finally, he supported the organization of a "national conversation" on the issue of State law against the federal law on similar issues.

The third change in very recent months occurred in a country that is one of the largest suppliers of drugs, Mexico, through which virtually all drugs destined to United States pass: cocaine, heroin, marijuana and methamphetamines. The first of December 2012, Enrique Peña Nieto succeeded to Felipe Calderón in the Mexican Presidency. As it happens almost everywhere, the transition constituted an opportunity to carefully examine the policies of the outgoing Government, even though the new one has not the intention to modify those previous policies in the short term.

In Mexico, there has been in the past a severe judgement on Calderón's "war against drugs". In fact, The Washington Post reported, on the grounds of internal government documents, that more than 25.000 people disappeared during the six years mandate of Calderón, in addition to the approximately 60.000 deaths due to the war on drugs in the country.

The Human Rights Watch NGO wrote an open letter to Pena Nieto, asking whether he intended to do something in relation to the thousands of missing Mexicans. Then, in a series of leaks and explicit statements, the new Government highlighted the very high legal, bureaucratic and financial costs of past policies and stated that, despite enormously greater spending in law enforcement and security, many more crimes of all types had been committed.

In a few words, the latest traditional principle applied regarding the enforcement of prohibitionist and punitive policies and legislations on drugs was declared to be a catastrophic failure, with very high costs, without major results for the country, the rest of Latin America or United States.

Consequently, the main defenders of that principle (in the Latin American area represented by Calderón himself, former Colombian President Álvaro Uribe, the current and previous Presidents of Brazil and the conservative forces and United States security) seem to be losing public support.

Supporters of a slightly different strategy (President of Colombia Juan Manuel Santos and former President of Guatemala Otto Pérez Molina, for instance), on the basis of premises of public health and legalization gained in recent years ground and consensus.

On another hand, Uruguay adopted during 2013 a legislation fully legalizing marijuana. The Organization of American States (OAS) delivered several reports to the regional heads of State on alternative strategies in the field of the enforcement of legislation against drugs and on the “best practices” in force in other countries. And it is likely that other regions of the United States might approve a full legalization of marijuana or its medicinal use (almost 20 American States already allow it).

It appears that a turnaround or a change in drugs policies is on its way. Of course, it will not happen overnight, nor everywhere, or in relation to all drugs, but after decades of ethical and public health oriented criminalization and prohibition, things have begun to move in a different and seemingly dangerous direction. The international community must be very attentive and keen on avoiding that many decades of fight against narcotics and psychotropic substances in order to implement a “world without drugs” might be endangered by a few extreme stances pro-legalization.

### 3. Parallelismo tra mercati e traffici: una nuova metodologia di approccio proattivo mediante la proposta di riconversione delle aree di produzione

di Federica Tondin

The reports of main of police operations, the data included in the last annual report (2014 edition, referring to the year 2013) prepared by the UNODC and in the last report drawn up by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA, European Drug Report 2015) outline an effective overview of the situation of the international traffic of drugs.

Interesting news seem to concern new trade channels and the new routes used for smuggling, in addition to some new trends in consumption.

The increased demand for heroin appears to be the main novelty, along with that of synthetic drugs, always in constant evolution, both in variety and in the trade methods. Cocaine demand, on the contrary, shows a decline.

As for the areas of production of the basic substance, the cultivation of cannabis continues to be displaced in different parts of the world; the opium poppy, from which are obtained mainly heroin and morphine, continues to be produced mainly in Afghanistan and Southeast Asia, Laos and Myanmar.

As far as cocaine is concerned, production is mainly located in South America and particularly in Colombia, Bolivia and Peru.

Therefore, two are the main production areas of narcotic plants, the South-East Asia, for heroin, and South America for cocaine.

In each of these areas, cultivation is strongly related, first of all, to the country's economy, on the first hand because it is a source of income for part of the population, and, on the other hand, because it produces the object of an extremely lucrative traffic.

As is widely known, considering this second aspect, the drug business concerns not only production countries but also those of transit, with different effects.

First, the flow of money from the production or transit of drugs is an incentive to undertake activities related to drug trafficking. This is true both for farmers, for which the conversion of crops would be uneconomic, and for criminal organizations. This flow of money, then, fuels corruption at military and political level, and this constitutes a threat to the local governments themselves, which are likely to become a hostage of the criminal organizations – which are becoming a true parallel power other than the State. Finally, drug trafficking is a violent business: weapons are needed to control the flow of drug and money and to assert on other organizations. For this reason, it is precisely in the countries of production and transit and not in those of consumption that the greatest level of violence is found. It has been estimated, for instance, that an increase in the international price of cocaine of 10% causes an increase in the murder rate between 1.2 and 2% in Colombia.

As for production, as mentioned above, we can identify two major areas located in the south-east Asia, and more specifically in Afghanistan, for heroin, and South America-Colombia, Peru, Bolivia for cocaine.

In 2011 in Colombia, 64,000 hectares of land, mostly controlled by criminal organizations, were used for cultivation of narcotic plants; in 2006, the year of a greater market expansion, the production capacity of pure cocaine in that country has been estimated at 680 tons. Since the 80s the drug has entered deeply into the country's political, military and institutional world, accounting for 4% of the Colombian economy: an industry that can provide jobs for approximately 1/5 of the population. The drug market, then, has created a real microeconomics, on one side through the classic drug market and on the other side through funds constantly coming from the US and Europe for the fight against this trade. As for relations with the institutions, at the time of the big Colombian cartels, the latter not only covered up organizations' activities, but sometimes provided logistical support (aircraft, trucks, facilities).

Also in Peru, the cultivation of cocaine has acquired since a long time considerable dimensions: according to estimates by UNODC, in 2011 62,500 hectares of land in this country were destined for that cultivation. The annual turnover of the cocaine trade amounted to more than a quarter of the national GDP. The production capacity of pure Peruvian cocaine in 2008 was estimated at 302 tons. In Peru there aren't major criminal organizations; trafficking is handled by "firmas", which are family organizations. Since the dissolution of the big Colombian cartels (in the 90s), Peruvian and Mexican organizations have seen their importance grow.

In Bolivia, as in the other two countries just examined, drug production is first of all an economic resource: in 2011 27,200 hectares of land were cultivated for this purpose and the production capacity was more than 100 tons. The investigation activity of the Bolivian police reveals, as in the case of Colombia, the infiltration of criminal groups in the local production

of cocaine. In Bolivia too, cocaine plantations have been for many years the only means of subsistence; in this country there is a kind of peaceful coexistence between drug traffickers and institutions.

Cocaine produced in Colombia, Peru and Bolivia enters into the world market through different routes: the first and most important one, from the point of view of quantity, goes through Mexico to end up in the United States, which represent the most important market (it is estimated, for instance, that 95% of the cocaine seized in the United States comes from Colombia).

In any case, the drug trade presupposes the presence of a criminal network capable of controlling points of departure, ports and routes; for this reason criminal organizations of Mexico, mainly involved in the transportation of the substance and in its introduction in the US, have become increasingly important on the international scene.

Since the early years of 2000, due to changes resulting from political alternation, both locally and nationally, and the subsequent reduction of connivance that guaranteed safe passage of drugs across the border, the Mexican criminal organizations have become militarized. The creation of armed gangs was necessary to defend the routes of trafficking and this has caused an exponential increase in violence. The government has adopted a strategy of repression, which also benefited from the support of the United States, that have provided billions of dollars of aid to the Mexican reforms of security and justice.

The weakening of large cartels, however, allowed the proliferation of new small criminal groups that, like their predecessors, try to establish and strengthen ties with political powers and the State. From the international point of view, Mexico has reaffirmed its commitment to the fight against organized crime and drug trafficking in various ways and locations.

As mentioned above, through Mexico, drugs arrive in the US mainly by land, although because of stricter controls at the borders drug traffickers are seeking alternative ways through rail, sea, and air transportation.

In addressing the serious threat of drug trafficking, the United States have focused on the enforcement aspect, criminalising drug use and punishing its cultivation and trafficking.

At international level, assistance was provided to producing countries or transit countries, including through the donation of billions of dollars as aid to the military and the police of Latin American countries.

Moreover, the US government has entered into specific agreements with Mexico and other Central American countries to coordinate the fight against drug trafficking.

Nevertheless, data on the demand for cocaine show unfortunately only a partial decline in the short term. There is also a drop in production; the reasons must be identified in environmental factors, and first of all in the erosion of soils for cultivation, because of the methods used for logging. The impact of human action goes from combustion, used to free up areas occupied by other crops or woodland areas, to the intensive use of herbicides and pesticides which, in the long run, have made soils uncultivated. Another source of pollution is related to the disposal of chemicals used for processing coca leaf into cocaine. It is estimated that from 2001 to 2014 coca cultivation has destroyed 290,000 hectares of forest, degraded soils and compromising the water balance of entire areas.

No less serious than the situation in South America is that of Afghanistan: the United Nations emphasize a substantial increase in opium production in Afghanistan; overall, there are signs that indicate a general increase in the availability of this drug. Currently, more than 80% of the opium production is made in Afghanistan.

From 2009 to 2012, the global area devoted to this cultivation in Afghanistan has increased by 36% (from 154,000 hectares in 2012 to 209,000 in 2013); cultivations are located mainly in the provinces of south and east of the country.

Also in this case, as is the case of South American cocaine, the production increase is related to a number of economic and political factors.

The Islamic Emirate of Afghanistan has tolerated drug production until the early 2000s, when the government of Mullah Omar has decided to stop the economic exploitation of opium, probably in order to gain legitimacy abroad. This policy encountered the firm opposition of farmers, for whom the cultivation of opium poppy was the only means of subsistence. The effects of the breakthrough were still important: the area under cultivation increased from 90,000 hectares in 1999 to 10,000 in 2001.

The situation changed significantly with the international military intervention following the events of September 2001: the substantial current anarchy in Afghanistan has indeed given ample space to drug traffickers, who have started again to exploit opium and heroin to get rich, strengthen their power and gain political influence. In this context, a number of organized groups of a military nature were established, fragmented and divided among them, able to threaten the local institutions and infiltrate national ones.

Afghan drug industry represented then, in the years of the military intervention by the West, an international problem, not only for the incidence of local production on the world total, but also for export flows it fed.

It was observed that the profits of drug trafficking networks - amounting to several million dollars – have contributed to the funds supporting terrorism networks. This, in the case of the Taliban in Afghanistan, represents obviously a substantial increase in their income.

The largest consumer country of heroin from Afghanistan is Russia, which is in a situation similar to that of the US as against South American cocaine, for reasons mainly geographical.

As with the United States as against Colombia, Peru and Bolivia, Russia is related to Afghanistan primarily from a geographical perspective. The flow of drugs, its social consequences and the infiltration of criminal organizations that control its transport and trade represent for this country, as it is the case for the United States, a real threat to national security.

Yuri Fedotov, UNODC director, said that the fight against production of opiates in Afghanistan is a responsibility of the entire international community that requires a common strategy: "In Afghanistan, opium production is closely related to contexts of instability and trafficking heroin helps to spread the instability in the whole region".

Today, the Afghan economy is dependent, on the one hand, upon the aid granted by the international community and Western countries, and on the other upon the proceeds of the opium trade.

Enforcement activity, which has so far produced only limited results, was based primarily on a repressive strategy.

Another alternative approach aimed simply to eradicate opium plants. This policy, however, turned out to be reductive if not even harmful, because it risked to alienate even more citizens from the State and the law, as it did not create sustainable alternatives. In fact, releasing a province from opium may simply mean that people working in the cultivation in that province will move to other areas to continue the same activities.

Therefore, many have pointed out, that an effective eradication of opium crops must become a component of a more complex strategy aiming to ensure an alternative development of the territories currently devoted to the cultivation of narcotic plants, by identification of alternative cultivations and through the granting of loans to farmers. Only through the reconstruction of a production cycle of the affected areas one can in fact create a new economy capable of replacing the previous one. To achieve this goal it is necessary to develop alternative programs aimed at encouraging sustainable development, creating jobs and infrastructures.

It is a further approach, different from the traditional one, because in addition to fighting the effects of drug trafficking it goes as far as to change the causes of its production. In other words, this kind of action, next to the traditional repressive one and to that supporting local governments in the fight against drug trafficking, represents a new frontier of drug policy, which can give much better results as it aims at countering the economic reasons of the production of narcotic plants.

It is vital, beyond the need for greater cooperation between the transit States in the monitoring of transit along the routes used by traffickers, to provide to Afghanistan the necessary means and assistance to abandon poppy cultivation and convert its agriculture to other types of cultivation. At present, however, the political situation of the country makes it hard to predict the capacity of the country to undergo such a radical transformation.

## 4. The Italian FIU

di Ranieri Razzante

### **1. What's UIF**

The Legislative Decree no. 231/2007 has ordered and reinforced the skills of the Authorities involved in the AML/CFT activities, establishing a dedicated central body named UIF (Unità di Informazione Finanziaria), in a position of independence and functional autonomy inside of the Bank of Italy. In the AML/CFT activities UIF is supported by the CSF (Comitato di Sicurezza Finanziaria), established with the law n. 109/2007 (Counter-financing terrorism law).

UIF has an administrative structure in order to distinguish the financial analysis from the investigative activity. In this way UIF plays a filter function related to the prevention of money laundering and financing terrorism activities.

### **2. What UIF does**

The Unit collects information on potential cases of money laundering and financing of terrorism, analyses the financial data, and decides whether the information should be passed to the investigative authorities (Special Foreign Exchange Unit of the Finance Police and Antimafia Investigation Bureau); it works closely with the judicial authorities. In particular, it examines the compulsory suspicious transactions reports filed by banks and financial institutions, as well as the monthly aggregate reports transmitted by financial intermediaries.

It may request additional information from reporting banks, consult files to which it has access by law or by arrangement with other national bodies, and exchange information with foreign counterparts (FIUs).

The FIU can freeze suspicious transactions for up to five working days at the request of the Finance Police Unit, Antimafia Bureau, judicial authorities, or on its own initiative, provided that this does not interfere with any investigations under way.

The FIU draws on its database to conduct studies aimed at identifying and assessing phenomena, trends, practices and weaknesses of the system. It analyses single irregularities, economic sectors at risk, categories of payment instruments, and local economies. An outline of the results of these studies is transmitted to the other authorities.

The Unit draws up regulations on the filing of suspicious transactions reports and on the transmission of aggregate data by financial intermediaries. It provides illustrations of anomalous economic and financial conduct in order to:

- promote active cooperation on the part of the entities concerned;
- facilitates the identification of suspicious transactions by providing and disseminating the irregularity indicators issued by the Bank of Italy, the Ministry of the Interior and the Ministry of Justice.

Breaches of suspicious transactions reporting requirements are identified through on-the-spot checks of entities and on the basis of available information. Where appropriate, the FIU opens the procedure for the issue of sanctions by the Ministry of the Economy and Finance.

The FIU draws up a yearly report on its activity, which the Director transmits to the Ministry of the Economy and Finance by 30 May for forwarding to Parliament, together with a report by the Bank of Italy on the funds and resources allocated to the unit.

Information on suspicious transactions may be exchanged with FIUs of other countries in derogation of the rule on professional secrecy and under memorandums of understanding.

The FIU draws up a yearly report on its activity.

### 3. The Reporting of Suspicious Transactions

Legislative Decree 231/2007 requires to the following obliged subjects

- financial intermediaries and other persons engaging in financial activity;
- professionals;
- auditors;
- a series of persons engaged in other non-financial activities

to send the FIU a suspicious transaction report “whenever they know, suspect or have reason to suspect that money-laundering or terrorist financing is being or has been carried out or attempted”.

The suspicion may arise from the characteristics, size, or nature of the transaction or from any other circumstances that come to the reporting institution’s attention by reason of its functions, and taking account of the economic capacity or business activity of the persons carrying out the transaction. The suspicion must be grounded in a comprehensive assessment of all elements – objective and subjective – of the transactions that are known to the reporting institution, acquired in the course of the customer’s activity or as the result of conferral of an assignment.

To facilitate the detection of suspicious transactions, the AML law provides for several operational tools:

- a. anomaly indicators issued by other authorities on a UIF proposal;
- b. models and patterns representing anomalous conduct, devised and issued by the FIU itself.

Even if these tools play an important role to orient suspicious reports, they should not be considered comprehensive and unconditional. In fact, they also need all other information obtained during the course of the activity.

In terms of content, the report has four main sections:

1. data on the report itself, i.e. the information that identifies and qualifies the report and the reporting institution;
2. structured information items on the transactions, persons and accounts involved and their interrelations;
3. free-form description of the transactions reported and the grounds for suspicion;
4. any documents attached.

Reports must be made without delay, where possible before the transaction is effected.

Reports of suspicious transactions do not constitute a violation of secrecy requirements or

professional secrecy, and if they are made in good faith and for the purposes envisaged by the law, they do not incur liability of any kind.

Anomaly indicators:

The Anomaly indicators are an illustrative unconditional list of potentially operations or customer behavior to be considered “abnormal” and potentially characterize intent of money laundering or terrorist financing.

The indicators are intended to reduce the margins of uncertainty associated with subjective assessments or with discretionary behavior and also contribute to the containment of costs and the correct and consistent fulfillment of obligations to report suspicious transactions to the parties responsible.

The Unit is responsible for developing and proposing the anomaly indicators, which are then issued by different authorities with formal measures. These authorities are:

- the Bank of Italy for financial intermediaries and other parties providing financial activities;
- the Ministry of Justice, for professionals, in consultation with the professional orders;
- the Ministry of Interior, for the remaining non-financial and public administrations.

In particular, the currently published anomaly indicators related to AML/CFT activities are the following:

1. Operational Guidance for the exercise of tighter controls against the proliferation of weapons of mass destruction financing programs (2009);
2. anomaly indicators for intermediaries (2010);
3. anomaly indicators for professionals and auditors (2010);
4. anomaly indicators for non-financial operators (2011-2012);
5. anomaly indicators for independent auditors and statutory (2013);
6. anomaly indicators for Public Administration (2015).

Models and patterns representing anomalous conduct:

Models and patterns representing anomalous conduct are an help instrument to identify and detect the suspicious transactions.

These models and diagrams simplify frequent abnormal practices and behaviors discovered by the Unit related to potential money laundering and financing of terrorism phenomena, as:

1. payment cards;
2. abnormal use of trust;
3. gambling;
4. International tax fraud;
5. Fraud in factoring;
6. Usury;
7. Fraud in leasing;
8. Misuse of public funds;
9. Intra-community VAT fraud;
10. Computer fraud;
11. Companies in crisis.

At the end of evaluation conducted by obliged subjects, and if there're real grounds of suspect, an STR must be send to UIF, which is composed of four sections:

- Information data in which are indicated informations to identify the report and the operator who made the report;
- Informative elements on the operations, subjects, reports and links among them;
- Descriptive elements about the STR and grounds;
- Any documents attached.

All the obliged subjects who send reports have to judge the risk about money laundering and financing of terrorism STR through a scale of 5 values.

#### 4. Operational Analysis

The FIU performs financial analysis of suspicious transaction reports submitted by obliged entities and forwards them to the Special Foreign Exchange Unit of the Finance Police and to the Bureau of Antimafia Investigation, along with a technical report containing the results of the analysis. Financial analysis consists of:

- information gathering to gain a better understanding of the context of the original transaction;
- identify persons and objective connections;
- reconstruct the cash flows underlying the operations, and thereby identify transactions and situations linked to money laundering or the financing of terrorism.

The body of information developed through the screening and financial analysis of the reports also enables the Unit to categorize suspicious transactions and to identify and classify typologies and patterns of anomalous behaviour to be shared with the obliged entities.

In accordance with international standards, the financial analysis process is divided into a series of activities designed to identify those STRs deemed to be wellfounded and warranting further investigation, to assess the actual degree of risk involved and to decide how they should be handled by drawing upon a variety of information sources.

The analysis process uses the RADAR information technology system to gather and manage reports. The RADAR system also provides support for, among other things, classifying reports, identifying those deemed to be of highest risk and therefore to be given priority treatment, and making the information needed to perform the financial analysis immediately available.

Assessing the risk of each report involves synthesizing a number of factors. One of the most important of these is the obliged entities' own evaluation of the risk of money laundering or the financing of terrorism associated with the reported transaction. This evaluation, expressed on a scale of 1 to 5, represents the entity's prudent assessment. The risk level assigned by the reporting institution, along with other internal and external factors, contributes to determining the automatic rating assigned by the RADAR system to the report, even though the two ratings are shown separately on the report form.

Once analyzed the STRs received, the UIF can:

- 1) The FIU dismisses reports that it deems groundless, but keeps the reports on file for 10 years, with procedures in place to allow the investigative bodies to consult such files.
- 2) The FIU, on its own initiative or at the request of the Special Foreign Exchange Unit, the Bureau of Antimafia Investigation and judicial authorities, may postpone transactions that are suspected of involving money laundering or terrorist financing for up to five working days,<sup>42</sup> provided that this does not jeopardize the investigation.
- 3) transmits the suspicious transaction reports, accompanied by a technical report, to the special currency unit of the Finance Police and to the National Antimafia Prosecutor for further investigation, if required. It also notifies the judicial authorities of any penally relevant findings. It closes the reports that it considers unfounded and so informs the reporting institution via a return flow of information.

#### 5. Strategic Analysis

In accordance with international standards and domestic legislation, in addition to operational analysis on reports of suspected cases of money laundering, the FIU also conducts

strategic analysis to detect and assess relevant trends and patterns and to identify weaknesses in the system. Strategic analysis helps in the orientation of the Unit's activities, the planning of initiatives and the prioritization of objectives. It utilizes and combines information obtained from the investigation of reports, the analysis of aggregate data and from all the other sources at the Unit's disposal.

## **6. Controls**

Among the other activities, the FIU contributes to preventing and combatting money laundering and the financing of terrorism in part via onsite inspections of entities subject to the AML/CFT reporting requirements, in accordance with the powers conferred on the various authorities by the legislation in force.

The inspections are not part of the FIU's ordinary preventive activity and are generally carried out in justified circumstances or when other channels for acquiring relevant information on the entity's business operations and transactions are unavailable.

The Unit conducts general inspections to check the fulfilment of the active cooperation obligations and the adequacy of the STR procedures; targeted inspections are carried out when an in-depth analysis of STRs is needed or as part of cooperation with judicial, law enforcement and supervisory authorities.

# **5. Introduction - capacity building and law enforcement: a new deal against drug trafficking**

Di Giovanni Tartaglia Polcini

It is a matter of fact that with the intensification of the world economic and financial globalization, there is a growing awareness of the devastating effects of drug trafficking on several areas simultaneously: every year, in fact, in Europe and Russia, due to the drug, thousand of people die, most of them are young.

“The threat of drugs is likely to become one of the most serious problems of the twenty-first century, with consequences similar to those of the second world war in the twentieth”.

The amount of drugs produced only on the territory of Afghanistan has reached twice the world production of 10 years ago.

For this reason we agree that is essential the extermination of opium poppies and the destruction of crops, bringing the example of Latin America, where to combat drug trafficking in Colombia, with the spraying of defoliants and mechanical systems has been destroyed about 75% of coca plantations.

In Afghanistan, in addition, almost all crops are concentrated in areas with massive presence of foreign troops and where is the majority of armed clashes.

But we all know that the problem of drug production can not have only a military solution.

For us, the creation and activities of a russian and italian working group against drug trafficking represent a strategic opportunity to improve the study and analysis of the global phenomenon.

Our bilateral entity, based on cooperation spirit, in line with historical relationships between our countries, can produce documents and organize meetings and conferences in Italy and in Russia, to develop proposals and new operating instruments.

We have the idea to expose our point of view also in the main international fora on illicit drug trafficking, including UNODC.

We can write new important pages by the holistic and innovative strategies in struggling against drug trafficking.

It is becoming crucially important, in the current post-globalized world, to develop a structured focus on all processes through which the frameworks of political and institutional actions are used or readjusted for the development of action frameworks within foreign States.

We put an accent on the need to qualify more in detail the said processes to be interpreted as specific fields of bilateral and/or multilateral governance.

- In this regard the following indicative list can be delineated: policy transfer itself;
- lesson drawing;
- legal transplantation;
- policy learning;
- institutional transfer.

A close examination of each field places at center stage different actors, institutional issues and degrees of obligations.

Policy transfer cannot be reduced only to ideas of political objectives.

More in detail, when we consider bilateral and multilateral diplomatic initiatives, it appears quite useful to single out the following dimensions:

- a) the exchange of instruments, practices and programs of governance between “exporter” and “importer” systems;
- b) the dynamics of the said exchange which can be declined as follows: direct and total transfer of model, a process of opening up to an external idea, the hybridization of various models;
- c) the link between policy transfer and success or failure.

Furthermore, Italy believes in the value-added effort to retrace ideas irradiate worldwide.

Methodological approach

First of all, the Italian experience in combating narcomafia demonstrates the centrality of the relationship between money laundering, organised crime and the mafia.

Passing from the point of view of criminal policy to practical application, we can, in fact, say that drug trafficking, manufacturing, transportation and return, are, without doubt, the first entry of the structured and powerful criminal organizations, including the mafia.

They have large amounts of capital, and structures, as well as insured covers men from some countries where production is stronger.

These criminal organizations stipulate agreements for the transport of drugs from production sites to those pinpointing consumer even drug storage areas.

The spread of drug trafficking, in postulates, an analysis of spatial data and geopolitics, with particular attention to routes for drugs, to new substances, to those involved in the production and distribution channels, market logic, even by reference to statistical data available today. Not least, becomes analyse flows of income from drug trafficking, and money laundering offences to combat the phenomenon through the Elimination of benefits achieved by criminal organizations.

Is a global problem requiring adequate responses from all States legally oriented.

A huge and widespread social evil consists of the growing problem of drugs that ruin the lives of millions of people at the same time undermining the integrity and the stability of governments.

In many parts of the world the scourge of drug abuse and illicit trafficking, fueled by the immense profits they generate, is now at a level of emergency. It is time for the in-

ternational community to encourage their efforts in a common enterprise to counter this deadly threat.

This is the spirit we See at the base of our engagement.

In line with this statement it has also claimed that the threat of drugs requires extra efforts and enlarged coordination between governments, international organizations and police forces, on the prevention and repression of trafficking.

We must call for the commitment of institutions, associations, schools and families, to strengthen a network of information and solidarity, capable on the one hand to promote the economic development of the countries where the drug supply comes from, and the other to sustain against young people every possible initiative for the education of and recovery.

Drug diffusion is today one of the most globalized world phenomena: multinational drug trafficking organizations, through complex and developing routes reach every single continent.

Due to the alterations brought about in some vital sectors of each country, such as health and economy, an organization system is needed to effectively fight against illegal drug trafficking and distribution.

It should take into account three essential aspects:

- deep knowledge of the whole issue;
- coordination of the Law Enforcement Forces operational activities, in order to avoid investigative overlaps;
- appropriate development of international cooperation relations.

This is the only way to have a new legal oriented approach to this problem.

Italian experience

A) At international level, the organised crime in general, and the Mafia-type networks in particular, operate in a context of strong financial crisis: this situation facilitates their infiltration into the economic environment, in order to launder illicit profits.

These criminal organizations have huge funds availability, in particular those dealing with the international drug trafficking.

Unlike other types of criminal groups, the drug trafficking organizations are not affected by crisis because both the demand and supply have increased, in a continuous spiral growth.

The analysis of the drug operations, that are the statistical analysis of data concerning the drug phenomenon and the intelligence research, have highlighted the persistent danger of the domestic and foreign organized crime which are able to overcome all boundaries.

To effectively declare an all-out war against the criminal networks – especially those dealing with the international drug trafficking – it is essential to promote and enhance political cooperation (conventions, bilateral and multilateral agreements, memoranda of understanding, informal procedures etc) and operational collaboration between the law enforcement agencies of the source, transit and consumption countries.

This approach aims at harmonizing and developing intelligence so to fuel and improve global preventive and repressive strategies to be used by central institutions in steering, stimulating and coordinating operational forces.

B) At national level, Italy is one of the main entry points for the drugs smuggled into Europe for different reasons:

- its central position in the Mediterranean sea;
- its closeness to the coasts of North Africa (a new important drug production and storage area and to the coasts into which the Balkan route runs (the main land route followed by most heroin arriving from Afghanistan);
- its geographic features with over 6,000 km of coasts;
- its organized crime activity, which is the biggest and stronger in this market.

Europe is one of the most important heroin target and the second cocaine consumption market after North America, as well as an important crossroads for international drug trafficking.

Furthermore, in Italy there are criminal organizations with widespread and well-established branches abroad that are in control of their territory of origin and can run both international and local trafficking activities.

Moreover, by analyzing the criminal groups the Italian law-enforcement agencies highlighted some points of strength:

- Increased use of licit commercial activities and setting up of front companies to disguise illicit shipments, leading to an intensive flow of goods to and from Italy;
- Creation of wire money transfer sub-agencies to pay drug couriers, their travel and stay expenses, drug samples and to transfer capitals;
- Setting up of polyfunctional ethnic networks where groups of traffickers of different ethnicities interact overcoming racial mistrust so to carry out different types of trafficking (drugs, human beings, toxic wastes, weapons, etc.).

The overall analysis of the main drug investigations highlights that a significant part of illicit trafficking is to be ascribed to said groups.

Within this evolutionary framework, the traditional macro-criminal organizations which were once anchored to the territory and aimed at a stable balance of relations have now developed towards more opened and dynamic models quickly entering into more and more complex relations. In other words the criminal scenario is controlled by highly flexible and well-organized international cartels capable of rapidly changing their sphere of actions, relying on an open system based on outsourcing.

High specialized criminal activities hinder investigations. Investigators are confronted with a series of groups often operating in a mafia-controlled context or organized in horizontal networks without a hierarchical structure that take advantage of the on-line communications system.

#### Foreword

We emphasize the transnational dimension of the phenomenon of drug trafficking; next to the figure on the globalization of drug trafficking must nevertheless highlight the centrality of the financial aspects of the combat drugs trafficking.

In particular, organized crime has suffered in the last two decades, a real process of modernization, with a constant adaptation of the model offense characteristics of today's society: the physiognomy of the traditional criminal organizations it then evolved towards forms of associative mold management, with flexibility to break into global economic flows, based on a strategy of maximum accumulation of profits and easy concealment of wealth illicitly produced.

The size of the profits in question may be perceived by a simple examination of some data.

According to recent estimates by UNODC, drug trafficking would have produce a turnover of 322 million US dollars, 38 of which in the Mediterranean Region; data, in terms of turnover, would place the company in this sector in 19th place in the world economic system, after – for example – the whole economy of a country like Sweden economically evolved.

Eurispes estimated at approximately 100 billion euro turnover of the four major Italian mafia associations, 59 of them coming from the drug trade (for further evidence of the essential link between drug trafficking, organized crime and money laundering and relevance to the GDP of the sector mafias 'drugs').

Based on other assessments, the illegal drug market, compared to areas of legal trade, would exceed that of the iron, steel and other product segments.

Basically, it would be equivalent to around 8% of world trade.

Quantify the drug from a financial perspective remains a difficult and it is certainly easier to look at the structural aspects and dimensions of the market.

In the last decade the state and dynamics of the international drug market is characterized by a largely stable, both the demand and supply. But emerging new phenomena result of the globalization process, offering suggestions of further reflection for the understanding of the system. It highlights markedly exceeding the strict separation between production areas and consumption areas: Countries until some time ago unrelated to widespread phenomena are in fact experiencing the scourge of drug addiction.

In terms of contrast trafficking it should be noted that although over 90% of the world's opium comes from Afghanistan, that State is not affected by seizure activity quantitatively comparable to the production; in recent years, in fact, only 19% of the opium produced is intercepted.

In other states, leaders in the cultivation, as Myanmar and Laos the situation shows no signs of change; the production of opiates continues to remain high and stable.

A diametrically opposed considerations is reached by examining the data on the production and trafficking of cocaine; currently there is a decrease of the total area cultivated with coca 8%, due to a decline in cultivation in Colombia, which remains the world's largest producer, far more prolific than in other, emerging as well, such as those of Peru and Bolivia.

These positive results are the result of enforcement action that is not limited exclusively to the seizures of the product but will also work on the cultivation through, for example, forced and voluntary eradication of plants and aerial spraying.

Repressive action the Colombian drug traffickers reacted by extending their interest areas and countries such as Peru and Bolivia, where in fact there has been a slow but steady rise in cultivation and cocaine production.

Equally significant are the storage areas of the product and in this regard it should be noted the growing importance of countries such as Brazil, Venezuela, Argentina and the Caribbean. Among them, Venezuela is favored by powerful criminal organizations as privileged bridge for sending cocaine on US and European markets; this operation, which is facilitated by the absence or otherwise low profile of the financial instruments of existing law enforcement in the country. Industrial and/or commercial dedicated to import-export are therefore valid covers drug trafficking.

More complicated is to describe the situation of cannabis as it presents itself contaminated by a whole series of elements that make it difficult to outline a complete picture.

Thanks also to new systems of cultivation such as, for example, the hydroponics, the production is extremely fragmented in over a hundred countries. It can well imagine, therefore, how difficult it is to estimate the quantity and the cultivable area.

In principle, it can still easily say that cannabis and its derivatives are still the most widely cultivated and used drug in the world. Recently, however, it was highlighted a decline in demand for amazing, especially in Western countries, due to the increase of the active ingredient THC obtained from producers in the cultivation process.

Looking at the data available about the cannabis seizures made by the police forces of the different countries you delineates a slightly increasing trend. As in previous years, most of the seizures of marijuana have been reported from Mexico (39% of the world total) and the US (26%).

Referring finally to synthetic drugs (amphetamines, methamphetamine and ecstasy), the first thing to emphasize is that these can be produced virtually anywhere at relatively low cost.

Unlike the narcotic substances of vegetable origin, such as cocaine and heroin, the production of synthetic drugs is difficult to detect because the ingredients used are easily available on the market, since these are normally used in the productions legal. Ephedrine, lysergic acid,

piperonal, safrole require chemical processes simple and inexpensive to become LSD, MDMA, amphetamines, performance-enhancing drugs.

The characteristics of the market for synthetic drugs make it difficult contrast: in fact, over the fragmentation of production phases, it denotes, for example, a supply chain between manufacturers and retailers usually short, an easy adaptation to new trends and the needs of local markets, low costs and high profit margins.

This type of drug has a very large market: consumers are estimated at about 25 million, far more than cocaine and heroin. Considering Europe alone, it is believed that about 10 million adults (15-64 years) have tried ecstasy at least once in their lifetime and that about 2.5 million have done so in the last 12 months.

As for the spread, however, after the rich markets of the West synthetic drugs they are invading the so-called emerging markets. Asia, by virtue of demographic rates explosives, is, for example, significantly influencing the data on the question: namely, since methamphetamine are perceived as harmless, they are increasingly being used as a remedy, inexpensive and readily available, against fatigue and the stress arising from the rhythms of life overly competitive.

#### Profiling

The fight against international drug trafficking organized crime must tackle increasingly complex operational situations characterized by the participation of foreign criminal groups in all steps of drug trafficking.

Criminal organizations take advantage of the growth of commodities and services global market, blending into the structure of legitimate enterprises. In fact, the analysis of the modi operandi of large traffickers' organizations shows their ever-increasing use of outsourcing, availing themselves of other criminal organizations or often unaware legitimate companies.

It was noticed that, in many cases, criminal groups are no longer organized in a hierarchy but in a web-shaped structure, where the connective tissue, even if made of strong identity features such as the ethnic belonging, is often inclined to interact with heterogeneous criminal macro-organizations.

In order to have well-structured information enabling to suitably understand the complex criminal phenomena, a global analysis of factors and interrelations is necessary.

#### InvestIgatIve coordInatIOn

Also in the drug field, the coordination of drug investigations is an indispensable tool allowing to optimize human, financial and technical resources, avoiding overlaps between law-enforcement agencies.

The coordination activity medesimo to be based on the following principles:

- gathering and analysis of the information collected by the law-enforcement agencies on persons under investigation and on the links between criminal organizations, their modus operandi, criminal dynamics and emerging connections;
- information provided by foreign counterparts;
- developing investigations and working out the relevant strategies in agreement with the Judicial authority in charge of the investigation. Investigative coordination also relies on the communications made by foreign countries through:
  - Law enforcement attachés posted to the diplomatic missions;
  - Law-enforcement counterparts through the respective liaison officers;
  - International police cooperation channels.

The information also allows to start police and judicial cooperation at international level, an indispensable tool to combat the transnational crime.

In order to thoroughly evaluate and enrich the information simultaneously gathered by different investigative offices, to share or address agreed investigative strategies or identify new strategies and facilitate the cooperation between the different investigative bodies as well as

between national and foreign investigative Authorities, our working group convened ad-hoc info-operational and coordination meetings.

Transnational drug trafficking takes advantage of modern communications systems to meet the needs of drug supplier and customers as well as those of the whole drug chain.

As a result, effective, proper and timely investigative methods are needed to fill the gaps in the national legal systems and investigative procedures and even in the cultural approach towards this phenomenon.

We have to maintain and develop cooperation relations with foreign police counterparts:

the support to anti-drug activities, special operations in particular, is also ensured by personnel qualified in the use of high-tech equipment and by operational analysis, which ensures proper and timely information processing.

An example: the new strategic role of Africa.

The Nigerians and the Tanzanians cases.

A recent activity focused on the fight against drug trafficking by air carried out by Tanzanian nationals.

The arrival of criminal groups of Tanzanian ethnic origin in the international drug trafficking scenario was confirmed by the intelligence from foreign agencies.

The investigation also highlighted that Nigerian criminal organizations lead heroin large shipments, directly negotiating drug supplies with Pakistani and Iranian organizations.

Drugs are transported from producing areas to East Africa, in particular to Tanzania, from where it is smuggled by couriers, mainly Tanzanian, by commercial flights into Italy and North America.

Rather than the modus operandi used by air traffickers and the quantities seized, the most significant aspect revealed by the analysis of this phenomenon is the use of routes originating from East Africa, as a strategic platform for criminal interests.

The modus operandi of the Tanzanian couriers trafficking in heroin via air is very similar to the ones used by the Nigerian networks.

On this basis, it is to be assumed that Nigerian and Tanzanian criminal organizations work in synergy, also facilitated by their ethnic-linguistic and religious affinity. They take advantage of the infrastructures (ports and airports) of East African countries and of the Arabian peninsula to import heroin from Central Asia and introduce it into European and North American markets in small quantities.

The analysis of the operations concerning Tanzanian nationals at national level confirmed similarities with the international situation ascertained by foreign antidrug agencies, in particular in North America and North Europe.

In fact, a dynamic situation has emerged with a significant increase in heroin seized from individuals from East African countries, in particular Tanzanian nationals.

Analysis suggests that, due to its strategic geographic position, the Eastern region of Africa could become a cocaine market, both towards European and emerging Far Eastern countries.

Analysis, in fact, considers the growing cocaine demand by the emerging Far Eastern markets, in particular China and South East Asia.

Eastern Africa would be a suitable supply channel, directly fueled by the flows from South America.

In this regard we cannot rule out that heroin/cocaine exchanges are carried out in that area of Africa. Based on the above, one can assume that the Tanzanian organizations do not only deal with drug transport and storage and have become more and more independent, operating in synergy with the Nigerian network.

The seizures carried out in Italy at air borders confirm the above mentioned scenario, consid-

ering the direct connections with the airport in East Africa and the Arabian peninsula; furthermore, backtracking courier routes it was possible to identify halfway transit in European hubs.

According to the analysis, the area of origin of the drugs has widened including now the countries neighbouring Tanzania, where infrastructures and airport connection networks allow to vary the routes to make it difficult to trace the couriers.

Based on quantities, the airports mainly involved in the heroin flow from Eastern Africa are those in Rome, Naples and Milan.

The analysis of different operations in which Tanzanian nationals were involved in drug trafficking revealed a few significant aspects:

- couriers: besides Tanzanian nationals also citizens from Lithuania, Portugal, Macedonia, Spain, Czech Republic and Romania were involved;

East African Region. As to the following step, the routes involving Italy which have resulted from the investigations almost exclusively originated in Dar Es Salaam (Tanzania). From this place, routes branch out towards Europe, and their itineraries are chosen according to the availability of the airlines. These are the airports involved:

- Africa: Nairobi or Mombasa (Kenya), Entebbe (Uganda), Addis Ababa (Ethiopia), Cape Town (South Africa);
- Arabian Peninsula: Muscat (Sultanate of Oman), Dubai (United Arab Emirates), Doha (Qatar);
- Europe: Brussels (B), Paris (F), Frankfurt (G), Zurich (Switzerland), Amsterdam (NL).

Most of the drug flow seems to be destined for the Campania area, as proved by the drug seizures operated in this Italian region, involving Tanzanian nationals. Once entered Europe, the drug couriers reach Italy as follows:

- By plane, also by means of low cost flights, above all destined for the airports of Milan Malpensa, Rome Fiumicino, Naples Capodichino, Venice Tessera, Caselle Torinese, Pisa, Florence, Brindisi;
- by train, mainly to Naples, Caserta and their suburbs;
- modus operandi: by air, heroin is smuggled in corpore, inside luggage or strapped to the body. The human couriers were found in possession of foreign and national telephone numbers, as well as of notes and phone books that led to the identification of a complex network of connections. The analysis of information shows that the operational base is in Tanzania: here, the leaders organize and manage the crucial phases of the drug trafficking, maintaining relations with Tanzanian contact persons stationed in Europe (Belgium and France), Brazil, China, Canada and in the US.
- itineraries: data available do not clearly show the methods of transportation and the type of organization operating the first part of the drug trip, that is from the source country (Afghanistan) to the cocaine.

To conclude, the Tanzanian criminal organizations which are active in East Africa deal with two different "worlds", that of heroin and the other of cocaine.

The Nigerian criminal networks provided them with the know-how, and they have consequently developed a flexible organizational and managerial capacity, which is the winning attitude to carve out an important position as co-leaders in the international drug trafficking scenario.

As a consequence, the counter-narcotic efforts have to overcome the too limited vision of the "courier" and focus on rebuilding the complex relations network, identifying the crime ring and its leadership. Their target should be the identification of the drug supply chain and the source countries. For this reason, structured information sharing is a vital factor.

Some ideas to fight narcomafias.

The drug phenomenon has become more and more complex both considering the capacity of trafficking to penetrate the society and the social impact connected to its consumption.

In order to analyse the trends of this phenomenon and to have an updated view of its national and international scenarios a key role is played by the daily and well structured exchange of information between the analysis, statistics and computer science fields.

This flow of data allowed to carry out wide-ranging study, research and intelligence activities.

In particular intelligence is being developed through the in-depth analysis of:

- data on world production areas and relevant levels of production;
- information on drug transit routes and criminal organizations responsible for the different phases;
- movement of precursors and essential chemicals;
- main drug operations;

- statistical data on the arrest of the subjects involved in illicit trafficking and drug seizures.

Moreover, the analysis of the complex market of drugs must also take into account the profile of drug supply and demand as well as the more complex issue of the dynamics of the illicit exchange.

The analysis of such data which are fundamental to have a clear picture and get useful information to target drug law enforcement activity is carried out from two separate analytical profiles: strategic and operational.

The operational analysis is mainly based on institutional sources and starts whenever investigations carried out by the local units highlight one or more investigative matches, that is whenever the information is such as to require a specialized approach.

A dedicated software analyses the connections between the different investigations, that is subjects, telephone numbers etc, and this makes it possible to understand situations which otherwise are difficult to describe.

In this way it is possible:

- to identify the subjects and their roles within the organization;
- to trace back the drug and money transfer flows;
- to highlight the marginal areas of the investigations, suggesting possible new investigative leads;
- to rapidly inform Agencies drug experts or foreign drug experts posted to Italy in order to establish contacts at information and investigative levels with foreign counterparts.

This kind of analysis facilitates the understanding of the criminal activities and the links between the subjects belonging to the targeted investigation, allowing to combine the drug operations in order:

- to facilitate coordination;
- to provide precise useful data to target investigations.

Strategic analysis allows to draw up situation reports on the problems connected to the drug phenomenon and its implications. In this case the information is developed by criminal analysts through the use of dedicated software – standard software commonly used in the world for intelligence analysis – and through the consultation of institutional and open sources.

## 6. An historical overview of the phenomenon

Di Giuseppe Panzarella

An overview over a century old experience of international drug trafficking contrast provides useful insights to better understand the phenomenon and its evolution, and so to be able to formulate some thoughts, considerations and proposals.

At the **beginning of the twentieth century**, the world's opium production was concentrated mainly in China, followed by India, Persia (now Iran) and Turkey. One of the first attempts of international engagement to combat drug trafficking was the **International Opium Commission in Shanghai**. On 26 February **1909**, a group of diplomats gathered in Shanghai with the aim to hinder the drug trade. This initiative, encouraged by US President Theodore Roosevelt, was supported by thirteen nations, including Britain, Japan and Russia. Although the conclusions reached by the Commission were not binding, they had the merit of making the international community more aware of the phenomenon and of giving birth to a series of initiatives, including many unilateral ones.

With the first **International Opium Convention**, signed at **The Hague** on 23 January **1912**, it was determined that all the signatory states (including Italy) should make serious efforts to control the market of morphine, cocaine, and their derivatives. The initiative to hold this international meeting was taken by the United States and the Convention extended the scope also to cocaine, known since 1860, but emerged as problematic phenomenon in North America and Europe at the turn of XIX and XX century. The convention was opened with the expression of the will to gradually reduce the abuse of these substances, by resorting to international agreements, and on that occasion Italy, tried, with little success, to gain support for measures against trade in marijuana and hashish from its colonies in the Horn of Africa. Subsequently, the **First World War** saw the rapid increase of drug abuse and this stimulated many other countries to ratify the Convention.

The Peace Treaty of 1919 gave birth to the **League of Nations** and, within it, to the Opium Advisory Committee (O.A.C.), in order to oversee the implementation of the Hague Convention. In **1920** the international drug control became one of the tasks entrusted to the embryonic body of the future United Nations. This supervision allowed to ascertain an excess of production of drugs in comparison to the medical-pharmaceutical needs, but the suggestions presented were not effective both for failure to join the League of Nations of important countries, such as Russia and the United States of America) and for the different views and interests of countries with colonial possessions in the production areas.

In **1925**, **two additional International agreements** were signed, both of them were in the direction of the gradual reduction in the production of drugs including cannabis derivatives, adopting a system of authorization for the import and export, on the British model.

Significant was also the **1936 Convention** of, which had the advantage of being the first focused not only on production but also on drug trafficking, calling it an international crime.

In 1945 the UN took the place of the League of Nations, during this period time new substances appeared (such as methadone), which somehow had to be inspected.

In **1953** the UN signed a **protocol** authorizing only seven countries (USSR, Bulgaria, Greece, India, Iran, Turkey and Yugoslavia) to produce opium for export and which contained the stringiest provisions ever issued in the international arena on drug control, which gives more power to the Permanent Central Board.

In **1961**, while North America saw the spread of marijuana and hallucinogens (LSD) between the youth, it was signed in New York the **UN Single Convention on Narcotic Drugs**, which repealed and replaced all previous conventions. In addition to the recognition of the competence of the United Nations in the field of drug control, it allowed the creation of the INCB (International Narcotics Control Board), extending controls to crops. Among the main objectives of the Convention, as well as the restriction to only medical and scientific purposes the production, manufacture, import, trade and possession of drugs, there was the establishment of a lasting international cooperation, calling on member countries to cooperate in synergy with the international organizations, as well as to designate a national service appropriate to coordinate

preventive action and the contrast to illicit trafficking, and to recognize all aspects related the drug market as criminal violation in the domestic legislation of the member countries,.

The **60s** marked large proliferation of the use of drugs. The world's largest producer of opiates became Burma, now Myanmar, not far from Vietnam where the Americans were engaged in war. The wide spread among the soldiers involved in the conflict induces the US to request a new conference (the so called **Amendments Protocol**, Geneva, 1972) to amend the 1961 Convention, with the aim to strengthen the capacity and increase efforts to fight the illicit drug production and trafficking.

A year earlier, in **1971**, the mass consumption of cannabinoids increased also in Europe and the experiences of abuse of pharmaceutical and synthetic drugs (such as barbiturates, amphetamines and methamphetamine, particularly in Japan, Scandinavia, the UK and the US) had led to the **Convention on Psychotropic Substances of Vienna**, which laid the hallucinogens, sedative, analgesic and antidepressant, both natural and synthetic origin, under the control of the international community. It established the parameters for assessing the effect of the substances to be monitored, obliging member countries to issue special licenses for the manufacture, trade, distribution and possession of the aforementioned substances. It should be noted that the debate that preceded the Treaty, was characterized by very strong pressure by the pharmaceutical lobby.

Despite the aforementioned efforts, also the 70 ended with a further and greater increase in the abuse of narcotics, also because of a cultural revolution that changed the social attitude toward drugs.

The decline of the opiates produced in Turkey was replaced by production in Mexico, in the Golden Triangle, in Pakistan and Afghanistan, that hosted the cultivation of opium of Iran, after the Islamic Revolution of 1979, that made it forbidden.

The spread of cannabis, both as production and as consumption, became a worldwide phenomenon, aided by experiments towards decriminalization of the use of that substance.

Even the cocaine, whose production was increased in the Andean region since the early 70's, began to be perceived as a serious problem in North America. Taking into account these indicators, the Commission on Narcotic Drugs in the UN formulated a plan of action, then resulted in the **International Drug Abuse Control Strategy (1981)**.

In the '80s it was recorded, with regard to the opiates, the consolidation of the productive potential of the Golden Triangle and the emergence of Afghanistan as a country producer, where illegal trafficking was funding the mujahideen movement. The production and consumption of cocaine grew steadily each year, as well as that of cannabis.

Furthermore, on the international scene they aroused increasing concern the criminal organizations and their transnational networks with the highest revenue derived from drug trafficking, cause of corruption, violence and other crimes. The fight against drug trafficking becomes even more a priority, resulting in the **Convention against Illicit Trafficking of Drugs and Psychotropic Substances**, adopted in **Vienna** in **1988** by 183 countries (about 99% of the member countries of the United Nations). It gave the drug trafficking the character of international illicit, promoted the development of international cooperation both operative and legal, for example, calling for closer cooperation in combating illicit traffic on the sea and by stimulating the use of controlled international deliveries.

One of the main aspects of the Convention was the emphasis on the laundering of the incomes of drug trafficking and the confiscation of properties derived from it. Another topic that was given greater emphasis than in the past, through a specific criminal provision, was the control of the precursors (chemicals used in the production or refining of narcotics), in order to prevent their commerce in the illicit market.

The “drug” threat did not seem to downsize however, recording in the **‘90s** dramatic increases in consumption of traditional drugs and boom in others, such as ecstasy; both in developed countries, traditional consumer markets and in the developing countries. Several factors contributed to this increase, such as a widespread economic prosperity and the rise of emerging economies, mitigation of border systems with the creation of free movement areas, the collapse of the Soviet bloc. There was the need of a new reaction of the international community that resulted in a **Political Declaration**, agreed during a special session of the UN General Assembly (**UNGASS**) in **1998**. An important aspect of the statement was the concept of “shared responsibility” of the states in facing the global drug problem, giving greater prominence to the aim of reducing drug demand and therefore prevention, contained in the “Guiding Principles on Demand Reduction”. The device also contains a number of measures and action plans such as:

- Action Plan against the production, trafficking and abuse of amphetamines, stimulants and their precursors;
- The control of precursors;
- Measures to increase judicial cooperation;
- Fight against money laundering;
- Action Plan on international cooperation for the eradication of illicit crops and alternative development.

In **2009**, the UNGASS was subjected to a review process, preceded by an analysis as to achieve the goals that were set a decade before.

Today, in the **third millennium**, with the continued spread of consumer markets and diversification of routes, with the considerable increase of psychoactive substances produced and in circulation, as well as the phenomenon of multi drug, the issue of narcotics and psychotropic substances is confirmed as a real global problem.

Undoubtedly, compared to the past, the international consensus on this subject is much higher and this should be considered already a result, but the current international scenario presents aspects even more dangerous and disturbing.

