

MEMORANDUM OF UNDERSTANDING
AMONG MEMBER GOVERNMENTS OF
THE CARIBBEAN FINANCIAL ACTION TASK FORCE
OCTOBER 27TH 2006 - FINAL

Considering the threat posed by the activities of money launderers and those who finance terrorism;

Determined to preserve and maintain social, economic and political stability in the Caribbean Region;

Considering the work since 1990 of the Caribbean Financial Action Task Force (CFATF) and taking into account the interest of Caribbean countries and territories in formalising this organisation and securing the participation of other countries and territories in the study, formulation and implementation of recommendations to improve the prevention, suppression and control of money laundering and terrorist financing;

Conscious of the benefit to countries and territories of the Caribbean Region of continued work in the study and the effective implementation of mechanisms to prevent and control money laundering and terrorist financing;

Acknowledging the need for expertise and training to ensure the effective implementation of money laundering and terrorist financing countermeasures and the support of the FATF members and international organisations in sustaining such training programmes; and,

Acknowledging that international co-operation is critical in the fight against money laundering and terrorist financing and reaffirming their commitment given in various *fora* to adopt and implement effectively the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 2000 UN Convention Against Transnational Organized Crime and the 1999 UN Convention for the Suppression of Terrorist Financing, the 40 FATF and the 9 Special Recommendations on Terrorist Financing, (the Recommendations), the obligations expressed in the Kingston Declaration and, where applicable, the 1995 Plan of Action of the Summit of the Americas, and the Inter American Convention Against Terrorism 2002.

The Governments party to this memorandum have reached the following understanding:

I - Objectives

Members agree to adopt and implement effectively the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 2000 UN Convention Against Transnational Organized Crime and the 1999 UN Convention for the Suppression of Terrorist Financing, endorse and implement the Recommendations, fulfil the obligations expressed in the Kingston Declaration and, where applicable, the 1995

Plan of Action of the Summit of the Americas, the Inter American Convention Against Terrorism 2002 and to adopt and implement any other measures for the prevention, suppression and control of the laundering of the proceeds of all serious crimes and terrorist financing as defined by the laws of each Member.

Members agree to adopt and effectively implement where applicable the March 2002 Washington Statement of the Black Market Peso Exchange System Multilateral Working Group and the October 2002 CFATF Money Laundering Prevention Guidelines for CFATF Member Governments, Free Trade Zone Authorities and Merchants.

Members agree to facilitate, implement and participate in such technical assistance and training programmes and typology exercises, which contribute to the enactment and effective implementation of policies, legislation and regulations in accordance with all applicable international conventions and agreements for the prevention, suppression and control of the laundering of the proceeds of all serious crimes and terrorist financing.

II - Members

1. Members are those countries or territories within the Caribbean Basin and Central America who have agreed to subscribe to this Memorandum.
2. The Council of Ministers is the body which will approve applications for membership by new Members.
3. Applications should indicate that the country commits to paying annual membership dues, agrees to submit to mutual evaluation in keeping with the Mutual Evaluation Programme, and attend Plenary and Council of Ministers Meetings on a regular basis.
4. Applications will be considered by the Council within 12 months of receipt. Countries or territories will be admitted as Members upon approval of their application by two thirds of the Members.

III - Structure

5. The Caribbean Financial Task Force comprises:
 - i. The Council of Ministers (the Council);
 - ii. The Plenary of Senior Officials (the Plenary);
 - iii. The Steering Group; and
 - iv. The Secretariat.

IV - Co-operating and Supporting Nations

6. Co-operating and Supporting Nations are countries or territories which have expressed their support for the objectives of the CFATF and have been approved by the Council of Ministers.
7. Co-operating and Supporting Nations are committed to the mutual evaluation of their progress in implementing the 40 Recommendations of the FATF and the 9 Special Recommendations on Terrorist Financing of the FATF and will make such contributions to the work and/or resources of the CFATF as are permitted by their respective national laws and policies.
8. Nations requesting to become Co-operating and Supporting Nations must express their commitment to the support of the CFATF and have undergone a positive mutual evaluation by the FATF or an FATF-approved regional body.
9. Countries or territories may apply in writing to the Secretariat to become Co-operating and Supporting Nations. Applications will be considered by the Council within 12 months of receipt. A country or territory will be considered a Co-operating and Supporting Nation upon approval of their application by two thirds of the Members.

V – Observers

10. Observers are:
 - i. Such countries, territories and organizations as are approved by the Council of Ministers as outlined in the attached schedule and include regional, multilateral and hemispheric organizations as approved by the Council of Ministers.
 - ii. Organisations which actively support or otherwise are interested in the objectives of the CFATF, as approved by the Council of Ministers;
 - iii. Countries or territories which have applied to become a Member or Cooperating and Supporting Nation, as approved by the Council of Ministers; and
 - iv. Any other country or organisation invited by the Chair to a specific meeting and to which no Member objects.
11. Only governmental or those organisations acting in the public interest are eligible to become Observers.
12. An organisation, country, or territory may apply in writing to the Secretariat to become an Observer. Applications will be considered by the Council within 12 months of receipt.

13. Organisations, countries, or territories will be admitted as Observers upon approval by two thirds of the Members present at a meeting of the Council and will hold such status at the Council's discretion.

VI - Invitees

14. The Chair and the Secretariat may invite non-governmental entities to observe special meetings on the discussion and analysis of typologies on money laundering and other offences relating to transnational crime and terrorism.
15. The Chair and the Secretariat may co-ordinate meetings in the jurisdictions of the Members in order to:
 - (a) Ensure that the private sector is fully aware of the obligations of the jurisdictions;
 - (b) Identify problems in regulation and supervision; and
 - (c) Revise standards and practices in order to ensure conformity with the best standards and practices of the international community.

VII- Funding

16. The activities of the CFATF are funded by annual contributions from all Members as decided by the Council, by contributions from Co-operating and Supporting Nations or/and by any other source approved by the Council.
17. Members will bear the cost of their participation in the activities of the CFATF.

VIII - The Council

18. The Council is the supreme authority within the CFATF and consists of one ministerial representative or duly authorised alternate proposed in writing from each Member.
19. The Council will meet at least once annually and where urgent circumstances dictate, may make decisions in respect of its functions and duties by a two thirds majority using a procedure by which the Secretariat will circulate to each Member in writing (in electronic or other form) the proposed recommendation for their individual consideration and approval or otherwise within ten (10) days of receipt of the proposed recommendation, which approval or otherwise will be communicated to the Secretariat for tabulation and dissemination.

20. The functions and duties of the Council are the following:
- (a) Examine, modify, approve or reject:
 - i. The items of the Council Meetings;
 - ii. The Annual Reports of the Organisation
 - iii. The audited Financial Reports for the previous financial year;
 - iv. The Work Programme for the following year;
 - v. The Budget for the following year:

 - vi. The Mutual Evaluation Reports on Members;
 - vii. The Country Reports on Members;
 - viii. The Technical Assistance and Training Reports on Members
 - ix. The Typology Reports on money laundering and terrorist financing trends in the Region;
 - x. The admission of new Members, Co-operating and Supporting Nations and Observers, the removal of membership from admitted Members and Co-operating and Supporting Nations and the withdrawal of status from Observers.;
 - xi. The appointment of the Executive Director and the Deputy Executive Director(s) of the Secretariat.

 - xii. The temporary or permanent location of the Secretariat.
 - xiii. The date and place of the next Council meeting.
 - xiv. Any other business to be submitted to the Secretariat, with at least one (1) month prior notice; or within a reasonable time frame prior to the next Council Meeting following its receipt at the Secretariat;
 - xv. Policy matters, including the adoption of the Recommendations.

 - (b) Elect a Deputy Chair.

 - (c) Appoint an Accountant and an independent Auditor;

 - (d) Take appropriate action with respect to Members that do not comply with this Memorandum and the Recommendations, including the suspension from its membership; and

 - (e) Reinstatement of a suspended Member.

IX – The Chairman

21. The Deputy Chair elected by Council shall assume the Chair at the next annual meeting of Council.
22. The Member holding the Chair will appoint a Minister or Senior Official who will hold office until the next Council Meeting.
23. The functions and duties of the Chairman are the following:
 - i. Preside over meetings of the Council and the Plenary and be responsible in the latter case to brief the Members on the activities of the CFATF;
 - ii. Represent the CFATF at FATF meetings and other fora determined by the Council;
 - iii. Carry out activities assigned by the Council and any other activities consistent with his mandate;
 - iv. Discuss and defend before the international community the positions and initiatives of the jurisdictions, in relation to the CFATF mandate;
 - v. Supervise the execution of the Work Programme for the period and any other issue approved by the Council;
 - vi. Receive quarterly reports and other reports prepared by the Secretariat, on the implementation of the Work Programme, the budget and any other activities being carried out;
 - vii. Delegate his representation or assign specific responsibilities to the Deputy Chair, the Executive Director or the Steering Group on any pertinent matters; and
 - viii. Supervise processes for the resolution of disputes as may arise from time to time.

X - The Deputy Chair

24. Once each year the Council shall elect a Member to be Deputy Chair by a majority of Members.
25. The Deputy Chair will undertake such functions as may be delegated by the Chair.
26. Members who aspire to the position of Deputy Chair may present their written nomination to the Secretariat, supported by two (2) other Member countries, at least sixty (60) days before the meeting in which the election will be conducted.

27. Any Member who is not current with its financial obligations in the CFATF and/or is judged by the Council as not making sufficient efforts to implement and carry out the Recommendations, shall not be eligible for nomination for the Deputy Chair of the organization.

XI - The Plenary

28. Each Member will be represented by at least one senior official in the Plenary.
29. The Plenary will meet at least twice annually.
30. The Chair and Deputy Chair of the Council will be respectively Chair and Deputy Chair of the Plenary.
31. The functions and duties of the Plenary are the following:

To review, analyze, modify and make recommendations on:

- i. the draft Agenda;
 - ii. the draft Annual Report;
 - iii. the audited Financial Reports;
 - iv. the budget and proposals for funding;
 - v. recommendations regarding the appointment of the Accountant and an Independent Auditor;
 - vi. the Mutual Evaluation Reports on Members;
 - vii. the Country Reports on Members;
 - viii. the implementation of the approved Work Programme;
 - ix. the Technical Assistance and Training Reports on Members;
 - x. the Typology Reports on money laundering and terrorist financing trends in the Region;
 - xi. the admission of new Members, Co-operating and Supporting Nations, and Observers;
 - xii. the positions of Executive Director and Deputy Executive Director (s) of the Secretariat.
 - xiii. policy matters, including the adoption of any revised Recommendations; and
 - xiv. instances of failure to comply with this Memorandum and the Recommendations by a Member; and
 - xv. The reinstatement of suspended Members.
32. The Plenary may establish working groups to undertake specific tasks. The election, composition, reporting process and life of such working groups will be at the discretion of the Plenary.

XII - Procedures at Meetings

33. A validly constituted quorum for a meeting will exist when at least one half of the voting Members is present.
34. All Members, Co-operating and Supporting Nations and Observers participate in meetings. Members of the FATF/FSRBs/OGBS participate in meetings with delegations comprising the Presidents and Secretariats of the organisations and on the basis of reciprocity a representative from up to five member jurisdictions who will participate and take the floor on behalf of but under the umbrella of the FATF/FSRBs/OGBS and under the coordination of the FATF/FSRBs/OGBS President or the Secretariat.
35. Only Members present have the right to vote.
36. Resolutions will be adopted by a two-thirds majority of the Members present.

XIII - The Steering Group

37. The Steering Group which is chaired by the Chairman, is a consulting advisory group, to the Plenary and the Council on a variety of policy matters and issues and also to the Secretariat on any matter related to the administration of the Secretariat or policies which for practical reasons cannot be dealt with by all Members.
38. The Steering Group is comprised of the Chairman, the Deputy Chairman, the outgoing Chairman, the Executive and Deputy Executive Director(s), three Members chosen by simple majority of the Council of Ministers and by one (1) representative of the COSUNs Group.
39. The organization and the procedures for the functioning of the Group will be prepared by the Executive Director and presented for approval by the other Members.

XIV - The Secretariat

40. The Secretariat will perform technical and administrative functions under the direction of the Executive Director and the Deputy Executive Director (s).
41. The Secretariat shall be headed by an Executive Director who will have responsibility for the proper execution of its technical and administrative functions. He shall be assisted by the Deputy Executive Director(s).
42. Member countries will select and appoint the Executive Director and Deputy Executive Director(s), and indicate their terms of office, at a Council Meeting by the decision of a two-thirds majority of the Members present.

43. The functions and duties of the Secretariat are the following :
The Secretariat will:

- i. Provide periodic reports to the Chair regarding its activities;
- ii. Have prepared and present the Annual Report, the audited financial statements and any other related report on the activities of the CFATF to the Plenary;
- iii. Prepare under the guidance of and present at the request of the Chairman, the Work Programme for the following year;
- iv. Prepare and present the annual budget and funding sources for the following year;
- v. Administer and implement the budget approved by the Council;
- vi. Prepare quarterly reports on the activities carried out and the budget implemented by the Chairman;
- vii. Represent the Chairman or Deputy Chairman in activities expressly delegated;
- viii. Coordinate, organise, supervise and participate in the Mutual Evaluation of the Members;
- ix. Prepare Mutual Evaluation Reports and assure the timely distribution of Mutual Evaluation Reports to Members, COSUNs, Observers/ FATF/FSRBs/OGBS which will be presented to the Plenary for review and subsequently to the Council for approval;
- x. Prepare and present before the Plenary and Council indicators, methodologies and procedures to assess the efforts of Members in the implementation of measures and Recommendations against money laundering and the financing of terrorism;
- xi. Organize typology studies to examine money laundering and terrorist financing activities and trends in the Region;
- xii. Keep Members informed as to relevant developments and activities on anti – money laundering and anti- terrorist financing;
- xiii. Channel and respond to communications received by the Secretariat and keep Members informed as to relevant developments and activities on anti – money laundering and anti – terrorist financing by the FATF and other relevant bodies;

- xiv. Discharge any other responsibility assigned by the Council, the Chair or the Plenary;
- xv. Receive applications on behalf of the Chair; and
- xvi. Receive notices of intention to withdraw and notify Members accordingly.

XV- Technical Assistance and Training

44. In pursuance of the extension of the organization's mandate to facilitate and implement the technical assistance and training needs of all Members, the Secretariat under the direction of the Chairman and the Steering Group should:
- (i) Coordinate and participate in the activities of the Technical Assistance and Training Working Group;
 - (ii) Provide progress reports on technical assistance and training activities and programmes to the Chairman, Steering Group, Plenary and Council Meetings;
 - (iii) Act as technical assistance and training liaison between the CFATF and other similar organizations and countries as well as the regional and international donor community;
 - (iv) Assess and quantify the training and technical assistance needs of members to combat money laundering and the financing of terrorism; and
 - (v) Ensure that the mandate of the CFATF to act as implementing agency for technical assistance and training programmes approved by the Council of Ministers is efficiently discharged.

XVI - National Committees

45. Members will, in accordance with applicable domestic law, establish Standing Anti-Money Laundering and the Financing of Terrorism Committees or similar entities, comprising senior representatives of relevant disciplines: Legal and Judicial, Financial Supervision, and Law Enforcement.

XVII - Self Assessment

46. Members agree to participate in an ongoing Self – Assessment Programme coordinated by the Secretariat.

XVIII - Mutual Evaluation

47. Members agree to participate in a programme of mutual evaluation conducted in accordance with Mutual Evaluation Procedures approved by the Council and to allow Examiners from the FATF/FSRBs/OGBS/World Bank to participate as appropriate in the CFATF Mutual Evaluation Mission Teams on a reciprocal basis.

XIX - Languages and Authentic Text

48. The official languages of the CFATF are English and Spanish. The English and Spanish texts of this Memorandum of Understanding are equally valid and authentic.

XX - Accounting Period and Financial Reports

49. The financial year will be from the first (1st) day of January to the thirty first (31st) day of December.
50. The Accountant will prepare and present to the Secretariat quarterly financial statements comprising a balance sheet, income and expenditure statement, cash flow and source of funds statements to the period ending December 31st each year.
51. The Auditor will carry out an annual audit of the books and accounts of the CFATF.
52. The Secretariat will prepare and submit a report to the Members at least two (2) months prior to the Council Meeting.

XXI - Withdrawal

53. A withdrawal by a Member or a Co-operating and Supporting Nation will be effective three (3) months after receipt by the Secretariat of written notice of intention to withdraw.

XXII - Suspension

54. Any Member may be suspended from Membership by decision of the Council, with a favourable vote of three quarters ($\frac{3}{4}$) of the Members.

XXIII- Reinstatement

55. A suspension shall terminate upon the breach being remedied and upon the Council confirming rectification and reinstatement of a Member Country.

XXIV – Dissolution

56. The CFATF will remain established for an indefinite period of time and will only be dissolved by decision of a three fourths majority of the Members taken at a Council Meeting.

XXV – Amendment of this Memorandum

57. This Memorandum may only be amended by approval of two-thirds of the Members present at a meeting of the Council.

XXVI- Entry into Force

58. Each Member agrees to carry out the terms of this Memorandum as of the date of signature of that Member.

SCHEDULE TO THE MEMORANDUM OF UNDERSTANDING

(A) INTERPRETATION

Recommendations: Any reference within this Memorandum of Understanding to the Recommendations will mean the FATF 40 Recommendations and the Eight Special Recommendations on Combating the Financing of Terrorism.

(B) PROCEDURES FOR FAILURE TO COMPLY WITH THE MEMORANDUM OF UNDERSTANDING AND THE RECOMMENDATIONS

With regard to any instance by a Member of failure to comply with the Memorandum of Understanding and the Recommendations, the Plenary shall:

- a) Invite the Member to report to the Plenary its position regarding the alleged non-compliance and its proposed remedial actions or, in the case of a negative Mutual Evaluation Report, to provide a status report regarding any corrective action(s) it may have taken.
- b) Upon a negative assessment of this report, and depending upon the severity of the deficiency in question, the Plenary may determine that the Member in question should provide a further status report at the next Plenary or Council of the CFATF.
- c) If these reports are made before the Plenary, the Plenary should forward its findings and its recommended course of action to the Council which will also receive the problem Member's report.

The Council of Ministers shall:

- (i) Receive and consider a Status Report and recommendations from the Plenary on the alleged non-compliance by a Member and its proposed remedial action(s), any corrective action(s) that may have been taken, or lack of corrective action.
- (ii) Determine such steps as it feels necessary in light of the Status Report which in the case of a negative assessment by the Plenary could include sending a Diplomatic Note through its Secretariat to the Government in question, expressing its concern and requesting a response.

- (iii) In the event of an unsatisfactory or no response, the Council should form a high-level delegation to be led by the Chairman in a visit to appropriate officials of the Member in question. This visit should be treated as a diplomatic demarche in which the CFATF speaking through the Council expresses its concern with the problems which are the subject of the visit and requests of the visited Government indications of its intentions.
- (iv) In the event of an unsatisfactory response as determined by the Council, the Council should then authorise a letter to the government in question. This letter, to be issued under the Chairman's signature, should express the Council's concern with specific failings of the government in question, show how these are indicative of non-compliance with specifically identified obligations embodied by the MOU, and urge rapid and effective corrective measures proposed by the Council in order to avoid further action by the Council.
- (v) In the event of an unsatisfactory response to the Council, the Government in question should be advised that the failure to take corrective action within a specified period as determined by the Council having regard to the nature of the non-compliance may result in corrective action which might include expulsion from membership.

C. SUSPENSION

- (i) The submission of a request for suspension by the Chairman or a Member should have the support of at least another Member;
- (ii) A copy of the request for suspension should have been received by the Member whose suspension is requested at least thirty (30) days before the meeting where such request will be reviewed, and with written evidence in the Secretariat of its receipt by the Members.
- (iii) The request for suspension will be established when the Members do not comply with the objectives and obligations set forth in this Memorandum of Understanding and/or with the financial commitments of the CFATF.
- (iv) A Member will only be suspended on receipt of official and written notice of the breach in question from the Chairman if he has failed to rectify such breach within an agreed timeframe.

(D) THE CHAIRMAN, DEPUTY CHAIRMAN AND STEERING GROUP:

- i. The Chairman will be a member of the Steering Group for the one-year period following his election as Chairman and for a further one-year period when he is designated as outgoing Chairman.
- ii. The Deputy Chairman will be a member of the Steering Group for the one year period following election as Deputy Chair;

for the one year period following election as Chair.
for the one year period when designated outgoing Chairman.
- iii. The three members chosen by simple majority of the Council of Ministers will be members of the Steering Group for the one-year period following such election. Should any of these three members be elected to the Deputy Chair, then the procedure in (ii) and (i) above will apply.
- iv. Whilst every effort will be made to ensure that all CFATF Members are given the opportunity to serve on the Steering Committee, nothing will preclude the election of any Member to serve for any consecutive period as the Council of Ministers decide.
- v. The Steering Group will be elected for a period of one (1) year and will meet on a regular basis as the interests of the organization require, as well as before each Plenary Meeting.
- vi. The Chairman who has the authority to call upon all past Chairmen to share their expertise and experiences in the conduct of all aspects of the organization's affairs or the Executive Director will determine the mechanisms for the functioning of the Group.

(E)

OBSERVERS

- Asia Pacific Group Secretariat
- Association of Caribbean Commissioners of Police
- Caribbean Customs Law Enforcement Council
- Caribbean Development Bank
- CARIFORUM
- Caribbean Regional Technical Assistance Centre
- CARICOM Secretariat
- Commonwealth Secretariat
- Eastern Caribbean Central Bank
- Eastern and Southern Africa Anti Money Laundering Group
- EGMONT Group
- European Union
- Federal Republic of Germany
- Financial Action Task Force

- Financial Action Task Force of South America
- Inter American Development Bank
- International Monetary Fund
- Interpol
- Moneyval
- Offshore Group of Banking Supervisors
- Organization of American States/CICAD
- Organization of Eastern Caribbean States Secretariat
- United Nations Office of Drugs Control and Crime Prevention
- The World Bank Group
- World Customs Organization