

CFATF-VII

CARIBBEAN FINANCIAL ACTION TASK FORCE



ANNUAL REPORT 2000-2001

All rights reserved.
Applications for permission to reproduce all or part of this publication should be made to:
CFATF Secretariat, 35-37 Sackville Street, Port of Spain, Trinidad & Tobago, W.I.

October 11, 2001 - Final

TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY	4
CFATF OVERVIEW	5
INTRODUCTION	8
ONGOING STRENGTHENING OF THE REGIONAL ANTI MONEY LAUNDERING FRAMEWORK	
CONFERENCE ON THE INTERNATIONAL FINANCIAL SERVICES SECTOR	09
THE CFATF MUTUAL EVALUATION PROGRAMME	10
THE MUTUAL EVALUATION EXAMINERS' TRAINING WORKSHOP	12
TYPOLGY EXERCISES	12
FIU FOR OECS	13
CARIBBEAN ANTI-MONEY LAUNDERING PROGRAMME	14
PUBLIC EDUCATION AND AWARENESS RAISING CAMPAIGN	14
ADMINISTRATIVE ISSUES	
CFATF MEMBERSHIP	15
CFATF STEERING GROUP	16
BUDGET AND FUNDING	17
DEPUTY DIRECTOR	17
EXTERNAL RELATIONS	
GENERAL	17
DUBLIN GROUP MEETINGS	19
PUBLIC SPEAKING	19
LOOKING TOWARDS THE FUTURE	
THE CHAIRMAN'S WORK PROGRAMME 2001 - 2002	19

ANNEXES

	Page	
A	Press Release for funeral of CFATF Chairman	21
B	International Financial Services Report	22
C	International Financial Services Communiqué	26
D	Summary – Mutual Evaluation Reports	28
E	Schedule of Visits- Second Round of Mutual Evaluations	38
F	Revised 40 FATF Recommendations	39
G	Revised 19 CFATF Recommendations	48
H	25 Point FATF NCCT Criteria	52
J	Revised Mutual Evaluation Procedures	55
K	Tour De Table Report	62
L	CFATF Checklist Questionnaire on the 25 Point FATF NCCT	71
M	Money Laundering Prevention Guidelines for CFATF Member Governments, Free Trade Zone Authorities and Merchants	91
N	Caribbean Anti Money Laundering Training Programme Report	96
O	List of Engagements – October 2000 – September 2001	99
P	2001 – 2002 Chairman’s Work Programme	101
Q	Reports by International Organisations	108

EXECUTIVE SUMMARY

The 2000-2001 period, the seventh operational year of the Caribbean Financial Action Task Force (CFATF) saw the achievement of significant organizational and administrative milestones and positive ongoing successes in strengthening the regional anti-money laundering infrastructure.

Sadly, the CFATF family had to mourn the passing away on January 6th 2001, of our Chairman Edgar “Watty” Vos, Minister of Justice and Public Works of Aruba, who had assumed this important leadership role a few months before in October 2000. His funeral service was a moving tribute to a well-loved public official whose dedication and commitment to the government and people of Aruba and to the work of this organization would be truly missed. Despite this great loss, the government and people of Aruba remained committed to their duty to this organization and the region, with the appointment of the Honourable Pedro E Croes, Minister of Justice and Public works as CFATF Chairman. Both Ministers were honourably represented by Mr. Roland Wever, Chairman of the Financial Action Task Force of Aruba and International Liaison Officer at the Cabinet of the Minister Plenipotentiary in The Hague.

December 2000 saw the successful conduct of the CFATF Conference on International Financial Services. Run partially along commercial lines, it was the first event of this nature for the Task Force and proved itself successful in financial terms as well as in the dissemination of valuable information on this sector to public officials and private sector personnel in various financial institutions of Member States.

Outreach efforts to increase the membership bore fruit with regards to the Republic of Haiti. In the face of this positive gain, the membership of Nicaragua continues to be suspended due to the failure of that country’s officials to respond to concerted and persistent outreach efforts. Ministers during Council VII, noted that general elections in Nicaragua were planned for November 4th 2001 and that the new administration would be installed on January 10th 2002. In light of this, Ministers agreed to pursue additional avenues to secure a positive response from Nicaragua. A delegation from Guatemala attended the October 2001 Plenary and Council of Ministers Meetings as Observers and are actively considering full CFATF membership.

The strengthening of the regional anti money laundering infrastructure continued apace. The First Round of Mutual Evaluations was completed on schedule as mandated by the Council of Ministers and the Second Round commenced directly in July 2001 with Mutual Evaluation Missions to Panama and the Dominican Republic in September 2001. The benchmarks against which Members will be monitored are the 1996 Revised 40 FATF Recommendations, the 1999 Revised 19 CFATF Recommendations, and the Twenty Five Point Financial Action Task Force Non Cooperative Countries or Territories Criteria. (FATF NCCT).

On the latter point, the Secretariat has developed a Checklist Questionnaire which has been circulated to the FATF Secretariat, for comment by the wider FATF Membership and to the Chairman and Members of the FATF NCCT Review Group of the Americas. We in the Caribbean Basin Region and Bermuda hope that this document could be developed into an internationally accepted instrument for use in Mutual Evaluation Missions to Member Countries of all international organizations involved in the fight against money laundering.

In light of the new benchmarks which will be used for the Second Round of Evaluations, the Second

Mutual Evaluation Examiners Training Workshop was hosted by the Bolivarian Republic of Venezuela during May 9-10 in Caracas, Venezuela. This was indeed an exercise in international cooperation and the sharing of expertise between the CFATF and FATF Member States. The strong and fruitful bonds which continue between both the CFATF and the FATF facilitated a well attended and very successful training seminar.

Keeping abreast of the current trends and methodologies being utilized by organised international criminal organisations is another important aspect of the monitoring functions of the organization. This is achieved through our annual Typology Exercise. Accordingly, during the period under review, the money laundering possibilities in the Free Trade Zones were considered in a two-part programme. The recommendations arising out of this Typology Exercise is the first set of guidelines to be established by any international anti money laundering organization and is particularly important given the current negotiations for the establishment of a Free Trade Area of the Americas by 2005.

The Caribbean Anti-Money Laundering Programme continues to do solid work in terms of the provision of technical assistance and training for Financial Investigators, the setting up of national Financial Intelligence Units, the modernization of legislation to meet acceptable international benchmarks and the provision of training and guidance to the regulators, supervisors and the private sector engaged in the regional financial system. Importantly for Spanish speaking CFATF Members, arrangements are currently in hand with the assistance of the Inter American Development Bank for a training initiative which should commence by May 2002.

In a decisive demonstration of increasing regional ownership of the affairs of this organization, the Government of the Republic of Panama agreed to meet all the attendant expenses for the secondment of one of its valuable and senior officials to the Secretariat as Deputy Director for a three-year period. The CFATF family is profoundly indebted to the Republic of Panama for this extremely generous and gracious assistance.

Given the current international climate and the plethora of anti money laundering initiatives which certainly bring with them serious implications for the social, political and economic well being of the region, the current inherited anti money laundering monitoring mechanisms need to be radically augmented.

Accordingly, although this report focuses on the past year's performance, we must also turn our attention for a moment to the future and some aspects of the Chairman's Work Programme for the period 2001-2002. Proposals outlined therein would require additional resources and staff but certainly would set the organisation on a path to truly protect the social, political and economic well being of the Caribbean Basin Region and Bermuda as is enshrined in the Memorandum of Understanding.

This was a year of substantial achievements which position the organization quite favourably to meet the challenges of the future in conjunction with our international partners.

CFATF OVERVIEW

The Caribbean Financial Action Task Force (CFATF) is an organisation of twenty-six states of the Caribbean Basin and Bermuda, which have agreed to implement common countermeasures to address the problem of criminal money laundering. It was established as the result of meetings convened in

Aruba in June 1990 and Jamaica in November 1992.

In Aruba representatives of Western Hemisphere countries, in particular from the Caribbean and from Central America, convened to develop a common approach to the phenomenon of the laundering of the proceeds of crime. Nineteen recommendations constituting this common approach were formulated. These recommendations, which have specific relevance to the region, are complementary to the additional forty recommendations of the Financial Action Task Force established by the Group of Seven at the 1989 Paris Summit.

The Jamaica Ministerial Meeting was held in Kingston, in November 1992. Ministers issued the Kingston Declaration in which they endorsed and affirmed their governments' commitment to implement the FATF and Aruba Recommendations, the OAS Model Regulations, and the 1988 U.N. Convention. They also mandated the establishment of the Secretariat to co-ordinate the implementation of these by CFATF member countries.

The main objective of the Caribbean Financial Action Task Force is to achieve effective implementation of and compliance with its recommendations to prevent and control money laundering. The Secretariat has been established as a mechanism to monitor and encourage progress to ensure full implementation of the Kingston Ministerial Declaration.

Currently, CFATF members are Anguilla, Antigua & Barbuda, Aruba, The Bahamas, Barbados, Belize, Bermuda, The British Virgin Islands, The Cayman Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Haiti, Jamaica, Montserrat, The Netherlands Antilles, Nicaragua, Panama, St. Kitts & Nevis, St. Lucia, St. Vincent & The Grenadines, Suriname, Trinidad & Tobago, The Turks & Caicos Islands, and Venezuela.

Representatives of the Governments of Canada, the Netherlands, France, The United Kingdom, and the United States of America (the "Cooperating and Supporting Nations"), meeting together in San José, Costa Rica 9 – 10 October, 1996, considered the work of the Caribbean Financial Action Task Force (the "CFATF") since 1990, the benefits of effective implementation of mechanisms to prevent and control money laundering; and the need for expertise and training, and cooperation among Nations to assure such implementation in the Caribbean region and Bermuda.

The Cooperating and Supporting Nations are members of the Financial Action Task Force on Money Laundering (the "FATF") and as such are committed to the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and to the implementation of the 40 FATF Recommendations concerning anti-money laundering measures.

The Cooperating and Supporting Nations recognize the relationship between the work and objectives of the FATF and the work and objectives of the CFATF. Accordingly, these Nations are committed to making such contribution to the work and /or resources of the CFATF as are permitted by their respective national laws and policies.

At Council of Ministers Meetings in October 1999 and October 2000, both Spain and Mexico respectively joined the CFATF Group of Cooperating and Supporting Nations.

The CFATF Secretariat monitors members' implementation of the Kingston Ministerial Declaration through the following activities:

- i. Self-assessment of the implementation of the recommendations.
- ii. An ongoing programme of mutual evaluation of members.
- iii. Co-ordination of, and participation in, training and technical assistance programmes.
- iv. Biannual Plenary meetings for technical representatives.
- v. Annual Ministerial meetings.

Money laundering is growing rapidly and subject to ever changing techniques. Since February 1996, the CFATF has been conducting a number of Typology Exercises on money laundering with the aim of increasing awareness of the attendant risks to the region. These exercise allow for the sharing of information collated by various bodies involved in combating money laundering.

These exercises have explored money laundering activity in Domestic Financial Institutions, the Casino and the Gaming Industry; through International Financial Transactions conducted in both Domestic and Offshore Institutions and the Emerging Cyberspace Technologies.

Given ongoing negotiations for the establishment of a Free Trade Area between the Caribbean and Central America and the objective of a Free Trade Area of the Americas by 2005, and the need for protecting legitimate international trade through Free Trade Zones against criminal misuse, the CFATF in October 2000 conducted Part I of a Typology Exercise into the money laundering possibilities in the Free Trade Zones. Part II was undertaken during March 2001. The goal of this particular initiative is the development of a Model Free Zone Compliance Programme and a Code of Conduct. As a first step the Exercise led to the formulation of Money Laundering Prevention Guidelines for CFATF Member Governments, Free Trade Zone Authorities and Merchants

In furtherance of its mandate to identify and act as a clearing house for facilitating training and technical assistance needs of members, the Secretariat works closely with regional Mini-Dublin Groups, the diplomatic representatives of countries with interest in the region, in particular Canada, France, Japan, the Netherlands, the United Kingdom, and the United States, and, finally, international organisations. Included among these international organisations are: OAS/CICAD, CARICOM, CARIFORUM, the Caribbean Customs Law Enforcement Council (CCLEC), the Caribbean Development Bank (CDB), the Centre Interministeriel de Formation Anti Drogue (CIFAD), APG Secretariat, the Commonwealth Secretariat, E.C./E.U., E.C.D.C.O., ECCB, FATF Secretariat, GPML, INTERPOL, OGBS, Jersey, the United Nations International Drug Control Programme (UNDCP) and World Customs Organisation (WCO).

With the support of and in collaboration with UNDCP, the CFATF Secretariat has developed a regional strategy for technical assistance and training to aid in the effective investigation and prosecution of money laundering and related asset forfeiture cases. The development of this regional strategy by UNDCP/CFATF parallels and is being closely co-ordinated with similar initiatives by the European Commission and efforts arising from the Summit of the Americas Ministerial in Buenos Aires.

The CFATF Secretariat is hosted by the Government of Trinidad and Tobago. The CFATF Chairman for the period January – October 2001, was Hon. Pedro E. (Eddy) Croes, Minister of Justice & Public Works of Aruba. At Council of Ministers Meeting VII on October 11, 2001, Mr. Gautreaux Piñeyro, Presidente del Consejo Nacional de Drogas, Dominican Republic, assumed the

Chairmanship of the CFATF for the 2001-2002 period.

Calvin E. J. Wilson, the CFATF Executive Director, is a national of Trinidad and Tobago, and a member of the Bar of England and Wales and Trinidad and Tobago. He was a former Senior Crown Prosecutor in the United Kingdom for eight years and is a member of Lincoln's Inn.

Pierre LAPAQUE, seconded by the Government of France, is the Deputy Director. He comes to the CFATF with fifteen years experience in the French Police with his last posting in Nice as Chief of the Fraud Squad in the French CID.

INTRODUCTION

The annual Council of Ministers Meeting during which the Chairmanship of the Caribbean Financial Action Task Force passes from one Member Country to another was last held in Oranjestad, Aruba, during October 2000, where outgoing Chairman Robert Mathavious, Director of Financial Services, British Virgin Islands passed the mantle of leadership to Hon. Edgar J. Vos, Minister of Justice and Public Works of Aruba with the full confidence that the torch will be held high, guiding the organisation to greater achievements.

Chairman Vos accepted with humility and pride the valuable opportunity of assuming the CFATF Chairmanship and confirmed that he looked forward to working with colleagues from Member States and in co-operation with our COSUN friends and other international partners to secure further improvements in the prevention and control of money laundering in the Caribbean Basin Region and Bermuda.

Key features of the Work Programme for the 2000-2001 period centered on:

Completing the First Round of the Mutual Evaluation Programme and embarking thereafter on the Second Round.

Reviewing Money Laundering Methodologies through a Typology Conference on the Free Trade Zones.

Ensuring that Member States meet the payment of their annual contributions in a timely fashion in order to facilitate the effective and efficient conduct of the organisation's business.

Engaging in outreach efforts to secure the fullest participation in CFATF affairs by Nicaragua and the membership of Guatemala, Guyana, El Salvador and Honduras.

Monitoring the progress of the FATF Initiative on Non Co-operative Countries or Territories and keeping the Members abreast of all developments, and

Projecting a higher organisational profile through a sustained region wide public education campaign on the nature of the CFATF's work and the dangers of drug trafficking and money laundering to the fabric and well being of our countries.

Sadly on January 6th 2001, within a few months of assuming office, Chairman Vos passed away, a loss which was solemnly mourned by the entire CFATF family of Nations as well our friends and

partners of the Group of Cooperating and Supporting Nations, International and Observer Organisations. **SEE ANNEX A**

The Member states of the Caribbean Financial Action Task Force extended to the Government and people of Aruba, profound condolences on the loss of such a dedicated and much loved public figure.

Minister Vos embodied the spirit of a nation, which continues to demonstrate a solid and unshakable commitment to the preservation of the social, political and economic well being of the Caribbean Basin Region and Bermuda and the global fight against international financial crime. Member countries of the Caribbean Financial Action Task Force would be forever indebted to the Government and people of Aruba for sharing with us his experience, expertise and commitment.

To Chairman Vos' wife, young children and other members of his family, prayers and words of encouragement and support on the loss of a dear and loved one were offered.

The Executive Director represented the organization at the funeral services. The Government of Aruba, the Ministry of Foreign Affairs and Angelique Petersen must be thanked for the courtesies that were extended during his short stay.

Despite this sad loss, the Government of Aruba, ensured that their commitment to the ideals of this organization was duly continued through the appointment of Mr. P E (Eddy) Croes, the new Minister of Justice and Public Works as CFATF Chairman.

In order to allow Chairman Croes to get settled in his new office, the Honourable J.H.A. Eman, Prime Minister of Aruba, authorised Mr. Roland Wever, Chairman of the National Financial Action Task Force of Aruba and International Liaison Officer, Cabinet of the Minister Plenipotentiary of Aruba, to conduct proceedings at all CFATF Meetings.

Mr. Wever undertook this assignment with dignity, skill and professionalism, fully in keeping with the pursuit of excellence in all undertakings, which is the hallmark of the Government and people of Aruba. His first official duty was to Chair the CFATF Conference on International Financial Services during December 2000, which was held in Port of Spain, Trinidad. The Secretariat benefited considerably from Mr. Wever's fluency in Spanish in that he undertook Mutual Evaluation Missions to the Dominican Republic and Panama as Head of the Mutual Evaluation Teams. Additionally, he represented the Secretariat at the Crans Montana Forum, Monaco World Summit in April 2001.

ONGOING STRENGTHENING OF THE REGIONAL ANTI MONEY LAUNDERING FRAMEWORK.

CONFERENCE ON INTERNATIONAL FINANCIAL SERVICES

The Conference on International Financial Services was conceived at a time when this sector was seen as a viable revenue generating option for the economies of several CFATF Member States. At this time also, the sector was attracting considerable attention from the international community which was concerned about the proliferation of international financial crime.

The rationale for the exercise was to create a forum where both regional and international experts could share vital and useful information with public sector officials and private sector practitioners on

the acceptable international standards for the supervision and regulation of the sector and the importance of adhering to them.

The Conference which took place in Port of Spain, Trinidad, December 5-7, 2000, departed from previous CFATF activity as for the first time, delegates were required to pay a registration fee and sponsorship and advertising were sourced from the private sector. As a commercial exercise, the Conference was a success. This can be clearly seen through the Report and Communiqué which are contained in the Annexes.

A debt of gratitude for their confidence and financial support is owed to the governments of Switzerland, British Virgin Islands, Montserrat, Panama, Belize, Anguilla, St Kitts and Nevis, Bahamas, Barbados and Costa Rica. Profound appreciation for their financial support must also be extended to the Caribbean Development Bank, The Tourism and Industrial Development Company of Trinidad and Tobago, The Republic Bank of Trinidad & Tobago, Royal Bank of Trinidad & Tobago and the Scotia Bank of Trinidad & Tobago.

We were pleased and indeed honoured that the Honourable Basdeo Panday, Prime Minister of the Republic of Trinidad & Tobago delivered the keynote address and a Special Statement on behalf of the Government of Switzerland was read by His Excellency Pierre Monod, Ambassador of Switzerland to the Bolivarian Republic of Venezuela. The opening ceremony was attended by members of the Diplomatic Corps, the Heads of International Organizations, students and media representatives from several Member States. **SEE ANNEXES B-C**

MUTUAL EVALUATION PROGRAMME

The Mutual Evaluation Programme is the principal mechanism designed to monitor whether Member States are adhering to their obligations to implement anti money laundering measures as outlined in the Kingston Declaration. The programme is designed to give due recognition where the standard benchmarks are met, to identify weaknesses and to make appropriate recommendations with a view to rectification.

The peer review process of the CFATF Mutual Evaluation Programme is gaining in maturity and is proving effective in guiding member countries to implement changes which are in keeping with international standards. Yes, significant progress has been achieved but it is also acknowledged that indeed there is much more to accomplish given the ever changing methodologies and the use of sophisticated technology by the criminal organisations against which the world struggles.

The CFATF at Council of Ministers Meeting II in Costa Rica, agreed that the Mutual Evaluation of all twenty-five member states should be completed by the end of 2000. The programme schedule has been kept but for one of our member states, namely Nicaragua who is currently suspended from Membership.

The Mutual Evaluation Reports on Anguilla, Belize and Suriname were adopted as final by Ministers at the October 2001 Meeting in the Dominican Republic, thereby bringing an end to the First Round of Evaluations. **SEE ANNEX D**

The Second Round of Mutual Evaluations commenced in July 2001 with the Mutual Evaluation Mission to Panama and continued with the Dominican Republic in September 2001. The benchmarks

against which Members will be monitored are the 1996 Revised 40 FATF Recommendations, the 1999 Revised 19 CFATF Recommendations, and the Twenty Five Point FATF NCCT Criteria.
SEE ANNEX E - H

The anti money laundering regimes which now exist in the Bahamas, Cayman Islands and Panama offer to our Mutual Evaluation Examiners concrete examples of best practice and adherence to acceptable international standards as they go about the Mutual Evaluation Missions. Indeed these jurisdictions have indicated a strong desire to place at the disposal of the Secretariat and the wider CFATF membership the value of their experiences and expertise in arriving at the leading positions they now hold.

Preparations for this Second Round had begun as far back as October 1999 when in keeping with the continuing goal to improve our ability to undertake the monitoring function effectively, the Mutual Evaluation Procedures were revised with a view to securing greater efficiency. This became necessary in order to avoid any further delays in the peer review process and to expedite the adoption of the Mutual Evaluation Reports of Members as final by the Council of Ministers. **SEE ANNEX J**

The revised Mutual Evaluation Procedures, which were adopted for immediate implementation, at Council Meeting V during October 1999 have proven to be very successful in securing the anticipated efficiencies. One aspect of these new procedures is the need for Members to give a firm commitment to implement the recommendations of the Examiners in their respective Reports within a set time frame. This period in general is twelve months and members are required to report back to each and every Plenary on the implementation process until completion.

At the CFATF Plenary Meeting which was held in Port of Spain, Trinidad during March 2001 and in keeping with the agreed obligation, Members continued to present oral and written reports on their implementation of the recommendations. Presentations were also previously made during the October 2000 Plenary in Aruba. Both the Mutual Evaluation Reports and the subsequent implementation progress reports have and continue to assist the efficiency of the Secretariat in its monitoring functions on behalf of the membership as a whole.

Moreover, these implementation progress reports have proven to be very useful to CFATF Members as a means of demonstrating their commitment to improving their domestic anti money laundering frameworks, by implementing the recommendations of the Mutual Evaluation Examiners. The Secretariat in furtherance of its monitoring remit prepared a compilation report which outlines recommendations made by the Examiners which are yet to be addressed by some Members who will be encouraged to expedite the process. **SEE ANNEX K**

Additionally, both the Self Assessment Questionnaires and the Mutual Evaluation Survey Forms which are both pivotal to the Mutual Evaluation Mission, have been redesigned to take account of the changes required as a result of the revisions of the 40 FATF Recommendations and the 19 CFATF Recommendations.

With regard to the twenty-five point FATF NCCT criteria, the Secretariat developed a Checklist Questionnaire which will be drawn upon by the Mutual Evaluation Examiners in order to arrive at all pertinent information during the Mutual Evaluation Missions. The CFATF in the spirit of international cooperation and standardization, as far as is possible, of systems and documents in this anti money laundering fight, has circulated this Checklist Questionnaire to the FATF Secretariat, for

comment by the wider FATF Membership and to the Chairman and Members of the FATF NCCT Review Group of the Americas. We in the Caribbean Basin Region hope that this instrument could be developed into an internationally accepted document for use in Mutual Evaluation Missions to Member Countries of all international organizations involved in the fight against money laundering. **SEE ANNEX L**

The completed Mutual Evaluation Reports provide a good indication as to the technical assistance and training needs of Members and are very helpful to the Caribbean Anti Money Laundering Programme.

MUTUAL EVALUATION TRAINING WORKSHOP - CARACAS, MAY 9 - 10, 2001.

This valuable event was organised with the financial support of Aruba, the Bahamas, Canada, France, the United Kingdom and the United States of America. There was an excellent level of attendance. All Member States were represented (75 attendees) and were trained by a pool of 15 presenters coming from our Members (The Bahamas, Bermuda, Cayman Islands, Jamaica, the Netherlands Antilles, Panama and Venezuela), as well as the COSUN(s) countries (Spain and USA). The delegates greatly appreciated the excellent quality of the presentations which provided them with a wealth of knowledge under the guidance and experience of able presenters.

The Mutual Evaluation process is at the core of the work of our organisation and an important result of the Seminar was the creation of an enhanced pool of well-trained Examiners upon whom the Secretariat can call for Mutual Evaluation Missions during the Second Round of Mutual Evaluations.

This Training Seminar took place at a crucial moment, as it was fundamental for the nominees to clearly understand the new benchmarks that the CFATF will use for the Second Round of Mutual Evaluations. It was also important, given the current international climate, to ensure that our Mutual Evaluation Reports continue to be at the cutting edge of the fight against money laundering.

TPOLOGY EXERCISES

Money laundering is growing rapidly and subject to ever changing techniques. Since February 1996, the CFATF has been conducting a number of Typology Exercises on money laundering with the aim of increasing the awareness of the attendant risks to the region. These exercises allow for the sharing of information collated by various bodies involved in combating money laundering and ensure that the organization stays abreast of the methodologies being utilized by the criminal organizations with whom we struggle. This is a vital aspect of the CFATF work programme.

These exercises have explored money laundering activity in Domestic Financial Institutions; the Casino and the Gaming Industry; through International Financial Transactions conducted in both Domestic and Offshore Institutions and the Emerging Cyberspace Technologies.

Given ongoing negotiations for the establishment of a Free Trade Area between the Caribbean and Central America and the objective of creating a Free Trade Area of the Americas by 2005, and the need for protecting legitimate international trade through Free Trade Zones against criminal misuse, the CFATF in October 2000 conducted Part 1 of a Typology Exercise into the money laundering

possibilities in the Free Trade Zones. Part II was undertaken during March 2001. The goal of this particular initiative was the development of a Model Free Zone Compliance Programme and a Code of Conduct. **SEE ANNEX M**

Like the conclusions and recommendations emanating from the study of Cyberspace and the potential for money laundering in that arena, the CFATF will again be at the forefront of developments in another area which would have considerable benefit to the construction of hemispheric protections against money laundering.

The driving force behind this initiative has been Dr. Greg Petersen of Free Zone Aruba who launched this project idea at CFATF Plenary VI which was held in the British Virgin Islands. Together with his colleagues Louis Posner and Alfred Boekhoudt they made a presentation advocating a Free Zone Typology Conference and the development of a Model Free Zone Compliance Programme and a Code of Conduct.

In its entirety, this far-reaching initiative would have required considerable funding which was proving difficult to secure. Accordingly, the scope of the project was somewhat narrowed and funding for this valuable exercise was provided by the Kingdom of the Netherlands and the United Kingdom, with each providing US\$10,000 and £10,000 respectively. CFATF Member Panama, contributed US\$3,000. Support for this project was also provided by the United Nations Drug Control Programme, who met the expenses of one speaker.

FINANCIAL INTELLIGENCE UNIT AND THE ORGANIZATION OF EASTERN CARIBBEAN STATES

On July 23rd 2000 the then CFATF Chairman Robert Mathavious met with representatives from the United Nations Global Programme Against Money Laundering (GPML) and the Caribbean Development Bank (CDB) to discuss the prospects for the establishment of a Financial Intelligence Unit for the Organization of Eastern Caribbean States sub region.

The CFATF, with a view to improving regional anti money laundering capacity, had indicated that there was a need for such an entity in the sub-region. Following the meeting, a request for assistance on its formation was presented to the GPML, who secured the services of Egmont to assist in developing a response.

A mission from the GPML and a representative from the Egmont Group came to the region during the period September 15 - 18, 2000 and met with Attorneys General, other senior government officials from all but one OECS State as well as representatives of the donor community with a view to securing the necessary support for the venture and devising a plan as to the way forward.

From this forum came a mandate for an application to the CDB for the retention of a consultant who would be required to report within a three-month time frame on the following issues.

- 1- Review existing state of FIUs in the OECS Member States taking into consideration developments in other parts of the world.
- 2- Conduct a study for the establishment of a central FIU for the OECS States to assist in the coordination of the collection, analysis and dissemination of financial information

between countries in the region and between the region and other jurisdictions throughout the world.

- 3- Recommend information on the form of FIU; its functions, powers and authority; organizational structure; resource and legislative requirement as well as the level of funding required for its longevity.

Presentations were made at Plenary XIII in Port of Spain, Trinidad during March 2001 on the progress of the work at hand. The Consultant has made an interim report to the Caribbean Development Bank and is due to return to the region before the end of 2001 in order to continue the exploratory work.

THE CARIBBEAN REGION ANTI-MONEY LAUNDERING TRAINING PROGRAMME

The completed Mutual Evaluation Reports provide a valuable indication as to the technical assistance and training needs of Members and are very helpful to the Caribbean Anti-Money Laundering Programme which is funded by the European Union through Cariforum, the United States of America and the United Kingdom.

Members, in a clear demonstration of an ongoing commitment to improve their respective anti money laundering frameworks have made heavy demands on the legal, financial and law enforcement expertise which is on offer. It is anticipated that such demands will increase during the next reporting period. **SEE ANNEX N**

A major concern for the CFATF has been the inability to secure funding arrangements for meeting the technical assistance and training needs of our Spanish-speaking Members. It is therefore very rewarding to report that work has begun to arrange a relevant training programme which should commence by May 2002 through the generosity of the Inter American Development Bank to whom we must extend our thanks.

PUBLIC EDUCATION AND AWARENESS RAISING CAMPAIGN

As part of the Chairman's Work Programme for the 1999-2000 period, the Secretariat was tasked to commence arrangements for a region-wide, sustained public education campaign on the nature of our work and the dangers of drug trafficking and money laundering, to the fabric and well being of Member states.

Accordingly, the CFATF in association with the United Nations International Drug Control Programme (UNDCP), the Government of Grenada and the Caribbean Development Bank held a Forum in St. George's Grenada, on July 19 – 20, 2000 to discuss "Protecting Eastern Caribbean Economies from the Dangers of Criminal Proceeds".

The objective of the seminar was to sensitise businessmen and bankers, active in the offshore sector to the dangers of tolerating the acceptance of money from criminal organizations and its impact upon legitimate commercial activities and financial institutions.

Continuation of this work is vital to regional efforts of securing sustained institutional capacity building across the CFATF Membership. The CFATF Secretariat therefore, during the 2000-2001

period in conjunction with the Nevis Island Administration of the Federation of St. Kitts and Nevis, on June 11-12 2001 arranged a similar, forum targeting an audience similar to that in Grenada and doing so with similar success.

ADMINISTRATIVE AND ORGANISATIONAL ISSUES

CFATF MEMBERSHIP

HAITI

Council of Ministers Meeting VI of October 2000 considered an application from the Republic of Haiti for membership in the CFATF. Ministers, however, decided that Haiti should be accorded Observer status which would have allowed them to witness CFATF operations whilst strengthening their anti money laundering framework.

During December 2000 a high level mission of regional organizations coordinated by the United Nations Drug Control Programme, Caribbean Regional Office visited Haiti and reported their positive findings to the March 2001 Port of Spain Plenary.

This was attended by a high level Haitian delegation comprising Finance Minister, the Honourable Faubert Gustave, Minister of Justice, the Honourable Louis Gary Lissade and the Governor of the Banque de la Republique d'Haiti, Mr. Fritz Jean who made presentations on the ongoing steps to construct strong anti money laundering defenses in their country.

Haiti's commitment to being a partner in the international arena against money laundering was emphasized by Minister of Justice Lissade who felt that CFATF membership further facilitated this commitment.

Ministers at Council Meeting VII considered and approved the Plenary recommendation to grant full membership to the Republic of Haiti and that country was warmly welcomed within the CFATF family of nations.

NICARAGUA

Despite the persistent efforts of the Secretariat, Nicaragua failed to give any clear indications as to attendance of their officials to Plenary and Council of Ministers Meetings, actively participating in the affairs of the organization, paying all outstanding annual contributions and meeting them as they fell due.

Accordingly, Council Meeting VI in Aruba, decided that efforts should be continued with the understanding to automatically suspend Nicaragua at Plenary XIII, March 2001, if they failed to respond to efforts made by Costa Rica to have them take an active part in the CFATF. At Plenary XIII, Costa Rica reported that its efforts had not been successful. Accordingly, the Chairman with the acquiescence of the Plenary declared that Nicaragua was suspended given the absence of an answer/commitment coming from the Government of Nicaragua on their CFATF Membership.

The matter was discussed again at Plenary XIV and in keeping with the stated CFATF policy of inclusion, Ministers at Council VII, noted that general elections in Nicaragua were planned for

November 4th 2001 and that the new administration would be installed on January 10th 2002. Ministers then decided that a strong letter should be sent to the new Government outlining the need for a clear answer on Nicaragua's Membership, active participation in the CFATF, the need to urgently undertake a Mutual Evaluation and to pay outstanding arrears.

In addition, all CFATF Members were urged to use their Diplomatic channels to emphasize the importance of Membership in the CFATF and the consequences of a negative response.

GUATEMALA

Whilst Guatemala was involved in CFATF affairs at the birth of the organization, in recent years attendance at meetings have not occurred nor has there been any involvement by that country in CFATF general affairs.

Pursuant to a letter from the Secretariat, as mandated by the Council, officials in Guatemala advised that national elections had taken place on January 14th, 2001 and that the incoming administration would take a position on CFATF membership.

The government of the Republic of Panama held discussions with Guatemalan officials, stressing the need for active involvement and outlining the benefits which membership will bring. Representatives from Guatemala did attend Plenary XIV and Council of Ministers Meeting VII as Observers and it is anticipated that an application for membership will be formally presented in the near future.

GUYANA

Outreach efforts by the Secretariat to ascertain the intensions of Guyana as to membership in the CFATF continued during the period under review to no avail. However, we will persist in conjunction with partners in Caricom.

CFATF STEERING GROUP

Since inception of the organisation, CFATF Members Cayman Islands, Netherlands Antilles and Trinidad and Tobago have participated in the CFATF Steering Group which inter alia advises the Secretariat regarding issues of policy which arise and require action prior to meetings of the CFATF Council of Ministers.

At the request of then Chairman Mathavious, it was decided to secure greater participation of the wider Membership in all aspects of the work of the organization including the Steering Group. Existing members concurred with this view and readily agreed that new blood should be injected into the Steering Group.

The nominations of Panama, Jamaica and Bermuda for the 2000-2001 period were adopted by Ministers at Council Meeting VI which was held in Aruba during October 2000. Other Members comprising the Steering Group were Aruba and Dominican Republic. It was agreed that this line up of members will continue throughout the 2001 - 2002 period.

BUDGET AND FUNDING

The CFATF is an important regional institution with a significant role to play not only in the monitoring and strengthening of the regional anti money laundering capability but also in sustaining the economic, political and social stability of the Caribbean Basin and Bermuda. In order to undertake this fundamental role, the organisation must be provided with adequate, sustained and timely funding.

Over the years there have been persistent calls that the annual contributions should be paid in a timely fashion by the Council of Ministers and every Chairman because of the serious implications it presented for the credibility of the organisation and the ability of the Secretariat to conduct its business efficiently. During the period under review there has been a substantial improvement in the submission of annual contributions, however, there is still room for some improvement so as to provide comfort to the operations of the Secretariat

DEPUTY DIRECTOR

Around July 2001, the Secretariat explored the possibility of a CFATF Member seconding one of their officials to the Secretariat to perform the duties of Deputy Director for a three-year period. Two Members, Panama and the Bahamas responded positively with Panama making the first confirmed offer.

The CFATF family would like to commend the very generous and gracious decision of the government of Panama to second one of its valuable and senior officials, Mr. A. Antonio Hyman Bouchereau to the Secretariat for a three-year period as Deputy Director.

This is a very important step in the continued development and maturity of this organization and demonstrative of the commitment to regional ownership by Members, signaling an intention to assume a greater portion of the financial responsibilities for our affairs. This however, does not indicate that continued partnership with our COSUN colleagues is being accorded reduced importance. On the contrary, it is testimony to a desire by the CFATF for full and meaningful partnership in the international fight against drug trafficking and money laundering.

The secondment of Mr. A. Antonio Hyman Bouchereau will bring a wealth of knowledge and expertise to the work that has to be undertaken at this crucial time in CFATF history and its quest to extend the hand of friendship to other Central American nations, to have close ties with GAFISUD and to support and encourage our newest member the Republic of Haiti.

EXTERNAL RELATIONS

GENERAL

The CFATF continues to be recognised as the most successful of the regional organisations and plays an important role in spreading the anti money laundering message to all corners of the globe.

Our friends, the Group of Cooperating and Supporting Nations, applaud the tremendous progress being made and have signaled their intention to continue encouraging and supporting the work of the organisation.

Regionally, the CFATF continues to play an important role, not only in strengthening the anti money laundering infrastructure of Member States but also in providing information and guidance on matters which are germane to regional development.

In this regard the Secretariat will continue to work with the Caricom Heads of Government, the Caricom Secretariat and the recently formed Caribbean Association of Regulators of International Business (CARIB).

The CFATF during this seventh year, continued cementing its ties with regional and international organisations such as the Caribbean Customs Law Enforcement Council, the Caribbean Development Bank, the Commonwealth Secretariat, the Eastern Caribbean Central Bank, the European Commission Drug Control Office, the Offshore Group of Banking Supervisors, Organisation of American States/CICAD, Interpol, Transparency International, the United Nations Office of Drug Control and Crime Prevention, the United Nations Drug Control Programme and the World Customs Organisation.

On the international front, the CFATF has and continues to declare its intentions to work closely with the latest FATF style regional body in South America GAFISUD. The GAFISUD Secretariat was invited to attend our Plenary and Council of Ministers Meetings and our Mutual Evaluation Examiners Training Workshop in Caracas, Venezuela.

Whilst lack of resources have precluded our attendance to all GAFISUD events, the Deputy Director, through the assistance of the Caribbean Anti Money Laundering Programme attended the GAFISUD's First Mutual Evaluation Examiners Training Workshop in La Paz, Bolivia. Discussions are ongoing with the Executive Secretary Designate, Fernando Dominguez Rosado for close working arrangements in the future.

As with GAFISUD, CFATF documents were shared for the development of the administrative machinery of the Secretariat for the Eastern and Southern Africa Anti Money Laundering Group. Additionally, the Executive Director attended the August 2001 Plenary and Council of Ministers Meeting in Windhoek, Namibia where CFATF experiences were shared with senior officials and Ministers as part of a team of officials from the Commonwealth Secretariat who funded the trip.

Collaboration with the Global Programme Against Money Laundering continued with ongoing efforts to establish a Financial Intelligence Unit for the Organisation of Eastern Caribbean States with assistance being provided by the Caribbean Development Bank.

In keeping with established tradition and in furtherance of close and cordial relations with the FATF, the FATF-XII President Mr. José M. Roldán was invited to address Council Meeting VI which was held in Aruba during October 19 - 20, 2000. Mrs. Clarie Lo, the FATF XIII President was invited to address Council Meeting VII which was held in the Dominican Republic during October 2001. Additionally, the Executive Secretary of the FATF Secretariat, Mr. Patrick Moulette continued to attend all CFATF Plenary and Council of Ministers Meetings and to provide support to CFATF undertakings.

DUBLIN GROUP MEETINGS

Members of the Dublin Group include Ambassadors from Canada, France, Japan, The Netherlands, The Federal Republic of Germany, The United States, The United Kingdom and UNDCP and EC representatives accredited to Trinidad and Tobago and Barbados.

These meetings facilitate the efficient co-ordination of technical assistance and training initiatives throughout the region.

In seeking the best interests of the Organisation and in keeping with the CFATF Memorandum of Understanding the Secretariat continued to attend these meetings during 2000-2001 in order to provide pertinent information on the technical assistance and training needs of the Membership and to keep the group abreast of important CFATF anti money laundering initiatives. Courtesy calls to the Secretariat were made by

PUBLIC SPEAKING

Please see the attached document (**ANNEX O**) which provides an outline of the engagements undertaken by both the Executive Director and the Deputy Director during the 2000 - 2001 period.

LOOKING TOWARDS THE FUTURE

THE CHAIRMAN'S WORK PROGRAMME 2001 - 2002 (ANNEX P)

Given the current international climate and the plethora of anti money laundering initiatives which bring with them serious implication for the social, political and economic well being of the region, the current inherited anti money laundering monitoring mechanisms need to be radically augmented. Accordingly, although this report focuses on the past year's performance, we must also turn our attention for a moment to the future and some aspects of the Chairman's Work Programme for the period 2001-2002.

It is vital that the CFATF monitors all global anti money laundering initiatives by countries and international organisations so as to prevent the region being taken by surprise vis a vis programmes or policies which will impact upon the regional anti money laundering infrastructure and sustained regional economic development.

Crucially important also, is the need for the Secretariat to ensure that all CFATF Members enact and implement legislation which meet the new anti money laundering benchmarks to be utilized during the Second Round of Mutual Evaluations within the next twelve to eighteen months.

Annual Compilation Reports to be prepared on each of our twenty-six member states will ensure that an accurate picture of the regional anti money laundering framework is permanently in the public domain.

The restructured and effective use of the CFATF website, our window to the world will demonstrate and underline the Region's commitment to the full and active participation in the international struggle against drug trafficking and money laundering, transparency and international cooperation.

This increased workload requires additional resources and staff and so it is particularly rewarding to advise that the increased staff complement has been engaged with no additional financial burden being placed on the Membership through increased contributions. Law Enforcement Experts have been seconded by the governments of the Netherlands Antilles and the Bahamas. Further, both the Legal and Financial Experts are being funded by the Government of Canada and the Commonwealth Secretariat respectively.

The focus for the future will be the continuous strengthening of the anti money laundering infrastructure of the Caribbean Basin Region and it is indeed pleasing to note that within our Membership there are several sterling examples of best practice in constructing anti money laundering defences.

ANNEXES

PRESS RELEASE

The twenty-five Member states of the Caribbean Financial Action Task Force extend to the Government and people of Aruba, profound condolences on the passing of the Honorable Edgar Joaquin Vos, Minister of Justice and Public Works, Government of Aruba, and Chairman of the Caribbean Financial Action Task Force.

To Chairman Vos' wife, young children and other members of his family, we offer our prayers, encouragement and support on the sad occasion of the loss of a dear and loved one.

The Caribbean Financial Action Task Force, family of nations shares the sense of loss of such a dedicated and much loved public figure.

Minister Vos assumed the Chairmanship of our Organization at the Council of Ministers Meeting which was held in Aruba during October 2000.

He embodied the spirit of a nation, which continues to demonstrate a solid and unshakable commitment to the preservation of the social, political and economic well being of the Caribbean Basin Region and the global fight against international financial crime.

The Member countries of the Caribbean Financial Action Task Force would be forever indebted to the Government and people of Aruba for sharing with us the experience, expertise and commitment of Minister Edgar Joaquin Vos.

Calvin E. J. Wilson, Executive Director of the Caribbean Financial Action Task Force represented the organization at the funeral services.

Our thanks must be expressed to the Government of Aruba, the Ministry of Foreign Affairs and Angelique Petersen for the courtesies that were extended during his short stay.

CFATF SECRETARIAT

January 15th, 2001

REPORT ON THE CFATF CONFERENCE ON THE INTERNATIONAL FINANCIAL SERVICES SECTOR PORT OF SPAIN, TRINIDAD, DECEMBER 5 – 7, 2000

During 5 – 7 December 2000, the Caribbean Financial Action Task Force hosted in Port of Spain, Trinidad a major Conference on International Financial Services, where both regional and international experts shared vital information on this sector to public officials and private sector practitioners.

The Conference was convened at a crucial juncture when Caribbean Basin States are seeking to diversify their revenue streams from agriculture and tourism into the financial services arena.

The guiding factor of the Conference, was the provision of valuable information to both public sector officials and private sector practitioners, on the acceptable international standards which were vital to the proper supervision and regulation of the sector and the importance of adhering to them.

The CFATF Membership wishes to express profound appreciation to the Government of Switzerland who generously agreed to provide US\$30,000, a significant amount of the proposed expenditure along with three top financial experts from the Swiss Federal Banking Commission, the Credit Suisse Group and UBS.

Our thanks must also be extended to the Government and people of Montserrat, the first CFATF Member to readily demonstrate its support of this endeavor financially through a pledge of US\$3,000.00 which provided important encouragement to the early efforts of the Secretariat.

CFATF Members Anguilla, the Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Panama and St. Kitts and Nevis each provided further support of US\$1,000.00 demonstrating their confidence in and commitment to the work of the Organisation.

In addition and in a further gesture of solid support for the Organisation as a whole the British Virgin Islands contributed another US\$5,000.

The growing partnership between the CFATF and the Caribbean Development Bank saw the commitment of up to US\$10,000.00 to ensure attendance to the Conference of fourteen delegates from seven of the eight jurisdictions comprising the Organisation of Eastern Caribbean States.

Additional funding and assistance were provided by quasi-governmental organisations and private sector concerns in Trinidad and Tobago such as commercial banks that responded quite readily to requests for support.

Our thanks in this regard, must be extended to the Tourism and Industrial Development Company of Trinidad and Tobago, US\$5,000, the Republic Bank of Trinidad and Tobago US\$3000, The Royal Bank of Trinidad and Tobago US\$3,000. and Scotiabank Trinidad and Tobago US\$5000.

Further support was provided through advertisements in the Conference brochure by the Royal Bank of Trinidad and Tobago, The Republic Bank of Trinidad and Tobago, Scotia Bank of Trinidad and Tobago and the Unit Trust Corporation of Trinidad and Tobago.

The target audience was public sector officials engaged in the supervision and regulation of the sector, and private sector employees and other professionals such as bankers, stockbrokers, trustees, lawyers, accountants, insurers, company managers, registered agents and academics.

Attendance at the Conference was extremely encouraging. One hundred and forty nine persons participated as follows; Public Sector = 62; Private Sector = 56 and Speakers = 31, five of whom were from the Public Sector. For this particular CFATF Conference a registration fee was necessary and this allowed for the provision to all delegates, the Conference materials, papers, coffee breaks and lunch during the three days.

The registration fee for the Conference was one hundred and fifty dollars US\$150.00 for each public sector official of those CFATF Members who did not contribute to the Conference Budget. This fee applied on a similar basis to all CoSuNs and Observer Organizations.

Where a CFATF Member State contributed to the Conference Budget then all public sector officials who were nominated attended free of charge. This applied on a similar basis to all CoSuNs and Observer Organizations.

Sending experts to make presentations at the Conference was also considered as a contribution to the Conference Budget.

The registration fee for participants coming from the private sector was three hundred dollars US\$300.00.

Presentations explored:

- The importance of International Financial Services to the region as countries seek to diversify revenue flows from agriculture and tourism;
- The seriousness of the regional commitment to solid partnership in the international struggle against drug trafficking and money laundering and the protection of our financial, political, judicial and social institutions from being corrupted and overwhelmed by the criminal element;
- The concerns expressed by other countries about the proliferation of financial crimes and other risks as occurs in the sector and the importance of sustained international co-operation;
- Improving awareness of the acceptable supervisory and regulatory standards pertaining to the area, banking soundness and the implications of non-adherence.

The current methodologies being utilized by criminals to launder illicit funds, the need for sustained international co-operation and the impact of the following initiatives:

- The work of the Organization for Economic Co-operation and Development on tax havens and harmful tax regimes;
- The work of the Financial Action Task Force on Non Co-operating Countries and Territories;

- The United Nations Offshore Forum;
- The United Kingdom White Paper Review and other initiatives from the European Union;
- The work of the Financial Stability Forum.

The format was designed to be very interactive with case studies, videos and adequate question and answer sessions.

These are some of the comments made in the Evaluation forms that were completed by some delegates:

The variety of topics on the Conference Programme made the event interesting and provided a well-balanced general perspective and understanding of money laundering.

Very informative

Excellent content

Wealth of detailed and informative presentations

Delegates also suggested the following as particular topics of interest for detailed discussion in future Conferences.

The role of the Compliance Officer and Internal Control Mechanisms within Financial Institutions.

Information Sharing.

The Conference received good coverage in the Trinidad and Tobago Press, as well as in CANA reports, The Final Call, Offshore Red and Offshore Finance USA.

The attached Conference Accounting Report along with supporting vouchers indicate a surplus of \$27,100.73.

The Conference generated a significant degree of additional duties for the Secretariat staff and therefore payments as outlined below were made to members of staff:

Ann Moffat	U.S.\$1000
Michele Le Blanc-Morales	U.S.\$1000
Sharon Jones	U.S.\$1000

The Secretariat plans to place on the CFATF Website the English and Spanish texts of all the presentations, which were made at the Conference.

Additionally, it is intended to print a limited number, perhaps 100 in the style of the Conference brochure, of all the presentations again both in English and Spanish. These will be distributed to CFATF Member States, the Government of Switzerland, the Caribbean Development Bank, the Group of Co-operating and Supporting Nations, Observer Organizations, and sponsor organisations.

The exact costs of the above cannot be stated at this stage as a few of the presentations are still outstanding.

These need to be in hand before all the documentation could be sent to the printers and webmaster for quotations.

However, the Secretariat is of the view that the costs attendant to the outlined post Conference work will be considerable, but should be covered by the surplus which was generated.

The Conference recommendations as outlined in the attached Communiqué envisages a significant and important body of future activity, as do the recommendations of delegates as to topics of interest for future Conferences.

The CFATF family of nations and the Secretariat trust that we can present the required work programmes for consideration of funding options.

COMMUNIQUE

During 5th - 7th December in Port of Spain, Trinidad, the Caribbean Financial Action Task Force, in conjunction with the Government of Switzerland and the Caribbean Development Bank hosted a Conference on the International Financial Services Sector.

Delegates representing public and private sector interests, came from twenty-two countries of the Caribbean Basin, and also from Canada, France, Gibraltar, Switzerland, the United Kingdom and the United States of America.

Representatives from the Caribbean Development Bank, the Commonwealth Secretariat, the Offshore Group of Banking Supervisors, the International Monetary Fund, INTERPOL and the United Nations Drugs Control Programme were also present.

This exercise was instrumental in bringing together legal, financial and law enforcement experts from the region with their international counterparts, as well as private sector practitioners, sharing experiences and technical expertise and paving the way for sustained international co-operation in the global struggle against international financial crime.

The Conference recommended that:

1. CFATF Member States involved in the international financial services sector should redouble their efforts to maintain their reputations as high quality jurisdictions by ensuring that standards of supervision and regulation are of the highest order.
2. Given the current hostility of the global environment to Small States, and the enormous amount of time and energy being spent in mounting defensive strategies, the region's scarce human and financial resources should be pooled in the joint regulation and supervision of both onshore and offshore banking.
3. A well-resourced and high-level public relations international media campaign should be undertaken to emphasize the forthright measures that Caribbean Basin States are undertaking in the drive to modernize the regulatory and supervisory framework of the international financial services sector in keeping with recognized international standards.
4. Given the cross border nature of financial crime, the establishment of effective international co-operative partnerships between regional and the international law enforcement and the financial community with the benefit of modern legislation is important to the development of financial analysis and investigative capacity in the region in the successful pursuit of criminal proceeds.
5. Strong continuous links should be fostered and maintained between financial institutions and law enforcement authorities across the region.
6. In order to facilitate effective international co-operation, a truly multilateral information exchange protocol, a framework for an effective across the board international co-operation should be developed, with the active involvement and participation of offshore centres.
7. Every effort should be undertaken to ensure the provision of adequate resources on a continuous basis for technical assistance and training programmes to all jurisdictions in the region in the areas of legal/judicial, banking and finance and law enforcement.
8. Professionals such as accounts, attorneys and stockbrokers, in recognition of current money laundering methodologies should be included in the anti-money laundering network.

9. The role of the private sector is crucial to the regional anti-money laundering architecture and that continued consultation with the CFATF is necessary and should be encouraged.
10. A regional public education campaign should be undertaken with a view to disseminating vital information to the media and the public and private sectors of the dangers of money laundering activity to sustained regional economic development.
11. Member States of the CFATF in recognition of the vital role of the organization in the strengthening of the regional anti-money laundering institutional capacity should continue to provide adequate and timely financial support to all its endeavors.
12. The CFATF, in recognition of the role to be played by the major international financial institutions such as the IMF and the World Bank in the monitoring of the international financial services sector across the region should forge strategic alliances with them for the provision of technical assistance and training.
13. The regional commitment to full and effective partnership in the battle against trans national financial crime should be emphasized and affirmed in all relevant international fora.
14. There should be enhanced dialogue between the region and the international community to ensure that mutual respect and equality of treatment should feature significantly in all our relations.

Caribbean Financial Action Task Force Secretariat - January 2nd 2001

SUMMARY OF THE MUTUAL EVALUATION OF ANGUILLA

The Mutual Evaluation of the Commonwealth of Anguilla took place on July 10-14, 2000.

Based on the interviews done during the on-site visit, it appears that Anguilla was used in the late 80's and early 90's as a trans-shipment point for drugs entering the USA, but it appears that the current situation is much better. Furthermore, local law enforcement officials and other interested parties do not see Anguilla as having a major local drug problem.

There is a real and sincere policy in effect in Anguilla to introduce and implement internationally recognized standards in anti-money laundering measures. The Government, and, indeed, all sectors of the financial services industry in Anguilla are clearly aware of the adverse consequences which could arise from a failure by the Island to comply with internationally acceptable standards in the fight against money laundering.

The offence of Money Laundering exists since March 1989 following the enactment of the Drug Trafficking Ordinance Act, but no one has been charged on those grounds and no unusual/suspicious reports were made since that date.

With regards to the legal issues, Anguilla's legal system, in keeping with all British Overseas Territories, is based, fundamentally on the English system of common law. From this flows the basic principle that only by express legislative enactments can any person or entity be given the "power" to enforce anti-money laundering measures.

Money laundering in relation to drugs trafficking is criminalized through The Drug Trafficking Offences Ordinance, 1987 which came into effect in March 1989.

The Criminal Justice (International Cooperation) (Anguilla) Order, 1994 brought into effect in Anguilla the provisions of the Vienna Convention and is confined to drugs related offences only.

The Mutual Legal Assistance (USA) Ordinance, 1990 gives effect to the UK/US Mutual Legal Assistance Treaty (1986) in Anguilla. The Treaty states that mutual assistance is to be provided for the investigation, prosecution and suppression of criminal offences.

The "gateway" provisions of the Confidential Relationships Ordinance, 1981 (CRO^o (as amended in 1998) provides for disclosure in a number of situations in which the act does not apply. However, it is important to note that the CRO "gateways" are permissive only, that is, they impose no obligation to disclose in the circumstances envisioned.

There are no "compulsory powers" for financial regulators to be able to access a licensee's client, depositor, or policyholder information and to divulge the same to other foreign regulators. Nor are there any powers to access the same information held by non-regulated institutions providing "investment business services". No Memorandum of Understanding exists with other foreign regulators or law enforcement agencies regarding information concerning clients, depositors or policy-holders either of licensees or non-regulated bodies.

With regards to the financial issues, it must be noted that, by the time of the assessment, the domestic financial sector comprised Four (4) Domestic Commercial Banks licensed to conduct business with

residents and non-residents of Anguilla, One (1) Development Finance Company, Three (3) Credit Unions, One (1) Finance Company and Seventeen (17) Insurance Companies/Agencies.

The Offshore Financial Services Sector comprises One (1) Offshore Bank, Six (6) Offshore Trust Companies, One (1) Offshore (Captive) Insurance Company, 3,500 Offshore Companies, Nineteen (19) Offshore Company Managers/Licensed Registered Agents.

It should be noted that the definition of a “Financial Institution” is broad in scope and includes not only banks but also credit institutions which are defined as “any financial institution other than a bank; whose business is that of money lending”.

It appears that some of the management of the domestic bank interviewed were not familiar with the FATF & CFATF Recommendations and that they would rather turn away a client than to report to Anguilla’s authorities. However, they do not maintain anonymous accounts or accounts in obviously fictitious names and perform due diligence on clients and transactions.

A domestic company registered under the Companies Ordinance can be used both within Anguilla and as an offshore vehicle.

The Registrar of Companies is under the general supervision of the Minister responsible for the administration of the Companies Ordinance.

The Ordinance requires that an IBC shall at all times have a registered office and a registered agent in Anguilla. That function is provided by Licensed Registered Agents Company Managers. The Director of Financial Services is currently the Inspector of Company Managers, i.e. Licensed Registered Agents (the licensees).

A foreign client of a locally licensed Registered Agent/Company Manager may have direct access to the Registry System (ACORN) for International Business Companies. This access must be approved by the Director of Financial Services Department.

The resident licensed Registered Agent/Company Manager is required to conduct the relevant “*due diligence*” on both the foreign client as well as the companies they wish to incorporate or/register. An Agency Agreement must be established between the local and foreign Agent. The Financial Services Department oversees the Agreement with a view to effectively approving the Foreign Agent and linking it up to the ACORN System.

There is currently no “*on-site*” examination of Company Managers/Registered Agents by the Director of Financial Services. Some form of “*off-site*” supervision of Company Managers/and Trustees exists.

One (1) offshore bank currently operates in Anguilla, and five (5) Trust companies are currently licensed to conduct trust business in Anguilla. The Director of Financial Services is currently the Inspector of Offshore Banks and Trust companies.

The Director of Financial Services is currently the Registrar of Insurance.

Based on the information provided during the on-site visit, no “Code of Conduct” and “Compliance Officers” for the 19 Registered Agents/companies exists. There is a need for periodic on-site examination of these entities from the Director of Financial Services staff.

It appears, that even if the Anguilla Financial Services Association (AFSA) which includes bankers, attorneys-at-law and accountants demonstrated a clear willingness and keen commitment to introducing the standards recommended by the FATF and the CFATF, *No Code of Conduct* exists for licensees who are members of this Association and Anti-Money Laundering Procedures, Practices and Policies for the Association's members are *non-existent*.

An Anti-Money Laundering Standing Committee exists and comprises numerous actors involved in the fight against money laundering.

With respect to the Law Enforcement issues, it appears that the Royal Anguilla Police Force has an established strength of 73 officers. However, the Force not only has responsibility for the enforcement of the laws of Anguilla, but are also responsible for providing a response to calls for fire fighting services, coast guard duties, internal security, prosecution of offenders in the Magistrates Court and dignitary protection duties.

The investigation of criminal offences, including drug trafficking, lies with the Criminal Investigation Department. The CID operates with a staff of 8 officers.

The Royal Anguilla Police Force, at the time of the mutual evaluation, did not have a dedicated unit such as a Financial Investigation / Intelligence Unit to investigate money-laundering cases or to deal with the financial aspects of persons arrested for drug related offences.

The Customs Department operates with a staff of 48 although the current establishment is 60. They maintain a presence at the two seaports, and the airport and also have staff covering air cargo, the marine base and a task force. Customs staff, in terms of revenue collection, collects approximately 45 to 50% of the Government's revenue. They also play a role in drug interdiction and have a 21ft coastal patrol vessel

Presently there is no legal requirement to report the importation into or exportation from Anguilla of cash of any amount.

Accordingly, based on the outcome of the on-site visit, some Recommendations were made re the need to:

- Give "compulsory powers" for the financial regulators to access all information and divulge it to all foreign regulators

- Bring into the prudential regulatory matrix *all* financial service providers conducting investment business in Anguilla and empower the Director of Financial services to have unlimited and unfettered access to detailed client/depositor/policyholder information from both regulated and unregulated institutions ("compulsory powers")

- Create a mandatory reporting of unusual, large or complex transactions or mandatory investigation of their purpose if criminal activities are suspected.

- Train financial service providers to highlight the dangers to the jurisdiction in the long-term of a failure to maintain tight internal systems

- Create operating manuals of banks and other Financial Service Providers to reflect current phenomena on money laundering.

- Create a requirement for a declaration at an Anguillan port of entry of the importation of cash above a threshold figure.

Require Company Manager/Registered Agent to Conduct the relevant '*due diligence*' on both the foreign client as well as the company they wish to incorporate or register.

Put in place "on-site" examination executed by the office of the Director of Financial Services with respect to Company Managers/Registered Agents. The examinations should be implemented as part of the supervisory process.

Create an official Code of Conduct by the Director of Financial Services for licensed Registered Agents/Company Managers as a statutory requirement for Company Managers/Registered Agents, as well as directors, shareholders and senior management of offshore banks, trust companies and other licensed financial institutions. In addition these bodies should maintain/designate a "compliance officer" to ensure that anti-money laundering policies and procedures are implemented.

The Royal Anguilla Police Force should devote adequate resources/training to developing and implementing an effective anti-money laundering regime.

SUMMARY OF THE MUTUAL EVALUATION OF BELIZE.

The Mutual Evaluation of Belize took place between April 10 - 14, 2000.

Belize is an English-speaking democratic nation situated on the northeastern tip of Central America. Its proximity to Mexico and Guatemala has made it a significant transshipment point for cocaine and marijuana.

The Misuse of Drugs Act 1990, Section 18, creates the offence of assisting a person to retain the benefit of drug trafficking. The Money Laundering Prevention Act is not specific to drug trafficking but apply to all proceeds of crime, allows for monitoring and restraint orders and requires that financial institutions report complex, unusual or large business transactions or patterns of transactions to the Governor of the Central Bank.

The Money Laundering (Prevention) Act (MLPA) allows the Governor of the Central Bank, to apply to a Judge of the Supreme Court for an Order to deliver information which identifies, locates or quantifies property of a person who may be committing or may have committed a money laundering offence. The Act also requires financial institutions to produce all information about business transactions conducted by a suspect during any period before or after the Order.

Both the Misuse of Drugs Act (the MDA) and the Money Laundering (Prevention) Act (the MLPA) provide mechanisms for the freezing and forfeiture of assets. Under the Money Laundering Prevention Act (MLPA) in Section 23 the Court can take steps to freeze and forfeit assets related to money laundering where a request is made from a Court or competent authority of another State. The legislation also provides for international cooperation in investigation re prosecution of offences under the Act Extradition for money laundering offences is possible and this applies to non-drug offences as well as those related to drug trafficking.

Belize's financial services sector is comprised primarily of commercial banks, insurance companies, credit unions and building societies. Both domestic and offshore banks fall under the supervisory aegis of the Central Bank of Belize. As regards its monitoring of domestic banks, information access is unrestricted and this authority extends also to the holding company and affiliates in Belize and abroad. In relation to offshore banks, the CBB's access is restricted specifically to the licensee's operations in Belize. No access is allowed to information relating to any individual customer or depositor or transaction, except for large credit exposures.

Provisions outline the obligations of financial institutions regarding identification procedures/know your customer, internal reporting, internal controls, training and compliance officers. Guidance Notes provide examples of actual money laundering cases, as well as "red flags" to guide institutions as to potential problems.

The Governor of the CBB is the designated Money Laundering Authority (MLA), who in law has powers akin to those of law enforcement e.g. search warrant, consent to commence prosecutions. The Authority may also provide information to overseas regulators and law enforcement. Banks managements are fully aware of their responsibility under the Money Laundering Prevention Legislation. Banks are legally required to maintain records for five years. In several instances, the bank's internal requirements go up to seven years. Arrangements are in place for regular training of bank staff to familiarize them with the provisions of the statute, regulations and guidance notes, with refresher courses at least annually. Compliance officers appear to be in place at all commercial banks

The IFSC was established by statute enacted in 1999, with the dual mandate to promote, protect and enhance Belize as an offshore centre, and regulate and supervise the provision of international financial services within Belize. There is concern that this has the potential for creating a conflict of interest where a government-established commission has members drawn from the same private sector which it was set up to monitor and regulate.

The operations of IBC's are regulated under the International Business Companies Act 1990, and Amendments issued in 1995 and 1999. All IBC's must have a registered office and a registered agent in Belize. The IBC's ability to issue bearer shares (transferable by delivery), acts to further obscure the ownership, mind and management of the IBC. As a result, third parties entering into transactions run the risk of treating with parties who are for the most part unknown Bearer shares therefore appear to increase the vulnerability of the jurisdiction to abuse. The IBC Registry is administered by a private company which is troubling since this is a private company (with ownership links to regulated financial entities), which is operating as an agent of government and discharging an official government function. There is also a concern regarding the registry carrying out the dual functions of promotion and registration

Despite having overall responsibility as the MLA outlines, the Central Bank does not have any legal jurisdiction or ability to monitor the activities of registered agents of IBC's vis-à-vis their compliance with "Know Your Customer" requirements of the law.

The Belize Police Department [BPD] is the agency charged with the responsibility of maintaining law and order in Belize. In 1997, a total of 294,712 cannabis plants were destroyed, in 1998, 202,803 plants and in 1999, a total of 377,055. Processed' cannabis seized moved from 262.8 kilos in 1997 to 1557.3 in 1998 but was down to 392.2 in 1999.

Confiscation of crack cocaine was recorded at 269.1 kilos in 1997, 40.3 in 1998 and 38.6 in 1999. Some 2369 persons were arrested and charged with drug related offences in 1999. In 1998, 1588 were arrested and in 1997, 1701 persons were charged. Most of those persons charged were described as 'small' dealers/users who possessed no substantial material wealth worth investigations.

The criminalization of money derived from illicit activities, namely drugs and organized crime, has given the law enforcement officials in Belize yet a new challenge and it is recognized by authorities that investigations of money laundering activities require specialized training.

Some of the recommendations of the Examiners include the application of a general and identical confiscation scheme to both money laundering as well as to drug trafficking offences and the creation of a Seized Assets Fund into which the proceeds of confiscation and forfeiture orders might be placed for disposal to law enforcement and prosecuting agencies as well as anti-drug abuse programmes.

The ability of International Business Companies (IBC's) to issue bearer shares should be reconsidered in order to decrease the vulnerability of the jurisdiction to abuse by money launderers. The structure and membership of the International Financial Services Commission (IFSC) given its significant private sector make up should be reviewed in order to guard against obvious conflict of interests. In a similar vein the twin objectives of the IFSC of regulating whilst promoting Belize's international financial services sector, go against internationally acceptable standards and therefore these functions should be vested in separate entities.

Regulations should be promulgated to govern the operations of registered agents and their due diligence responsibilities, and to establish fit and proper criteria for their licensing. The Registry's dual function of promotion and marketing should be separated.

The Authorities should also commit to a review of the supervisory resources of the Central Bank and Money Laundering Authority to ensure that it has the necessary personnel and expertise to enable it to effectively discharge its various responsibilities.

A trained cadre of financial investigators capable of undertaking the analysis of information is required.

SUMMARY OF THE MUTUAL EVALUATION OF SURINAME

The Mutual Evaluation of the Republic of Suriname took place on November 28-30, 2000.

The drug situation in Suriname is a matter of great concern. Suriname is being used mainly as a trans-shipment point (cocaine and ecstasy) because of its regular direct air connection to Europe (The Netherlands). Based on the information provided by representatives of the Police, an estimate of approximately 10 tons of cocaine pass through Suriname on a yearly basis using, on their way in, the numerous registered and clandestine air strips.

The smuggling is mainly done through young people specifically recruited locally or in Holland for this job, who are now paid in drugs instead of money.

Even on low level, an awareness on the part of the Surinamese public and private sector exists on money laundering issues. Only the Central Bank of Suriname has stipulated in November 1996, guidelines for the prevention of money laundering for all financial institutions. However, these guidelines which contain, among others, an obligation for the financial institutions to report unusual transactions to the Attorney General's Office, aren't mandatory by law (only one report of a suspicious transaction has been received in 1998).

Regarding the Legal issues, primarily, the Minister of Justice and Police are responsible for the prevention of drug crime and drug/money laundering related crime. Suriname ratified the Vienna Convention in June 1992. Most of the Laws regarding criminal issues exist for more than 10 years. The only law in the area of drug and drug related crime is the Act of February 1998 confirming the Narcotic Substances Act which became effective by Decree of January 21, 1999. Several additional state decrees for implementation of these articles were enacted later.

The Narcotic Substances Act meets the standards of section 3 of the Vienna Convention. There is a legal provision in article 13, section 1, for the dispossession of illegally acquired gains, besides the penalties of imprisonment and fines. Besides these sanctions it is also possible to apply as an additional penalty the removal of persons from their responsible positions. According to the representatives of the Attorney General's Office, this article has never been used. Furthermore, the liability of managers of enterprises is also stipulated.

The Minister of Trade and Industry is, according to the representative of the Attorney General's office, in charge of the licensing of Cambios (Bureaux de Change) and Casinos. The Casinos are not supervised by any agency.

During the Mutual Evaluation visit, officials presented draft laws criminalizing the laundering of criminal proceeds but nothing has yet been finalized, and furthermore the draft presented was not in accordance with the minimum international standards.

The anti-money laundering situation in Suriname, by the time of the on-site visit caused numerous concerns to the Evaluation Team who identified numerous weaknesses in all areas, including international co-operation.

Regarding the financial issues, the Central Bank of Suriname was established under the Bank Act 1956. Under the provisions of the Act on Supervision of the Banking and Credit System 1968, the

Central Bank became responsible for the supervision of banks, insurance companies, credit unions, pension funds and all credit institutions established in the country. The Central Bank supervises 7 commercial banks and one development bank; 10 insurance companies, 31 pension funds, 28 credit co-operatives and 33 other financial institutions including Bureaux de Change (Cambios).

As indicated above, the Central Bank issued Guidelines for the Prevention of Money Laundering in November 1996. These guidelines were signed by the President of the Bank and was addressed to all financial institutions, required that all financial institutions should develop anti-money laundering measures, such as setting up adequate internal organisation, training, appoint a compliance officer, keep records of operations and report on unusual transactions. However, these Guidelines are not mandatory, and only one suspicious transaction has been reported since 1986, the banks preferring to close the suspicious account instead of reporting to the authorities.

Suriname has no legislation governing the incorporation and regulation of companies established to carry out insurance business. The Supervision of the Banking, Credit Institutions and Insurance Companies are subject to the supervision of the Central Bank., through the submission of periodic prudential returns. As indicated, even if they are aware of the guidelines issued by the Central Bank, the insurance companies operating in Suriname have not implemented anti-money laundering policies and procedures since the guidelines are not mandatory.

The current insurance business is very limited but the representative informed us that one of the major insurance companies had prepared and was shortly to issue a prospectus offering mutual funds by subscription to the public.

Cambios are licensed by the Ministry of Trade, once the Central Bank have received a "Certificate of No Objection". Under the provisions of the Act on Supervision of the Banking and Credit System 1968, Cambios are supervised by the Central Bank under the responsibility of Foreign Exchange Control Department and must submit daily reports to of sales and purchases of foreign currency, and return weekly reports to the Bank by transaction types. At the time of the on-site visit, there were 22 licensed Cambios in Suriname and approximately 50 outlets operating illegally. No unusual/suspicious reports have been made by the Cambios and no on-site examination of the cambios is made by a governmental agency.

The Stock Exchange Regulations became effective in February 1994. The Regulations were issued as a temporary arrangement by members of the Stock Exchange and is not legally constituted. The Surinamese Stock Exchange has a very low volume of turnover and only 4 brokers trade in 11 stocks. No anti-money laundering regulations exists.

With regards to the Law Enforcement issues, the investigation of all crimes within Suriname falls under the responsibility of the Civil Judicial Police. Unlike the Military Police whose primary responsibility is for security control at all ports and immigration duties, any arrests made by them must be handed over to the Civil Judicial Police for further action.

Their Civil Police force consists of approximately 1,200 uniform, 211 plain clothes. The Fraud Department consists of 8 to 10 persons with no training in financial investigation and the Drug Squad is made up of about 16 persons whose primary function is the tracing of drugs and traffickers in the Paramaribo Area.

The Military Police, Air Force and Navy fall under the responsibility of Ministry of Defense. All three act in support of the Police especially in conducting Drug Operations. The Military Police primary responsibility is to conduct security control at all ports and immigration. Their present strength is at 170 personnel who, due to their responsibilities at the borders have seized currency and drug couriers.

The Navy and the Air Force are under the responsibility of the same commander. The Navy's approximated 170 to 190 personnel mainly in charge for search and rescue. It must be noted that the Government of Suriname has signed the Ship Riders Agreement with the U.S. Government. The strength of the Air Force is 80 personnel with 5 Aircrafts.

Based on the information given, the Police Force, Military Police and the Army Forces lack most of the basic tools to perform their duties.

The customs department falls directly under the Ministry of Finance. At present, they comprise 290 personnel.

Whilst the Customs Department assist the Police in planned drug operations, their department does not have a specialized enforcement unit targeting contraband such as drugs, stolen vehicles etc. If and when drugs are seized, the cases must be referred to the Civil Police.

The National Anti-Drug Council is legally the policy institution in charge of the co-ordination of the drug policy and the execution of the drug master plan. This council is also the national advisory body for drug affairs.

The Attorney General's office is responsible for issuing charges against persons and the presenting of cases to the Court. Although it is not officially stated, due to the absence of appropriate legislation and Financial Investigation Units, the Attorney General's Office is responsible for receiving the reports of all suspicious transaction reports (STR's) from all financial institutions.

There is no Financial Intelligence Unit (FIU) in Suriname where the suspicious/unusual reports can be directed.

Accordingly, based on the outcome of the Report, some Recommendations were made re the need to:

- Develop specialised law enforcement units for at least the Police and the Attorney General's Office.

- Increase the criminal penalties for money laundering crimes in the draft legislation

- All financial and non- financial institutions should report unusual or suspicious transactions to a Financial Intelligence Unit

- All financial and non-financial institutions should appoint compliance officers,

- The Central Bank should be given powers to make mandatory the requirement for all financial institutions to implement an updated version of Prevention of Money Laundering Guidelines

- The Central Bank should carry out its supervisory responsibilities for regulating the activities of all financial institutions and, in the case of Cambios, to police the parameter to reduce the number of illegal foreign currency exchange operations in Suriname.

CFATF 2ND ROUND OF MUTUAL EVALUATIONS

<u>2001:</u>	
Panama	July 23-27
Dominican Republic	September 10-14
Barbados	November 12-16
Costa Rica	December 03-07
<u>2002:</u>	
Cayman Islands	January 14-18
Trinidad & Tobago	March 04-08
Turks & Caicos Islands	May 13-17
Bahamas	July 15-19
Antigua & Barbuda	September 16-20
Saint Vincent & The Grenadines	November 11-15
<u>2003:</u>	
Bermuda	January 13-17
Saint Lucia	March 03-07
Saint Kitts & Nevis	May 12-16
Jamaica	July 21-25
Commonwealth of Dominica	September 15-19
British Virgin Islands	November 17-21
<u>2004:</u>	
The Bolivarian Republic of Venezuela	January 12-16
Grenada	March 08-12
Montserrat	May 17-21
Belize	July 19-23
Nicaragua	August 09-13
Anguilla	September 13-17
Suriname	November 15-19

REVISED FORTY RECOMMENDATIONS OF THE FINANCIAL ACTION TASK FORCE

Introduction

1. The Financial Action Task Force on Money Laundering (FATF) is an inter-governmental body whose purpose is the development and promotion of policies to combat money laundering -- the processing of criminal proceeds in order to disguise their illegal origin. These policies aim to prevent such proceeds from being utilised in future criminal activities and from affecting legitimate economic activities.

2. The FATF currently consists of 26 countries¹ and two international organisations². Its membership includes the major financial centre countries of Europe, North America and Asia. It is a multidisciplinary body as is essential in dealing with money laundering bringing together the policymaking power of legal, financial and law enforcement experts.

3. This need to cover all relevant aspects of the fight against money laundering is reflected in the scope of the forty FATF Recommendations -- the measures which the Task Force have agreed to implement and which all countries are encouraged to adopt. The Recommendations were originally drawn up in 1990. In 1996 the forty Recommendations were revised to take into account the experience gained over the last six years and to reflect the changes which have occurred in the money laundering problem.³

4. These forty Recommendations set out the basic framework for antimoney laundering efforts and they are designed to be of universal application. They cover the criminal justice system and law enforcement; the financial system and its regulation, and international cooperation.

5. It was recognised from the outset of the FATF that countries have diverse legal and financial systems and so all cannot take identical measures. The Recommendations are therefore the principles for action in this field, for countries to implement according to their particular circumstances and constitutional frameworks allowing countries a measure of flexibility rather than prescribing every detail. The measures are not particularly complex or difficult, provided there is the political will to act. Nor do they compromise the freedom to engage in legitimate transactions or threaten economic development.

6. FATF countries are clearly committed to accept the discipline of being subjected to multilateral surveillance and peer review. All member countries have their implementation of the forty Recommendations monitored through a two-pronged approach: an annual self-assessment

¹ Reference in this document to "countries" should be taken to apply equally to "territories" or "jurisdictions". The twenty six FATF member countries and governments are: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States

² The two international organisations are: the European Commission and the Gulf Cooperation Council.

³

During the period 1990 to 1995, the FATF also elaborated various Interpretative Notes which are designed to clarify the application of specific Recommendations. Some of these Interpretative Notes have been updated in the Stocktaking Review to reflect changes in the Recommendations.

exercise and the more detailed mutual evaluation process under which each member country is subject to an on-site examination. In addition, the FATF carries out cross-country reviews of measures taken to implement particular Recommendations.

7. These measures are essential for the creation of an effective antimoney laundering framework.

THE FORTY RECOMMENDATIONS OF THE FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING

A. GENERAL FRAMEWORK OF THE RECOMMENDATIONS

1. Each country should take immediate steps to ratify and to implement fully, the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention).
2. Financial institution secrecy laws should be conceived so as not to inhibit implementation of these recommendations.
3. An effective money laundering enforcement program should include increased multilateral cooperation and mutual legal assistance in money laundering investigations and prosecutions and extradition in money laundering cases, where possible.

B. ROLE OF NATIONAL LEGAL SYSTEMS IN COMBATING MONEY LAUNDERING

Scope of the Criminal Offence of Money Laundering

4. Each country should take such measures as may be necessary, including legislative ones, to enable it to criminalise money laundering as set forth in the Vienna Convention. Each country should extend the offence of drug money laundering to one based on serious offences. Each country would determine which serious crimes would be designated as money laundering predicate offences.
5. As provided in the Vienna Convention, the offence of money laundering should apply at least to knowing money laundering activity, including the concept that knowledge may be inferred from objective factual circumstances.
6. Where possible, corporations themselves - not only their employees - should be subject to criminal liability.

Provisional Measures and Confiscation

7. Countries should adopt measures similar to those set forth in the Vienna Convention, as may be necessary, including legislative ones, to enable their competent authorities to confiscate property laundered, proceeds from, instrumentalities used in or intended for use in the commission of any money laundering offence, or property of corresponding value, without prejudicing the rights of bona fide third parties.
Such measures should include the authority to : 1) identify, trace and evaluate property which is subject to confiscation; 2) carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property; and 3) take any appropriate investigative measures.

In addition to confiscation and criminal sanctions, countries also should consider monetary and civil penalties, and/or proceedings including civil proceedings, to void contracts entered into by parties, where parties knew or should have known that as a result of the contract, the State would be prejudiced in its ability to recover financial claims, e.g. through confiscation or collection of fines and penalties.

C. ROLE OF THE FINANCIAL SYSTEM IN COMBATING MONEY LAUNDERING

8. Recommendations 10 to 29 should apply not only to banks, but also to non-bank financial institutions. Even for those non-bank financial institutions which are not subject to a formal prudential supervisory regime in all countries, for example bureaux de change, governments should ensure that these institutions are subject to the same anti-money laundering laws or regulations as all other financial institutions and that these laws or regulations are implemented effectively.
9. The appropriate national authorities should consider applying Recommendations 10 to 21 and 23 to the conduct of financial activities as a commercial undertaking by businesses or professions which are not financial institutions, where such conduct is allowed or not prohibited. Financial activities include, but are not limited to, those listed in the attached annex. It is left to each country to decide whether special situations should be defined where the application of anti-money laundering measures is not necessary, for example, when a financial activity is carried out on an occasional or limited basis.

Customer Identification and Record-keeping Rules

10. Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names: they should be required (by law, by regulations, by agreements between supervisory authorities and financial institutions or by self-regulatory agreements among financial institutions) to identify, on the basis of an official or other reliable identifying document, and record the identity of their clients, either occasional or usual, when establishing business relations or conducting transactions (in particular opening of accounts or passbooks, entering into fiduciary transactions, renting of safe deposit boxes, performing large cash transactions).

In order to fulfill identification requirements concerning legal entities, financial institutions should, when necessary, take measures:

(i) to verify the legal existence and structure of the customer by obtaining either from a public register or from the customer or both, proof of incorporation, including information concerning the customer's name, legal form, address, directors and provisions regulating the power to bind the entity.

(ii) to verify that any person purporting to act on behalf of the customer is so authorised and identify that person.

11. Financial institutions should take reasonable measures to obtain information about the true identity of the persons on whose behalf an account is opened or a transaction conducted if there

are any doubts as to whether these clients or customers are acting on their own behalf, for example, in the case of domiciliary companies (i.e. institutions, corporations, foundations, trusts, etc. that do not conduct any commercial or manufacturing business or any other form of commercial operation in the country where their registered office is located).

12. Financial institutions should maintain, for at least five years, all necessary records on transactions, both domestic or international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved if any) so as to provide, if necessary, evidence for prosecution of criminal behaviour.

Financial institutions should keep records on customer identification (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence for at least five years after the account is closed.

These documents should be available to domestic competent authorities in the context of relevant criminal prosecutions and investigations.

13. Countries should pay special attention to money laundering threats inherent in new or developing technologies that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes.

Increased Diligence of Financial Institutions

14. Financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.
15. If financial institutions suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the competent authorities.
16. Financial institutions, their directors, officers and employees should be protected by legal provisions from criminal or civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the competent authorities, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.
17. Financial institutions, their directors, officers and employees, should not, or, where appropriate, should not be allowed to, warn their customers when information relating to them is being reported to the competent authorities.
18. Financial institutions reporting their suspicions should comply with instructions from the competent authorities.

19. Financial institutions should develop programs against money laundering. These programs should include, as a minimum :
- (i) the development of internal policies, procedures and controls, including the designation of compliance officers at management level, and adequate screening procedures to ensure high standards when hiring employees;
 - (ii) an ongoing employee training programme;
 - (iii) an audit function to test the system.

Measures to Cope with the Problem of Countries with No or Insufficient Anti-Money Laundering Measures

20. Financial institutions should ensure that the principles mentioned above are also applied to branches and majority owned subsidiaries located abroad, especially in countries which do not or insufficiently apply these Recommendations, to the extent that local applicable laws and regulations permit. When local applicable laws and regulations prohibit this implementation, competent authorities in the country of the mother institution should be informed by the financial institutions that they cannot apply these Recommendations.
21. Financial institutions should give special attention to business relations and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply these Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help supervisors, auditors and law enforcement agencies.

Other Measures to Avoid Money Laundering

22. Countries should consider implementing feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, subject to strict safeguards to ensure proper use of information and without impeding in any way the freedom of capital movements.
23. Countries should consider the feasibility and utility of a system where banks and other financial institutions and intermediaries would report all domestic and international currency transactions above a fixed amount, to a national central agency with a computerised data base, available to competent authorities for use in money laundering cases, subject to strict safeguards to ensure proper use of the information.
24. Countries should further encourage in general the development of modern and secure techniques of money management, including increased use of checks, payment cards, direct deposit of salary checks, and book entry recording of securities, as a means to encourage the replacement of cash transfers.

25. Countries should take notice of the potential for abuse of shell corporations by money launderers and should consider whether additional measures are required to prevent unlawful use of such entities.

Implementation, and Role of Regulatory and other Administrative Authorities

26. The competent authorities supervising banks or other financial institutions or intermediaries, or other competent authorities, should ensure that the supervised institutions have adequate programs to guard against money laundering. These authorities should co-operate and lend expertise spontaneously or on request with other domestic judicial or law enforcement authorities in money laundering investigations and prosecutions.
27. Competent authorities should be designated to ensure an effective implementation of all these Recommendations, through administrative supervision and regulation, in other professions dealing with cash as defined by each country.
28. The competent authorities should establish guidelines which will assist financial institutions in detecting suspicious patterns of behaviour by their customers. It is understood that such guidelines must develop over time, and will never be exhaustive. It is further understood that such guidelines will primarily serve as an educational tool for financial institutions' personnel.
29. The competent authorities regulating or supervising financial institutions should take the necessary legal or regulatory measures to guard against control or acquisition of a significant participation in financial institutions by criminals or their confederates.

D. STRENGTHENING OF INTERNATIONAL CO-OPERATION

Administrative Co-operation

Exchange of general information

30. National administrations should consider recording, at least in the aggregate, international flows of cash in whatever currency, so that estimates can be made of cash flows and reflows from various sources abroad, when this is combined with central bank information. Such information should be made available to the International Monetary Fund and the Bank for International Settlements to facilitate international studies.
31. International competent authorities, perhaps Interpol and the World Customs Organisation, should be given responsibility for gathering and disseminating information to competent authorities about the latest developments in money laundering and money laundering techniques. Central banks and bank regulators could do the same on their network. National authorities in various spheres, in consultation with trade associations, could then disseminate this to financial institutions in individual countries.

Exchange of information relating to suspicious transactions

32. Each country should make efforts to improve a spontaneous or "upon request" international information exchange relating to suspicious transactions, persons and corporations involved in those transactions between competent authorities. Strict safeguards should be established to ensure that this exchange of information is consistent with national and international provisions on privacy and data protection.

Other forms of Co-operation

Basis and means for co-operation in confiscation, mutual assistance and extradition

33. Countries should try to ensure, on a bilateral or multilateral basis, that different knowledge standards in national definitions - i.e. different standards concerning the intentional element of the infraction - do not affect the ability or willingness of countries to provide each other with mutual legal assistance.
34. International co-operation should be supported by a network of bilateral and multilateral agreements and arrangements based on generally shared legal concepts with the aim of providing practical measures to affect the widest possible range of mutual assistance.
35. Countries should be encouraged to ratify and implement relevant international conventions on money laundering such as the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

Focus of improved mutual assistance on money laundering issues

36. Co-operative investigations among countries' appropriate competent authorities should be encouraged. One valid and effective investigative technique in this respect is controlled delivery related to assets known or suspected to be the proceeds of crime. Countries are encouraged to support this technique, where possible.
37. There should be procedures for mutual assistance in criminal matters regarding the use of compulsory measures including the production of records by financial institutions and other persons, the search of persons and premises, seizure and obtaining of evidence for use in money laundering investigations and prosecutions and in related actions in foreign jurisdictions.
38. There should be authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate proceeds or other property of corresponding value to such proceeds, based on money laundering or the crimes underlying the laundering activity. There should also be arrangements for coordinating seizure and confiscation proceedings which may include the sharing of confiscated assets.
39. To avoid conflicts of jurisdiction, consideration should be given to devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country. Similarly, there should be arrangements for coordinating seizure and confiscation proceedings which may include the sharing of confiscated assets.

40. Countries should have procedures in place to extradite, where possible, individuals charged with a money laundering offence or related offences. With respect to its national legal system, each country should recognise money laundering as an extraditable offence. Subject to their legal frameworks, countries may consider simplifying extradition by allowing direct transmission of extradition requests between appropriate ministries, extraditing persons based only on warrants of arrests or judgements, extraditing their nationals, and/or introducing a simplified extradition of consenting persons who waive formal extradition proceedings.

Annex to Recommendation 9: List of Financial Activities undertaken by businesses or professions which are not financial institutions

1. Acceptance of deposits and other repayable funds from the public.
2. Lending.
3. Financial leasing.
4. Money transmission services.
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques and bankers' drafts...).
6. Financial guarantees and commitments.
7. Trading for account of customers (spot, forward, swaps, futures, options...) in:
 - (a) money market instruments (cheques, bills, CDs, etc.) ;
 - (b) foreign exchange;
 - (c) exchange, interest rate and index instruments;
 - (d) transferable securities;
 - (e) commodity futures trading.
8. Participation in securities issues and the provision of financial services related to such issues.
9. Individual and collective portfolio management.
10. Safekeeping and administration of cash or liquid securities on behalf of clients.
11. Life insurance and other investment related insurance.
12. Money changing.

Caribbean Financial Action Task Force

REVISED CFATF 19 RECOMMENDATIONS ⁽⁴⁾(2)

Anti-Money Laundering Authority

1. Adequate resources need to be dedicated to fighting money laundering. In countries where experience in combating money laundering is limited, there need to be competent authorities that specialize in money laundering investigations and prosecutions and related forfeiture actions, advise financial institutions and regulatory authorities on anti-money laundering measures, and receive and evaluate suspicious transaction information from financial institutions and regulators and currency reports which are filed by individuals or institutions.

Crime of Money Laundering

2. Consistent with recommendation **5** of the **Financial Action Task Force** and recognizing that the objectives of combating money laundering are shared by CFATF members, each country in determining for itself what crimes ought to constitute predicate offences, should be fully aware of the practical evidentiary complications that may arise if money laundering is made an offence only with respect to certain very specific predicate offences.
3. In accordance with the **Vienna Convention**, each country should, subject to its constitutional principles and the basic concepts of its legal system, criminalize conspiracy or association to engage in, and aiding and abetting drug trafficking, money laundering and other serious offences and subject such activities to stringent criminal sanctions.
4. When criminalizing money laundering, the national legislature should consider:
 - a. extend money laundering predicate offences beyond narcotics trafficking to include all serious crimes;
 - b. whether money laundering should only qualify as an offence in cases where the offender actually knew that he was dealing with funds derived from crime or whether it should also qualify as an offence in cases where the offender ought to have known that this was the case;
 - c. whether it should be relevant that the predicate offence may have been committed outside the territorial jurisdiction of the country where the laundering occurred;

⁴The Aruba Conference on Money Laundering in June 1990 produced 21 recommendations. These are the 19 which were adopted at the Kingston Ministerial Meeting on Money Laundering in November 1992.

²During Council IV (held in Cayman Islands) it was decided to endorse the Revised 40 Recommendations. A working group examined the impact of these revised Recommendations on the CFATF 19 Recommendations and Council V (held in British Virgin Islands, October 20th, 1999) decided to modify some of the CFATF 19 Recommendations.

- d. whether it is sufficient to criminalize the laundering of illegally obtained funds, or whether other property that may serve as a means of payment should also be covered.
5. Where it is not otherwise a crime, countries should consider enacting statutes that criminalize the knowing payment, receipt or transfer, or attempted payment, receipt or transfer of property known to represent the proceeds of drug trafficking, serious crimes or money laundering where the recipient of the property is a public official, political candidate, or political party. In countries where it is already a crime, countries should consider the imposition of enhanced punishment or other sanctions, such as forfeiture of office.

Privilege

6. The fact that a person acting as a financial advisor or nominee is an attorney, accountant, stockbroker or other professional, should not in and of itself be sufficient reason for such person to invoke an attorney-client privilege, or any other confidentiality clauses.

Confiscation

7. Confiscation measures should provide for the authority to seize, freeze, and confiscate, at the request of a foreign state, property in the jurisdiction in which such property is located regardless of whether the owner of the property or any persons who committed the offence making the property subject to confiscation are present or have ever been present within the jurisdiction.
8. Countries should provide for the possibility of confiscating any property that represents assets that have been directly or indirectly derived from drug offences or related money laundering offences (property confiscation), and may also provide for a system of pecuniary sanctions based on an assessment of the value of assets that have been directly or indirectly derived from such offences. In the latter case, the pecuniary sanctions concerned might be recoverable from any asset of the convicted person that may be available (value confiscation).
9. Confiscation measures may provide that all or part of any property confiscated be transferred directly for use by competent authorities, or be sold and the proceeds of such sales deposited into a fund dedicated to the use by competent authorities in anti-narcotics and anti-money laundering efforts.
10. Confiscation measures should also apply to narcotic drugs and psychotropic substances, precursor and essential chemicals, equipment and materials used or destined for the illicit manufacture, preparation, distribution and use of narcotic drugs and psychotropic substances.

Administrative Authorities

11. In order to implement effectively the recommendations of the **Financial Action Task Force**, each country should have a system that provides for bank and other financial institution supervision, including:
 - 1) licensing of all banks, including offices, branches, and agencies of foreign banks whether or not they take deposits or otherwise do business in the country (so-called offshore shell banks), and
 - 2) the periodic examination of institutions by authorities to ensure that the institutions have adequate anti-money laundering programs in place and are following the implementation of other recommendations of the **Financial Action Task Force**.

Similarly, in order to implement the recommendation of the **Financial Action Task Force**, there needs to be effective regulation, including licensing and examination, of institutions and businesses such as services that make them vulnerable to money laundering.

12. Countries need to ensure that there are adequate border procedures for inspecting merchandise and carriers, including private aircraft, to detect illegal drug and currency shipments.

Record-keeping

13. In order to ensure implementation of the recommendations of the **Financial Action Task Force**, countries should apply appropriate administrative, civil, or criminal sanctions to financial institutions and also businesses or professions which are not financial institutions that fail to maintain records for the required retention period. Financial institution supervisory authorities as well as supervisory authorities for businesses and professions which are not financial institutions must take special care to ensure that adequate records are maintained.

Currency Reporting

14. Countries should consider the feasibility and utility of a system that requires the reporting of large amounts of currency over a certain specified amount received by businesses other than financial institutions either in one transaction or in a series of related financial transactions. These reports would be analyzed routinely by competent authorities in the same manner as any currency report filed by financial institutions. Large cash purchases of property and services such as real estate and aircraft are frequently made by drug traffickers and money launderers and, consequently, are of similar interest to law enforcement. Civil and criminal sanctions would apply to businesses and persons who fail to file or falsely file reports or structure transactions with the intent to evade the reporting requirements.

Administrative Co-operation

15. In furtherance of recommendation **30** of the **Financial Action Task Force**, information acquired about international currency flows should be shared internationally and disseminated, if possible through the services of appropriate international or regional

organizations, or on existing international networks. Special agreements may also be concluded for this purpose.

16. Member States of the **OAS** should consider signing the **OAS Convention on Extradition**, concluded at Caracas on February 25, 1981.
17. Each country should endeavour to ensure that its laws and other measures regarding drug trafficking and money laundering, and bank regulation as it pertains to money laundering, are to the greatest extent possible as effective as the laws and other measures of all other countries in the region.

Training and Assistance

18. As a follow-up, there should be regular meetings among competent judicial, law enforcement, and supervisory authorities of the countries of the **Caribbean** and **Central American** region in order to discuss experience in the fight against money laundering and emerging trends and techniques.
19. In order to enable countries with small economies and limited resources to develop appropriate money laundering prevention programs, other countries should consider widening the scope of their international technical assistance programs, and to pay particular attention to the need of training and otherwise strengthening the quality and preserving the integrity of judicial, legal and law enforcement systems.

Revised October 20th, 1999

FINANCIAL ACTION TASK FORCE'S LIST OF CRITERIA FOR DEFINING NON-COOPERATIVE COUNTRIES OR TERRITORIES.

A. Loopholes in financial regulations

(i) No or inadequate regulations and supervision of financial institutions

1. Are there effective regulations and supervision, if any, for all financial institutions in a given country or territory, onshore or offshore, on an equivalent basis with respect to international standards applicable to money laundering?

(ii) Inadequate licensing and rules for the creation of financial institutions, including assessing the backgrounds of their managers and beneficial owners

2. Is it possible for individuals or legal entities to operate a financial institution without authorisation or registration or with very rudimentary requirements for authorisation or registration?

3. Are there measures to guard against holding of management functions and control or acquisition of a significant investment in financial institutions by criminals or their confederates?

(iii) Inadequate customer identification requirements for financial institutions

4. Do anonymous accounts or accounts in obviously fictitious names exist?

5. Are there effective laws, regulations, agreements between supervisory authorities and financial institutions or self-regulatory agreements among financial institutions on identification by the financial institution of the client and beneficial owner of an account?

- Is it mandatory to verify the identity of the client?
- Is it a requirement to identify the beneficial owners where there are doubts as to whether the client is acting on his own behalf?
- Is there an obligation to renew identification of the client or the beneficial owner when doubts appear as to their identity in the course of business relationships?
- Are financial institutions required to develop ongoing anti-money laundering training programmes?

6. Is there a legal or regulatory obligation for financial institutions or agreements between supervisory authorities and financial institutions or self-agreements among financial institutions to record and keep, for a reasonable and sufficient time (five years), documents connected with the identity of their clients, as well as records on national and international transactions?

7. Are there legal or practical obstacles to access by administrative⁵ and judicial authorities⁶ to information with respect to the identity of the holders or beneficial owners and information connected with the transactions recorded?

⁵ The term "administrative authorities" is used in this document to cover both financial regulatory authorities and certain financial intelligence units (FIUs).

⁶ The term "judicial authorities" is used in this document to cover law enforcement, judicial/prosecutorial authorities, authorities which deal with mutual legal assistance requests, as well as certain types of FIUs.

(iv) Excessive secrecy provisions regarding financial institutions

8. Can secrecy provisions be invoked against, but not lifted by competent administrative authorities in the context of enquiries concerning money laundering?

9. Can secrecy provisions be invoked against, but not lifted by judicial authorities in criminal investigations related to money laundering?

(v) Lack of efficient suspicious transactions reporting system

10. Is there an efficient mandatory system for reporting suspicious or unusual transactions to a competent authority, provided that such a system aims to detect and prosecute money laundering?

11. Are there monitoring and criminal or administrative sanctions in respect to the obligation to report suspicious or unusual transactions?

B. Obstacles raised by other regulatory requirements

(i) Inadequate commercial law requirements for registration of business and legal entities

12. Are there adequate means for identifying, recording and making available relevant information related to legal and business entities (name, legal form, address, identity of directors, provisions regulating the power to bind the entity)?

(ii) Lack of identification of the beneficial owner(s) of legal and business entities

13. Are there obstacles to identification by financial institutions of the beneficial owner(s) and directors/officers of a company or beneficiaries of legal or business entities?

14. Are there regulatory or other systems which allow financial institutions to carry out financial business where the beneficial owner(s) of transactions is unknown, or is represented by an intermediary who refuses to divulge that information, without informing the competent authorities?

C. Obstacles to international co-operation

(i) Obstacles to international co-operation by administrative authorities

15. Do laws or regulations prohibit international exchange of information between administrative anti-money laundering authorities or do not grant clear gateways or subjecting exchange of information to unduly restrictive conditions?

16. Are relevant administrative authorities prohibited from conducting investigations or enquiries on behalf of or for account of their foreign counterparts?

17. Has obvious unwillingness to respond constructively to requests (e.g. failure to take the appropriate measures in due course, long delays in responding) been observed?

18. Are there restrictive practices in international co-operation against money laundering between supervisory authorities or between FIUs for the analysis and investigation of suspicious transactions, especially on the grounds that such transactions may relate to tax matters?

(ii) Obstacles to international co-operation by judicial authorities

19. Is the laundering of the proceeds from serious crimes being criminalised?

20. Do laws or regulations prohibit international exchange of information between judicial authorities (notably specific reservations to the anti-money laundering provisions of international agreements) or place highly restrictive conditions on the exchange of information?

21. Has obvious unwillingness to respond constructively to mutual legal assistance requests (e.g. failure to take the appropriate measures in due course, long delays in responding) been observed?

22. Does the jurisdiction refuse to provide judicial co-operation in cases involving offences recognised as such by the requested jurisdiction especially on the grounds that tax matters are involved?

D. Inadequate resources for preventing and detecting money laundering activities

(i) Lack of resources in public and private sectors

23. Are the administrative and judicial authorities provided with the necessary financial, human or technical resources to exercise their functions or to conduct their investigations?

24. Is there inadequate or corrupt professional staff in governmental, judicial or supervisory authorities or among those responsible for anti-money laundering compliance in the financial services industry?

(ii) Absence of a financial intelligence unit or of an equivalent mechanism

25. Is there a centralised unit (i.e., a financial intelligence unit) or of an equivalent mechanism for the collection, analysis and dissemination of suspicious transactions information to competent authorities?

CFATF MUTUAL EVALUATION PROCEDURES

(Amended October, 1999)

1. By virtue of the principles enshrined in the Kingston Declaration, CFATF Member States have agreed to effectively implement the 40 FATF and the 19 CFATF Recommendations, the Kingston Declaration, The Organisation of American States Model Regulations and the Plan of Action of the Summit of the Americas where applicable.
2. The Mutual Evaluation Programme is a crucial aspect of the work of the CFATF as it is one of the mechanisms by which the Secretariat ensures that each Member state fulfils the obligations undertaken. Through this monitoring mechanism the wider membership is kept informed as to what is happening on the ground in each Member Country that has signed the Memorandum of Understanding.
3. For the individual Member, the Mutual Evaluation Programme presents a valuable opportunity for an objective assessment by a team of experts of the anti money laundering framework as it exists at the time of the visit.
4. The Programme seeks to give due recognition where the standard benchmarks are met, but with a view to securing improvements where necessary, identifies weaknesses which have been detected and make recommendations where they are found to exist.
5. The mutual evaluation process entails a mission to each of the Member Countries by a team of experts, one each in the field of Law, Finance and Law Enforcement and led by the Director or Deputy Director of the Secretariat.
6. Through a range of interviews with officials in both the private and public sectors, the team attempts to glean a precise picture of the Country's anti money laundering framework at the particular time.
7. Crucial to this undertaking is the need for a national agency within the Member State, headed by a co-ordinator, who could be a legal officer with no Ministerial responsibility, who will be responsible for the co-ordination of the mutual evaluation process.
8. It is necessary for all Government departments and agencies as well as those private sector organisations that will be called upon to participate in the evaluation to inform all related officials of the nature, rationale and importance of the exercise.
9. The timetable and the venues for the interviews should be circulated to the officials sufficiently in advance and they must attend fully prepared and on time. Any adjustments must be communicated to the Secretariat or the Executive Director or Deputy Director in sufficient time.
10. The Mutual Evaluation Exercise is not a trial, it is a constructive consultative dialogue between professionals, be they bank supervisors/regulators, legal officers or members of the Defence Force, Police and Customs Departments.
11. The aim is to assist the Member State to improve its anti money laundering framework so that the legislation, administrative procedures, programmes and policies are in compliance with the 40 FATF

and 19 CFATF Recommendations.

12. Indeed the CFATF experience has been that Members, by virtue of the Mutual Evaluation Report have been able to implement improvements in their regulations and international organisations through the recommendations of the Examiners.
13. In keeping with the schedule of Mutual Evaluation visits as mandated by Council Meeting II all visits to the Members to be examined should occur as planned.
14. The Secretariat should draw up a list of CFATF Member States who will be requested to appoint an Examiner in one of the following fields of expertise namely legal/judicial; financial or law enforcement.
15. Additionally a similar list of Experts should be compiled by the Secretariat from Member States who would perform the role of Interlocutor for each Examination. Two Interlocutors would be required for each Examination.
16. The Schedule of Mutual Evaluations; Dates of Examinations; Lists of Examiners and Interlocutors should be submitted by the Secretariat to the Steering Group for approval and thereafter circulated to all Member States. Provided that the proposed Examiner or Interlocutor meets the definition as outlined below, no objections will be entertained.
17. However, in the event of disagreement, reasons for which must be submitted in writing within seven days of notification, the Secretariat will then forward the reasons to the Steering Group whose decision will be final.
18. Suitable Examiners are current or former senior officials with responsibility for the supervision of financial institutions, law enforcement, legislation or judicial responsibility with particular emphasis on money laundering and a knowledge of the requirements of the FATF and CFATF Recommendations.
19. Interlocutors are by definition similar to Examiners as they are required to have the same background. However the Interlocutor's experience with the requirements of the mutual evaluation process will be more extensive and would be as a result of his or her regular attendance to CFATF Plenary and Council Meetings.
20. However their role is somewhat supervisory in nature, critically reviewing the Report as prepared by the Examiners in order to assess whether or not the relevant areas of Law, Finance and Law Enforcement were adequately appraised, and compiling comments and observations in order to promote discussion of the Mutual Evaluation Report in the Plenary Meetings.
21. The Secretariat should notify the Member State at least six months prior to the scheduled dates requesting at that time all legislation, regulations, statements of policy and programmes which bear on the fight against money laundering.
22. The Mutual Evaluation Survey Form should be sent to the country to be examined at least six months prior to the country visit and should be returned to the Secretariat three months before the visit. It is important that replies to the Mutual Evaluation Survey Form should be complete, detailed and should

provide all answers to questions and the relevant attachments submitted where applicable.

23. The Self Assessment Questionnaire which is submitted to each Member on an annual basis for updating should be forwarded to the Secretariat at least three months prior to the dates of the Mutual evaluation visit where applicable.
24. The Member to be examined in consultation with the Secretariat will agree on a programme of interviews which should ensure that the range of officials to be seen will come from the following areas; legal/judicial; banking and finance; law enforcement and international co-operation. This should be forwarded to the Secretariat at least two months prior to the Mutual Evaluation Visit.
25. Officials of the Member to be examined, through the guidance of the Prime Contact should carefully prepare for the Mutual Evaluation visit which should be viewed as an avenue for strengthening the existing anti money laundering framework, through the formulation of proposals for reform where weaknesses have been identified.
26. In order to assist the Examiners, the officials to be interviewed should be familiar with the domestic anti money laundering situation and therefore should be able to explain the legislation, regulations, programmes and procedures.
27. All the materials, namely the Checklist Questionnaire, the Mutual Evaluation Survey Form, the Self Assessment Questionnaire, all the relevant legislation, regulations, statements of policy and procedures which bear on the fight against money laundering and the Schedule of Visits should be forwarded to the Secretariat by the Member to be examined.
28. Thereafter the above information along with the CFATF Mutual Evaluation Procedures, should be forwarded to each Examiner at least two months prior to the visit to the Member.
29. The Examiners should study these materials thoroughly and begin making notes on the Checklist Questionnaire as they will act as a guide as to which areas should be given particular focus during the interview process, and additionally would expedite the report writing phase of the Visit.
30. The Examiners accompanied by a Member of the Secretariat, will then travel to the Member to be examined. All courtesies are to be extended to the Team by the Member State so as to ensure that the entire Mutual Evaluation Process is undertaken and completed with due despatch.
31. With a view to reducing the operating expenses of the Secretariat, the Member to be examined, should their resources permit and should they wish to assist, have the option of meeting the hotel costs of the Evaluation Team for the duration of the visit. On arrival in the Member State, there should be a preliminary exchange of views among the Examiners and the Secretariat on the issues that are likely to be raised during the visit. Clarification of the roles to be played should also ensure that each Examiner has all the relevant information required for the proper execution of his or her duties in the related field of expertise.
32. The duration of the on site visit will be five days, the first three of which will be focused on the interview process with the other two days devoted to report writing. There should be breaks for lunch and time for transportation between the various to be visited.

33. It is vital that the Examiners, during the interview process make notes which are as detailed and structured as is possible. This becomes of crucial importance when reference to them may become necessary, when the Examined Member, after the Draft Mutual Evaluation Report has been forwarded to that State for a determination as to its factual accuracy, indicates to the Secretariat, that it wishes to challenge certain aspects of the Report.
34. Prior to embarking on the report writing phase of the visit, there should be a meeting between the Examiners and the Secretariat in order to identify and assess the strengths and weaknesses of the anti money laundering framework of the Member State.
35. Each Examiner should be allowed to express his or her impressions in their particular field of responsibility and also on the anti money laundering framework in general. No judgements should be made on the results of the Evaluation.
36. All three Reports should be completed at the end of day five and submitted to the Team Leader. However where required, a further seven days will be allowed for their submission to the Secretariat by e-mail or on a floppy disc.
37. The Secretariat within fourteen days, will produce the first draft of the Mutual Evaluation Report on the basis of the submissions of the Examiners. The draft Report is then sent out to all Examiners for comments and these should be available to the Secretariat within seven days. On receipt the Secretariat will then incorporate these comments where applicable into a Revised Draft Mutual Evaluation Report which should be made available to the Examiners within fourteen days.
38. The Secretariat then sends the Revised Draft Report to the Examined Member for written confirmation as to its factual accuracy or other comments within twenty one days. Success on this front will depend heavily on the skill and commitment of the individual charged with the responsibility of co-ordinating the Mutual Evaluation Process.
39. Should this time frame prove difficult the matter should be discussed immediately with the Secretariat.
40. The Secretariat on receipt of the Member's response should ensure that it is clear and where necessary seek clarification in writing.
41. The response is then circulated to the Examiners with a view to determining which comments are acceptable or require adjustment. Only factual errors would require revision in the Draft Report.
42. The subjective impressions of the Examiners, which are based on fact or law are not open to challenge but could be the subject of negotiation through the offices of the Secretariat with a view to compromise. This process will result in the securing of a Second Revised Draft Report, which should be completed within two weeks.
43. The Second Revised Draft Report should be sent within fourteen days of its compilation to the Interlocutors for their consideration and written comments which should be submitted to the Secretariat within seven days.

44. These in turn should be forwarded to the Examiners and the Member within seven days of receipt by the Secretariat.
45. The Second Revised Draft Report along with the written comments of the Interlocutors should be circulated to all CFATF Member States, COSUNs and Observer Organisations for their consideration. Any questions which are to be posed to the Examined Member should be submitted in writing to the Secretariat within fourteen days. However questions are permitted during the course of the Plenary discussions.
46. These questions will be collated at the Secretariat and forwarded to the Member within seven days of receipt. The Examined Member should prepare appropriate responses to the questions posed and present these to the Plenary at which the Mutual Evaluation Report is to be discussed.
47. The Examiners will present the Mutual Evaluation Report to the Plenary Meeting in summary form and thereafter the Interlocutors will make their observations. The Examined Member will then respond, confirming whether or not the Report is accepted and providing answers to the questions which were posed by the other Members COSUNs and Observer organisations.
48. The Examined Member should be advised at least one month in advance that the Mutual Evaluation Report on their country would be discussed at the next Plenary. The Member should ensure that officials from all three areas namely Law, Finance and Law Enforcement, attend the Plenary so as to aid the discussion of the Report, by answering questions posed or providing clarification of issues as required.
49. In the event that the Examined Member fails to confirm the factual accuracy of the Draft Report, or alternatively does not accept the Draft Report, the Secretariat should immediately inform the Chairman and the other members of the CFATF Steering Group.
50. The Chairman by letter should request the Examined Member to comply with the Mutual Evaluation Procedures within seven days and advise that non compliance will result in the circulation of the Draft Report and its discussion at the next plenary.
51. Should the Examined Member fail to respond fully within the allotted time frame, the Draft Report is to be circulated to all CFATF Member States, COSUNs and Observer Organisations.
52. The Report is to be accompanied with an indication of the Examined Member's non compliance and the listing of the Draft Report for discussion at the next Plenary.
53. Where the Examined Member fails to attend the Plenary despite notice by the Secretariat, the Mutual Evaluation Report would nevertheless be read by the Secretariat, without the need for the Examiners and Interlocutors attending.
54. The Member will be required to present reasons at the next Plenary. Failure to attend that Plenary will see the Report being forwarded to the Council with a Note recommending the imposition of appropriate sanctions on the Member.
55. Where the Member duly attends after notification that the Report will be discussed and such discussion takes place, the Plenary in the normal course of things will then decide on whether the

Mutual Evaluation Report as discussed should be recommended for adoption by the CFATF Council of Ministers.

56. Where applicable, compliance with the required bench mark for the Mutual Evaluation Process should be recognised and applauded. However where deficiencies are found to exist then the Examined Member should outline a work programme with appropriate remedial action to be undertaken and a specific time frame in which such action will be completed.
57. The Secretariat will be required to monitor such a work programme through the active co-operation of the Examined Member with progress reports being presented to each Plenary Meeting until all the recommendations have been implemented.
58. The Mutual Evaluation Report provides a snap shot of the anti money laundering framework of the Member State in question as at the time of the Mutual Evaluation Visit. Should there be any changes to the frame work during the period from the dates of the Visit, to the presentation of the Mutual Evaluation Report at Plenary or its adoption by the CFATF Council of Ministers then they should be notified immediately by the Member State to the Secretariat.
59. Such notification in writing should outline the changes which were implemented, indicate the impact of those changes on the anti money laundering frame work as it existed prior to the changes and should be accompanied with all relevant legislation, regulations and statements of policy.
60. Within seven days of receipt the Secretariat should forward the Report and relevant attachments to all the Examiners for their consideration. The Examiners should respond in writing within fourteen days advising the Secretariat of their views on the changes and their impact on the anti money laundering framework of the Examined Member at the time of the Mutual Evaluation Visit.
61. The Examiners in light of their observations should provide recommendations as to the nature of the response by the CFATF as a whole.
62. The comments and recommendations of the Examiners should be forwarded to the Examined Member within seven days of receipt by the Secretariat and the Member should be requested to respond, outlining in writing within fourteen days, the course of action it intends to take in light of the comments and recommendations of the Examiners.
63. On receipt, the response of the Examined Member should be circulated to all CFATF Members COSUNs and Observer organisations for their written recommendation to the Secretariat within fourteen days.
64. On receipt, the Secretariat should collate all responses into one Report which will be circulated to all CFATF Members, COSUNs and Observer organisations and discussed at the next Plenary Meeting. The cost of each Examiner attending to present the Report is to be met by their respective Countries.
65. Appropriate recommendations will thereafter be forwarded to the CFATF Council of Ministers and the recommended action considered and implemented. However should the facts and circumstances surrounding the changes be considered sufficiently grave and require an expeditious response in advance of the meeting of the CFATF Council of Ministers then the CFATF Steering Group will be authorised to consider the Recommendations of the Examiners and take such action as the situation

merits, making such consultations with the Ministers through the Prime Contacts as is deemed necessary.

66. Where any breaches of the procedures outlined above are determined to have occurred, the Member concerned should be called upon to account. Based on the representations made in response, the Plenary will decide on the applicable sanctions which may entail either oral or written censure, a monetary fine or the implementation of the procedures for the application of Recommendation 21 all at the discretion of the Plenary and as adopted by the Council.

TOUR DE TABLE SYNTHESIS

In keeping with the Revised Mutual Evaluation Procedures of October 1999, CFATF Members who had undergone Mutual Evaluation provided oral and written reports on the progress made in the implementation of the Examiners' Recommendations in their individual Reports at Plenary XI March 2000.

At Council of Ministers Meeting VI, which was held in Aruba during October 2000, Ministers strongly supported the continuation of this endeavour and the ongoing efforts by the Secretariat to secure improvements in effectively monitoring on a continuous basis, the anti money-laundering infrastructure of Members.

Based on all available information, viz the responses by Members States, the following Examiners' Recommendations are still to be addressed. Members are requested to submit any other pertinent information which would assist this monitoring process.

Anguilla

The Mutual Evaluation Report on Anguilla was discussed at Plenary XIV, and approved at Council VII.

Antigua & Barbuda

(Mutual Evaluation in 03/98 endorsed by Council V in 10/99)

- Complying with all the Recommendations.

Aruba

(2nd Round of Mutual Evaluation completed through the FATF in 1999)

- The Aruban FIU cannot yet exchange information with its counterparts abroad (*Rec. # 107*) Given the information coming from Aruba, changes have been proposed to enable that type of communication without the requirement of a treaty. Furthermore, a Draft legislation has been prepared and is in the process of going to Parliament for approval.
- Several laws/regulations have still to be passed/enacted regarding certain vulnerable non-bank sectors (*Rec. # 109-110*):
 - Are currently before the Parliament: the Law on the Offshore Sector and the Casinos,
 - Have been passed but still to be enacted: the Law on Life & General Insurance, the Free Zones, the Credit system and the report of Cash Transactions.

The Bahamas

(Mutual Evaluation in 11/97, endorsed by Council IV in 11/98)

- Complying with all the Recommendations

Barbados

(Mutual Evaluation in 09/97, endorsed by Council IV in 11/98)

- Need for anti money laundering guidelines to be issued for the Insurance Companies and the entities involved in investment related activities (*Paragraph #87 & 88*). Based on the information provided by Barbados, Anti-Money Laundering Guidelines for Insurance Companies have been drafted and are currently revised before issue. In addition, other industry specific guidelines are to be prepared.
- Need for the Post Office representatives to receive training in terms of money laundering (*Paragraph #89*). Based on information provided by Barbados, a training programme is being worked and training should begin shortly.

Belize

The Mutual Evaluation Report on Belize was discussed at Plenary XIII and approved at Council VII.

Bermuda

(Mutual Evaluation in 06/98, endorsed by Council V in 10/99)

- Bermuda still does not have a reporting system of the cross-border transportation of currency. However, given the information provided by this jurisdiction, the National Anti-Money Laundering Authority recommended that the Government introduce a cross border cash reporting system as a further enhancement to its Proceeds of Crime Act 1997 (*Rec. #2*).

The British Virgin Islands

(Mutual Evaluation in 07/99 endorsed by Council V in 10/99)

- Need to review the Mutual Funds Act (*Recommendation in the Financial Sector paragraph*). Based on the information provided by the BVI, a Draft Mutual Funds (Amendment) Act, 2000 has already been completed and should be introduced in the Legislature early in 2001.
- Need to expand the range of countries with which it can share assets (*Recommendation in the Legal Framework*). Based on the information provided by the BVI, it can be done only with countries prepared to do so on a reciprocal basis and whose Laws, procedures and practices are at least of equivalent standards to those of the BVI.
- Need to address the ability of IBCs to issue bearer shares and the option of these entities for not maintaining a list of directors (*Recommendation in the Legal Framework*). Following the information given by the BVI, this issue should be addressed through the International Business Companies (Amendment) Act, whose Draft should be prepared for mid-2001. The Government of the BVI has already announced plans to immobilize bearer shares as well as to mandate the keeping of public registration of registers of directors.
- Need to develop a multi-task force in its FIU by assigning Customs & Tax Officers to this Unit (*Recommendation in the Law Enforcement Framework*)

The Executive Council of the British Virgin Islands endorsed and committed itself to the Mutual Evaluation Report which was tabled before the Legislative Council.

Cayman Islands

(Mutual Evaluation in 01/95, endorsed by Council II in 10/96)

- Need to sign a Mutual Legal Assistance Treaty (MLAT) with the Government of Canada. Identification of the various jurisdictions with whom the Cayman Islands started discussions with a view to widening its level of international co-operation. (*Paragraph 85*)

Costa Rica

(Mutual Evaluation in 10/95, endorsed by Council IV in 11/98)

- Costa Rica has still not promulgated the Decree of execution of the National Committee on Money Laundering (*Rec. # E & F*). Based on the answer of Costa Rica, during this time, however, this body does exist unofficially and members from numerous entities are participating in it.

Commonwealth of Dominica

(Mutual Evaluation in 04/99, endorsed by Council VI in 10/2000)

- Review of the Proceeds of Crime Act for constitutional and operational deficiencies identified in the Report on the basis of the Money Laundering (Prevention) Act, 2000. (*Rec. #2*) Based on the information provided by the Government of Dominica, the issue is ongoing.
- Consider the establishment of the Advisory Council on the Misuse of Drugs as provided for in the Drugs (Prevention of Misuse) Act, 1998. (*Rec. #3*).
- Need for a broad-based education and information programme as a pre-requisite to the implementation of the money laundering legislation. (*Rec. #8*). Based on the information provided, the issue should be addressed soon.
- Exploring the development of a regional capacity to deal with money laundering issues. (*Rec. #9*). Based on the information provided, some work is done on this issue with the help of the CALP.
- Institutional, organizational, legislative and personnel reinforcement of the Police Service, Customs Division, office of the DPP, Magistracy and Court. (*Rec. #14*). Based on the information provide, this issue has been partially addressed with the help of the USA government and the Council of Legal Education in England.
- Training of the law enforcement personnel (Police, customs, etc.) re. Confiscation, forfeiture, restraint production and monitoring orders. (*Rec. #17*). The Government of Dominica indicated that they were working to source the appropriate training.
- Clarification and strengthening of co-operation on the basis of guidelines between the different units of the Police, Customs and DPP. (*Rec. #18*).
- Increase the awareness and knowledge in society about money laundering by means of information through the media, training, etc. (*Rec. #19*).
- Establishment of an inspection program for Internet gaming establishments. (*Rec. #20 partial*). Based on the information provided, this issue will be addressed through a law.

- Strengthening of the international network by way of MLATs, MOUs and co-operation protocols (*Rec. #21*). Based on the information provided, the Government of Dominica is finalizing such agreements for the Co-operation in Suppressing Illicit Maritime and Aeronautical Trafficking in Narcotics Drugs and Psychotropic Substances and for the establishment of a Joint Intelligence headquarter in collaboration with the PMO for maritime Co-operation.
- Giving the Coast Guard an independent position and broadening their powers on the waters of Dominica. (*Rec. #22*).

Dominican Republic

(Mutual Evaluation in 08/97, endorsed by Council IV in 11/98)

- Currently, the Office of the Superintendent of Banks is dealing with bank examinations but is not checking the adequate implementation and compliance with anti-money laundering regulations, and the regime of declaration of cash operations and suspicious transactions (*Rec. # 139*). However, based on the answer from the Dominican Republic, numerous regulations are in preparation and should be in effect for a year-end regular inspection.

Need for the setting up of the National Anti Money Laundering Committee (*Rec. # 143-144-148*), and the promulgation of the new Code of Criminal Conduct (*Rec. # 133-145-146-147*). Given the indications of the Dominican Republic, these bills have been before the Parliament since March 2000 and should soon be approved.

Grenada

(Mutual Evaluation in 11/99 endorsed by Council VI in 10/2000)

- In the DPP's Office and also the Judiciary, "units" specialized in the money laundering issues should be developed (*Rec. #2*). Based on information provided by Grenada, this issue is still under consideration.
- The legislation on the declaration of import & export of money should be harmonized. A system of declaration of the amount transported to an Authority should be created (*Rec. #5*)
- Need for the possibility of prosecution of agents of Companies (*Rec. #6*). Based on the information given by Grenada an Amendment to the legislation is now being processed and should go before the Parliament at the next sitting.
- Need for a regulation to Section 24 of the Drug Abuse Act (*Rec. #10*). Following the information given by Grenada, some of the issues to be addressed in such regulations are contained in the Pharmacy Act. However, this Act is under revision.
- Need to prohibit the issue of bearer shares (*Rec. #22*). Based on the information provided by Grenada, in the International Companies (Amendment) passed in June 2001, the identification of the bearer shares is now an obligation but there is still no prohibition.
- Need for regulation of mandatory communication of information by financial institutions to Law Enforcement institutions (*Rec. #26*). Based on information provided by Grenada this issue is under consideration. However, the Guidelines (which have not the force of Law) which have been issued by the Supervisory Authority will address some of the concerns.

- Need to amend the Money Laundering (Prevention) Act to specify some points (*Rec. #28*). Based on the information provided, some guidelines issued by the Supervisory Authority will soon address this point.
- Need to extend powers of the Police (*Rec. # 31*). Given the provided information this issue is under consideration.
- Need to improve the Coast Guard work (*Rec. # 36*). Based on the information provided by Grenada, a policy of action at sea has been developed but speedboats are required.

Jamaica

(Mutual Evaluation in 03/99, endorsed by Council V in 10/99)

- Need to enact the New Insurance Bill (*Rec. # 10 &11*). Based on Information provided by Jamaica, this Law has been tabled in both Houses of Parliament and is currently being examined by a Joint Select Committee.

Montserrat

(Mutual Evaluation in 01/00 adopted by Council VI in 10/00)

- Need for adequate funding for combating money laundering (*Rec.#2*). Based on the information provided by the Government of Montserrat, a high priority on preserving the integrity of the financial sector.
- Need to staff adequately the Attorney General's office (*Rec. # 3*). Given the information provided by Montserrat, efforts are currently made to solve this problem.
- Consideration being given to authorize the magistrates, and not only the High Court, to deal with money laundering issues, and also to order confiscation after conviction (*Rec. # 7*). Based on the statement made by the Attorney General of Montserrat during Plenary XII, and the answer to the Tour de Table document, the Government does not consider that it is an issue for Montserrat and accordingly will not address this issue.
- Need of creation of an anti-money laundering committee to assist in the consultative phase of the creation of a code of practice and guidance notes (*Rec.#8*). Based on the information provided, even if the Committee has not been formed, consultations within the private and public sectors and HM Government took place, and a code of practice was issued.
- Need of appointment of a Reporting Authority (*Rec. # 10*). Given the information provided, this body does not exist but reports can be made to the Director of Financial Services.
- Need of wide publicity on the powers and duties of the Reporting authority (*Rec. # 11*). This recommendation will be addressed when Rec. #10 will be addressed.
- Need to establish an effective and well-trained regulatory/supervisory body to supervise financial institutions (*Rec. #14*). Based on the information provided by Montserrat, a draft Act concerning an independent Financial Services Commission has been prepared and is being considered by the Government.
- Need to establish Business rules for Trust operations (*Rec. #21*). Given the information provided by Montserrat and endorsed by the KPMG Report, such a need does not exist, given the fact that there is virtually no Trust business conducted on the island.

- Risks of money laundering due to the large transactions by banks and non-banks taken with the exchange control exemption limit (Rec. # 23). Due to the due diligences in place now in Montserrat, the Government will not consider a change in the exchange control legislation.
- Risks due to locals having without restriction US\$ accounts (*Rec. # 24*). The Government of Montserrat at present do not intend to restrict locals from maintaining US\$ accounts.
- New distribution of manpower in the Police force by the removal of the Fire & Rescue Services from their prerogatives, so thus would allow the creation of a dedicated Financial Investigation Unit (Rec. # 26&27). Given the information provided by Montserrat, these Recommendations cannot be addressed, because the protection and safety of citizens in a volcanic crisis is of paramount importance.
- Need to tackle the issue of corruption expressed by the interviewees during the Mutual Evaluation Visit (*Rec. # 28&29*). The Government of Montserrat indicated that any allegation of corruption would be vigorously investigated.

Netherlands Antilles

(2nd Round of Mutual Evaluation completed through the FATF in 1999)

- Need for Casinos to report any Suspicious Transactions (*Para. 121 of the Report*). The Netherlands Antilles is in the process of implementing draft indicators for the reporting of Unusual Transaction Reports.
- Laws & Regulations on money laundering for the Trusts Sector (Fiduciary Service Sector) to identify beneficial owner (*Para. 119 & 120 of the Report*) are in the legislative process.
- Lawyers & accountants are taking some steps based on self-regulations, and follow closely the European and the Netherlands guidelines on money laundering, translating them to the local situation (*Para. 120 of the Report*). For the Public Notaries, it is the same by putting in place self-regulations.

Nicaragua

The Mutual Evaluation of Nicaragua is yet to be undertaken.

Panama

(Mutual Evaluation in 07/96, endorsed by Council II in 10/97)

- Complying with all the Recommendations.

St Kitts & Nevis

(Mutual Evaluation in 02/99, endorsed by Council VI in 10/2000)

- Regulation and supervision of non-bank deposit takers by the Central Bank should be developed along the lines of the regulation of banks. (*Para. 204*)
- National anti-money laundering policy statement should be drawn up in an effort to improve co-ordination and administration of a national programme. (*Para. 206*). Based on the information provided by St Kitts & Nevis, the drafting of the Policy Statement will be completed shortly.

- The banking sector in St. Kitts & Nevis should be encouraged to come together formally in a national bankers association. (*Para.208*) Based on information provided by St Kitts & Nevis, plans are ongoing to establish a link between the Ministry of Finance and the ECCB to encourage a Banking Association.
- The Chamber of Commerce and Industry should be encouraged to establish official guidelines for its members on cash acceptance limits and cash transactions generally. (*Para. 210*) Given the information provided by the Country, the Chamber of Commerce will deal with this issue.
- Need to ascertain whether the recently enacted Financial Services Commission Act, 2000 covers the recommendation made in *Para. 212*. Given information provided by the Country, a Federal Task Force has been put in place and 3 pieces of legislation have been drafted.
- A strategic plan should be developed for implementing FATF and CFATF Recommendations especially those dealing with banking and financial services (*Para. 215*). Based on the information communicated by the Country, this issue is currently addressed.
- Communication between Government and the private sector on money laundering issues should be improved and regularized (*Para. 217*). Given the information provided, plans are being put in place to address this issue through a meeting between the ECCB and the Chamber of Commerce.
- The public should be sensitized concerning the threat posed by drug trafficking and money laundering in St. Kitts and Nevis and the Government’s policy and programme to combat these activities. (*Para. 218*) Based on the information provided by St Kitts & Nevis, advertisement and notices in the television and the newspapers will be done soon.
- The present strength of the Police Force Drug Squad should be increased to twenty officers or at least brought up to the established strength. (*Para. 225*) Given the data provided by the Government of St Kitts & Nevis, the strength of the Force is now of 12 Officers who work freely between the 2 islands.
- The acquisition and use of drug detention dogs by the Police Force and/or Customs Department at ports of entry. (*Para. 226*) Based in the information of St Kitts & Nevis, the reacquisition of dogs is considered.

St Lucia

(Mutual Evaluation in 07/98, endorsed by Council V in 10/99)

- Need to set up a FIU (*Rec. # 7-13*)
- Lack of Staffing & upgrading the Customs Department (*Rec. # 2*)
- Establish a Code of Conduct for financial institutions including “KYC” policies and a better scrutiny of the multi-accounts operations (*Rec. # 9-11-15*)
- Put into place procedure regarding the physical presence of the customer/company representative when opening an account (*Rec. # 16*)
- Increasing the computerization on the Companies Registry (*Rec. # 19*)

St Vincent and the Grenadines

(Mutual Evaluation in 10/97 endorsed by Council V in 10/1999)

- The Offshore Finance Authority move swiftly to recruit appropriate personnel to be appointed ‘public officers’ and to be trained in Financial Services Supervisory techniques (*Pg. 20, Para. 10*)

- Need to enact legislation to provide for the regulation and supervision of International Shipping Companies and International Insurance Companies. *(Pg. 21, Para. 1)*
- Anti-Money Laundering Programmes to form an integral part of any supervisory framework for the International Financial Services Sector. *(Pg. 21, Para. 2)*
- The systems and levels of control for appointments of key regulators and supervisory personnel for licensees, should be re-visited, to provide for a more cohesive, effective and independent regulatory and supervisory system and functions. *(Pg. 21, Para. 4)*
- The establishment of a National Anti-Money Laundering Standing Committee comprising senior Government, Supervisory and Enforcement Agency officials. *(Pg. 22, Para.13)*
- Legislation should be enhanced to ensure the proper supervision of and practice of proper due diligence by the Registered Agents and Trustees providing services such as the registration of International Business Companies, International Trusts and Mutual Funds. *(Pg. 22, Para. 14)*
- Refine and clarify for the private sector the programme for the reporting and/or recording of suspicious transactions. *(Pg. 23, Para. 16)*
- A Financial Intelligence Unit to be established as the Central Authority for the receipt of large currency transaction and suspicious transaction reports, and for trend analysis and investigative support. *(Pg. 23, Para. 7)*
- Appropriate training of supervisory staff to effect a desirable level of supervisory functions. *(Pg. 23, Para. 19)*
- Inclusion of a provision in the Proceeds of Crime Act to criminalize and have enhanced penalties for money laundering where the recipient of the property is a public official. *(Pg. 24, Para. 22)*
- Confiscation measures should be extended to the proceeds of any money laundering offence, not just those predicated on drug trafficking. *(Pg. 24, Para. 25)*
- Need to know whether the rights of innocent third parties affected by confiscation proceedings have been clarified in the new Proceeds of Crime Act, 2000. *(Pg. 24, Para. 27)*
- The establishment of a fund designated for anti-narcotics or anti-money laundering efforts in keeping with CFATF recommendation #9. *(Pg. 25, Para. 29)*
- Adequate provisions should be made for enabling mutual legal assistance between SVG and non-Commonwealth jurisdictions. *(P. 25, Para. 31)*
- Need to make mutual legal assistance available in all money laundering cases, even where the predicate offence is not drug related. *(Pg. 25, Para. 32)*
- New legislation to be enacted or existing legislation amended to allow co-operative investigations with other jurisdictions regarding money laundering or asset seizure and confiscations. Additionally, provision should be made for spontaneous or upon request examples of suspicious transaction information to foreign competent authorities. *(Pg. 25, Para. 33)*
- The establishment of a Central Authority to deal with international co-operation in the field of money laundering. *(Pg. 25, Para. 34)*

Suriname

The Mutual Evaluation of Suriname was discussed at Plenary XIV and approved at Council VII.

Trinidad & Tobago

(Mutual Evaluation in 04/95, endorsed by Council III in 10/97)

- The Drug Court Bill is still in draft form. *(Reco.2).*

Turks & Caicos Islands

(Mutual Evaluation in 04/98, endorsed by Council V in 10/99)

- Complying with all Recommendations

Venezuela

(Mutual Evaluation in 11/99, endorsed by Council VI in 10/2000)

- Lack of regulation for cash transactions across borders (*Rec. # 118/127*)
- Possible extradition of Venezuelan citizens engaged in money laundering offences (*Rec. #119/129*)
- Need to enact the Organic Law against Organized Crime whose bill is still in front the Senate (*Rec. # 121*)
- One agency should be in charge of the monitoring of chemical precursors (*Rec. # 123*). Following the information given by the Venezuelan authorities, this issue will be addressed when the Bill on the Regulation of Drugs will soon be passed.
- Need or an involvement of the Central Bank in fight against money laundering (*Rec. # 131*)
- Need to improve the technical resources of the DPP Office (*Rec. # 134*)
- Need to increase the involvement of the DPP's Office in the drafting of Bills (*Rec. # 135*)
- Need to reactivate controlled delivery (*Rec. # 136*)
- Create a single body to investigate drugs and money laundering in Venezuela (*Rec. # 137/117*)
- Need to coordinate the submission of the Suspicious Transaction Reports by the FIU to one (1) of the investigative bodies (*Rec. # 138*).

Based on information given by the Venezuelan authorities, most of these issues should be addressed by the new bills that are being discussed now on the fight against Organized Crime.

July 2001

CARIBBEAN FINANCIAL ACTION TASK FORCE CHECKLIST QUESTIONNAIRE ON THE FATF NON COOPERATIVE COUNTRIES OR TERRITORIES TWENTY FIVE POINT CRITERIA.

Criterion 1: Are there effective regulations and supervision, if any, for all financial institutions in a given country or territory, onshore or offshore, on an equivalent basis with respect to international standards applicable to money laundering?

COMMENT A fundamental feature of the inspection regime is the need to preserve the safety and soundness of financial institutions.

The supervisory regime must be able to identify institutions that are being used to launder money, which can occur via individual accounts and transactions. Accordingly detecting such activity would require that an authority have the ability to inspect these accounts and transactions. This could be facilitated by adhering to international standards which require that financial institutions undertake to identify their clients and maintain records underlying financial transactions for a significant period of time.

Many regulators across the world use codes of practice, interpretive letters and no-action letters as a means of describing conduct that is either consistent with the requirements of law or runs afoul of legal obligations. However, this regulatory approach presumes the existence of underlying legislation or regulations that impose specific requirements. Therefore the anti-money laundering and the regulatory legislation should impose an affirmative legal requirement to identify customers.

Additionally, for the customer identification and record-keeping regime to be robust, it must be complemented by regular examination which would place the authorities in the position to determine whether licensees are maintaining an audit trail sufficient to reconstruct financial transactions.

What are the functions and duties of the Central bank. Will the Central bank have the authority to grant and revoke licences to financial institutions and monitor compliance with the customer identification, record keeping and reporting requirements?

Do the authorities undertake on-site and off-site inspections of banks and trust companies licensed to operate in the country.

Is the on-site inspection program for each bank and trust company based upon the analytical work of the off-site division.

Is the off-site analysis, which determines the scope and focus of an inspection, informed by, among other things, the annual reports that are statutorily required to be filed. What other factors are taken into account?

Does the inspection program for banks comprise a review of individual accounts or transactions rather than being focussed on obtaining an understanding of their operations and risk management.

Is there a review of the roles performed by a bank's board of directors and senior management, and the internal control mechanisms employed to monitor all categories of risk (i.e., credit, market, liquidity, operational and reputation risk).

Are capital adequacy, asset quality, management expertise, earnings and liquidity of banks licensed in the country assessed on an ongoing basis.

Are assessments benchmarked against the international supervisory standards articulated by the Basle Committee on Banking Supervision.

Does the inspection process depend on an independent audit function and how dependent is it on the work of the external auditors.

During an on-site inspection, are discussions held with the external auditors to review the strength of a bank's risk management, internal controls, and compliance with laws and regulations.

If applicable has there been a long history of on-site inspections of mutual fund administrators.

Does the inspection program include a review of transactions undertaken for interest-holders in a mutual fund.

Does the on-site inspection comprise a fact-finding process designed to assist the authorities in understanding the administrator's business activities and operating environment and does it include discussions with the external auditors and a wrap-up meeting with senior management.

Do the authorities require licensed mutual fund administrators to have their accounts audited annually by an approved auditor and do these audit reports serve as a basis for setting the scope of inspections.

Has there been along history of on-site inspections of the insurance industry. Is the focus only on companies with head offices incorporated in the country. Does it include the inspection of the local branches of companies incorporated abroad?

Does the off-site supervision include an analysis of statutory annual statements prepared by approved auditors and does it cover an inquiry into a company's solvency and financial risk exposures as well as those of the company's parent and subsidiaries, where applicable.

Is the on-site inspection program directed at insurance companies' operational management, corporate governance and compliance exposures.

Does the inspection program for insurance companies include an examination of individual transactions.

Are non bank financial institutions supervised for compliance with anti money laundering obligations.

Is there legal authority to review banks and trusts companies practices and to conduct on-site examinations and off-site supervision for the purpose of ensuring compliance with anti-money laundering obligations.

Are there legislative provisions for the Central Bank to co-operate with overseas regulatory authorities for the purposes of cross border supervision.

Are there legal provisions establishing an anti money laundering regime for financial institutions other than banks and trust companies.

Is there a legal framework to ensure compliance with the anti money laundering requirements regime for financial institutions other than banks and trust companies.

Is there a legal framework for the conduct of on-site inspections on entities such as

- co-operative societies,
- friendly societies,
- real estate brokers,
- trustees or administration managers of superannuation schemes,
- persons engaged in the business of borrowing or lending investment money, administering or managing funds on behalf of other persons,
- trustees in respect of funds of other persons.

Is there any framework for the authorities, after consultation with regulatory bodies, to issue guidance as to duties, requirements and standards of regulated entities.

Is there a legal framework to ensure compliance with the anti money laundering requirements regime for

- co-operative societies,
- friendly societies,
- real estate brokers,
- trustees or administration managers of superannuation schemes,
- persons engaged in the business of borrowing or lending investment money, administering or managing funds on behalf of other persons,
- trustees in respect of funds of other persons.

Are there legal provisions for the establishment of anti money laundering systems in casinos, securities broker-dealers, or mutual funds.

Is there a legal framework to ensure compliance with the anti money laundering requirements regime for casinos, securities broker-dealers, or mutual funds.

Are there penalties for non-compliance with disclosure obligations

Criterion 2: Is it possible for individuals or legal entities to operate a financial institution without authorisation or registration or with very rudimentary requirements for authorisation or registration?

Criterion 3: Are there measures to guard against holding of management functions and control or acquisition of a significant investment in financial institutions by criminals or their confederates?

Does the law provide that a person or entity may not operate a bank, trust company, mutual fund, insurance company or serve as a mutual fund administrator without authorization or registration.

Do the relevant laws and schedules governing the registration and licensing of these financial institutions provide for a multi-tiered system with unequal requirements based on whether the applicant is: (1) incorporated inside or outside the country or (2) seeking a regular or restricted

As regards financial institutions incorporated in the country do the laws and schedules contain measures intended to guard against criminals or their confederates holding management functions or controlling or acquiring significant investments in these institutions.

Are banks, insurance companies and mutual fund administrators incorporated locally as well as trust companies seeking to do business in the jurisdiction required to provide character references, financial references and police clearance certificates for all shareholders, directors and officers.

Could misrepresentations which are made in an application for a bank, trust or insurance company license result in a fine and imprisonment so as to deter criminals or their confederates from gaining control of financial institutions.

Can licensed banks, trust companies and mutual fund administrators issue, transfer or dispose of shares in the financial institution without the approval of the appropriate authorities.

Where a bank or mutual fund administrator is incorporated outside of the country is there a reliance on the home country supervisor's assessment of management and deference to home country controls regarding ownership.

Where the entities are incorporated outside of the country do they have home offices in jurisdictions with exemplary home country supervision.

Are banks and mutual fund administrators incorporated outside the country (unlike those incorporated in the jurisdiction) required when seeking a license to provide character, financial and police references for major shareholders, directors and officers.

Does the licensing regime for insurance companies require submission of any references (police, character, or financial) relating to its officers, shareholders and directors.

Are all persons with responsibility at financial institutions vetted directly without relying on reviews conducted by others.

Can a financial institution be exempted from the requirements to obtain prior approval of share transfers, sales or issuance.

What mechanisms are in place to ensure that these requirements are monitored so as to limit the ability of criminals or their confederates to gain control of the relevant financial institutions.

Criterion 4: Do anonymous accounts or accounts with obviously fictitious names exist?

Criterion 5: Are there effective laws, regulations, agreements between supervisory authorities and financial institutions or self-regulatory agreements among financial institutions on identification by the financial institution of the client and beneficial owner of an account?

Is it mandatory for all financial institutions to verify the identity of the client or obtain any other details regarding their address, occupation or business.

Is it a requirement to identify the beneficial owners of accounts where there are doubts as to whether the client is acting on his own behalf?

Is there an obligation to renew identification of the client or the beneficial owner when doubts appear as to their identity in the course of business relationships?

Are financial institutions required to develop ongoing anti-money laundering training programmes?

NOTE. Where financial institutions are not legally required to identify their clients or the beneficial owners of accounts, trusts, equity interests or insurance policies this allows for the existence of anonymous accounts or accounts held under fictitious names.

Are there regulations establishing customer identification requirements for banks and trust companies.

Are banks and trust companies required to identify their clients and are also required further to identify the beneficial owner of a bank or trust.

Are there regulations establishing customer identification requirements for mutual funds or mutual fund administrators.

Are regulated mutual funds or mutual fund administrators required to identify persons and entities with an equity interest in a fund.

Are there regulations establishing identification requirements for insurance companies.

Are licensed insurance required to identify clients or policyholders.

Is there a Code of Practice which gives practical guidance to financial institutions regarding the prevention and detection of money laundering offences and encourages financial services providers to ensure that all relevant staff are familiar with and apply procedures to verify the true identity of customers.

Does the Code of Practice represent general advice in connection with the conduct of financial transactions, or does it create legal obligations so that failure to comply with the Code is a legal offence.

Do the Code of Practice, the regulatory or anti-money laundering legislation make customer identification a legal requirement for financial institutions operating in the country.

Does the Code of Conduct of the Bankers' Association or other such organisation requires member banks to establish the identity and reputation of a client and, if the client is a private company, its beneficial owners.

Is this Code of Conduct a mandatory customer identification requirement. Is membership in the Bankers' Association or other such organisation obligatory. What is the consequence other than loss of membership for failing to abide by the Code of Conduct.

Is it an offence for a financial institution -- defined broadly to include non-bank financial institutions such as insurance companies, casinos, real estate brokers, mutual fund administrators, and securities broker-dealers -- to conduct any transaction without verifying the identity of the facility holder and anyone on whose behalf a facility holder may be acting.

Are counsels and attorneys considered financial institutions for the purposes of identification and other preventive anti-money laundering measures to the extent that they receive funds in the course of a client's business for the purposes of deposit or investment or to be held in a client's account.

Are the customer identification requirements retroactive and apply to existing accounts .

Is there a mechanism for ensuring compliance with these obligations by the related entities.

Have guidance notes been issued to the obligated entities on their legal duties.

Are there any exemptions to these customer identification requirement with respect to certain financial institutions such as banks and trust companies, life insurance companies, casinos, securities broker-dealers, and mutual fund administrators located within country or with other countries.

Can a financial institution rely on the verification procedures of another covered financial institution in circumstances which inter alia, include occasional transactions not exceeding \$10,000, and account openings.

Criterion 6: Is there a legal or regulatory obligation for financial institutions or agreements between supervisory authorities and financial institutions or self-agreements among financial institutions to record and keep, for a reasonable and sufficient time (five years), documents connected with the identity of their clients, as well as records on national and international transactions?

Are there regulations establishing record-keeping requirements for banks and trust companies.

Are banks or trust companies required to maintain account opening documents or trust agreements concluded with a client.

Are banks or trust companies required to maintain a record of financial transactions undertaken for clients.

Are there any regulations establishing record-keeping requirements for mutual funds or mutual fund administrators.

Are mutual funds or mutual fund administrators required to maintain account-opening documents.

Does the law require the maintenance of a record of financial transactions undertaken for interest-holders by mutual funds or mutual fund administrators.

Are approved auditors required to notify the authorities if a mutual fund or mutual fund administrator is carrying out business without keeping any or sufficient accounting records to allow for a proper audit.

With regard to mutual funds and mutual fund administrators is the obligation to maintain records implied in that approved auditors are required to notify the authorities if a mutual fund or an administrator is carrying on business without keeping sufficient records to allow for a proper audit. If so then the effectiveness of this record-keeping requirement depends partly on a regular review of auditor practices.

What mechanism is in place for review of the practices of auditors with regard to their audit of the obligation to keep sufficient record by a mutual fund administrator.

Is there a Code of Practice to give practical guidance to financial institutions with regard to the prevention and detection of money laundering offences and which encourages financial services providers to maintain appropriate records in the interest of establishing an audit trail for use in criminal investigations.

Do auditors prepare reports to accompany the mandatory annual reports of other financial institutions in the country as they do with respect to mutual funds and mutual fund administrators, where they are required to report record-keeping deficiencies.

Do the authorities have a statutory mandate to check auditors' compliance with their responsibility to report deficiencies in record retention.

Could failure to report such a deficiency result in a fine.

Are there any regulations establishing record-keeping requirements for insurance companies.

Are insurance companies required to maintain account-opening documents or a record of financial transactions.

Are financial institutions operating in the country required by law or regulation to maintain for a reasonable and sufficient time account-opening records, records of customer identification, transactional records or any other documents.

Does the Code of Practice represent general advice in connection with the conduct of financial transactions, serving only to interpret legislation and does not create any legal obligations. Is failure to comply with the Code of Practice a legal offence.

Do the Code of Practice, regulatory or anti-money laundering legislation make record-keeping a legal requirement for financial institutions operating in the country.

Criterion 7: Are there legal or practical obstacles to access by administrative and judicial authorities to information with respect to the identity of the holders or beneficial owners and information connected with the transactions recorded?

Criterion 8: Can secrecy provisions be invoked against, but not lifted by competent administrative authorities in the context of enquiries concerning money laundering?

Criterion 9: Can secrecy provisions be invoked against, but not lifted by judicial authorities in criminal investigations related to money laundering?

NOTE The relevant administrative authority may be empowered to seek transaction records from financial institutions based in the country. However, the requirement to obtain a court order in order to obtain information with respect to the identity of clients could be seen as posing legal and practical obstacles.

Criminal authorities may also be empowered to seek transactional records from financial institutions. However, the police, another law enforcement agency or any prosecution authority interested in obtaining information relating to the identity of a financial institution's client may also need to obtain a court order.

The inability of both law enforcement authorities and regulatory authorities to obtain information regarding the identity of clients, absent a court order, limits their capacity to detect, investigate and take action against money laundering and the underlying offences. This also has implications for their capacity to provide effective assistance to foreign authorities investigating money laundering and other offences involving the country's financial institutions.

Do the authorities have access to all books and records and any information necessary for it to fulfill regulatory responsibilities.

Is access to the name of a customer, client, equity interest-holder or policyholder available only pursuant to a court order and on condition that the authorities cannot otherwise obtain the information that is required.

Does access only extend to licensed or regulated financial institutions. Therefore, for example, is it that the authorities cannot, under any condition obtain information regarding interest-holders in closed-ended funds and funds with shares held by no more than 15 investors who, by majority, are capable of appointing or removing the operators of the fund.

Under which law is the use and disclosure of confidential information governed.

Is confidential information defined as "information concerning any property which the recipient thereof is not, otherwise than in the course of business, authorised by the principal to divulge." and accordingly would cover information relating to financial transactions.

Does the law make disclosure of confidential information punishable by a fine and imprisonment.

Are there any exceptions to the prohibition against disclosure.

Can confidential information be disclosed to, among others,

- (1) a senior law enforcement agent investigating a possible offence;
- (2) a senior law enforcement agent investigating an offence committed outside the country (would the offence need to be one that would violate the laws of the country if committed within the jurisdiction);
- (3) the Financial Secretary or the regulatory authority; and
- (4) any professional person acting in the normal course of business or with the consent, express or implied, of the relevant principal.

Must disclosure of confidential information intended or required as evidence for a proceeding within or outside the country, be authorized by a judge of the High Court.

Can the judge direct that the confidential information be disclosed, or that it not be disclosed or permit disclosure subject to conditions.

Are there legal provisions which enables the Financial Intelligence Unit to require the production of such information as it considers relevant to fulfil its functions and to provide information to the Commissioner of Police and foreign FIUs

Do the laws provide for secrecy provisions that limit the access of administrative authorities to information related to trust financial business, especially by prohibiting exchange of information between administrative and judicial authorities at the domestic level.

Does the legislation require that information obtained by the Bank examiner's office and other government agencies legally empowered to inspect or gather documentation on the operation of trustee services and corresponding officials be disclosed only to the appropriate administrative and judicial authorities for the sole purpose of engaging in and discharging their respective legal and regulatory functions".

Do, these secrecy provisions apply to a significant section of the financial sector and thereby constitute a potential threat to the fight against money laundering.

Criterion 10: Is there an efficient mandatory system for reporting suspicious or unusual transactions to a competent authority, provided that such a system aims to detect and prosecute money laundering?

Criterion 11: Are there monitoring and criminal or administrative sanctions in respect to the obligation to report suspicious or unusual transactions?

Pursuant to what legislation is the regime for reporting suspicious transactions established.

Is the reporting of suspicious transactions mandatory

Is there a Financial Reporting Authority which is the ultimate recipient of all suspicious transaction reports.

Are reports of suspicious transactions made to a constable of the rank of Inspector or above.

Are persons who report suspicious transactions under the law held liable for breach of a restriction on disclosure contained in any contract or law.

Does the juxtaposition of various legislative provisions contained in the laws result in *de facto* mandatory reporting despite the absence of an affirmative statutory obligation. For example, the laws taken together may state that , a person that has knowledge, belief or suspicion of money laundering and fails to report runs the risk of being regarded as having assisted in the offence. However if the person reports within a reasonable time, he or she is afforded a safe harbor from criminal liability for assisting. Therefore a person's self-interest in avoiding liability will "require" the person to report, because assisting or contributing to money laundering is punishable by a fine or imprisonment.

Is it a criminal offense to fail to report.

Is there a Code of Practice which gives practical guidance with respect to suspicious financial transactions and the mandatory duty to report.

Does the Code of Practice provide a general background on the subject of money laundering and an outline of the principal money laundering offences and the principles that should govern the operations of financial institutions.

Does the Code of Practice encourage financial institutions to establish procedures for recognizing and reporting suspicious transactions.

Does the Code of Practice serve only to interpret the requirements of the anti-money laundering legislation and does not create any legal obligations to report.

Is failure to comply with the Code a legal offence.

Does the legislation provide for fines and terms of prison for failure to comply with obligations to report suspicious transactions and keep records.

Does the legislation establish a framework for the purpose of ensuring compliance with the obligations to report suspicious transaction and keep records by financial institutions other than banks and trust companies.

Is there a mandate to conduct on-site inspections in this regard.

Are there legal provisions to produce guidance notes as to the duties, requirements and standards to be complied with by regulated entities and have these been issued.

Is there a framework for the authorities who monitor compliance with suspicious transactions reporting requirements by all financial institutions to share information with the Financial Intelligence Unit and other supervisory authorities.

Which agency monitors compliance by banks and trust companies.

Are there mandatory reporting requirements for unusual currency transactions and those exceeding \$10,000 for banks and non-bank financial institutions (including CFZ businesses, export processing zone businesses, finance companies, savings & loan institutions, insurance and reinsurance companies, remittance firms, exchange houses, stock brokerages, casinos and the national lottery.)

Are there laws which establish norms of conduct for brokerages and other securities firms to prevent activities related to narcotics trafficking and other illegal activities.

Is there a framework to monitor compliance by securities firms of these norms.

Is the reporting obligation related only to drug predicate offences.

Criterion 12: Are there adequate means for identifying, recording and making available relevant information related to legal and business entities (name, legal form, address, identity of directors, provisions regulating the power to bind the entity)?

Criterion 13: Are there obstacles to identification by financial institutions of the beneficial owner(s) and directors/officers of a company or beneficiaries of legal or business entities?

What is the legal framework for the registration of IBCs

Are bearer shares allowed. If not allowed, what is the regime for existing bearer shares.

The Bahamian Solution

The memorandum and articles of an IBC are kept in a public Register of International Business Companies at the Registrar General's Office.

The Register must contain

the location in The Bahamas of the registered office and the registered agent of the company.

and a statement that the purposes and objects for which the company was incorporated are not prohibited by Bahamian law or either alternatively or in conjunction with such a statement, the specific objects and purposes for which the company was incorporated, and the currency in which shares are issued.

Application for registration must be accompanied by a certificate certifying that all requirements of the Act in respect of registration have been complied with.

Bearer shares are eliminated and existing bearer shares are to be recalled and substituted with registered shares

An IBC must keep a general share register containing a number of particulars including the name and addresses of beneficial owners of shares.

An IBC must also keep a register of directors and officers containing the names and addresses of directors and officers. This register will be filed with the Registrar and shall be open to inspection by members of the public

All the existent IBCs must satisfy the requirements of the Act within a period of 180 days

Criterion 14: Are there regulatory or other systems which allow financial institutions to carry out financial business where the beneficial owner(s) of transactions is unknown, or is represented by an intermediary who refuses to divulge that information, without informing the competent authorities?

NOTE These measures are designed to guard against criminals or their confederates holding management functions or control by acquiring a significant investment in registered companies. They should not be not weaker than similar measures for financial institutions.

As regards company ownership, where exempted companies are allowed to issue bearer shares, this can pose significant obstacles to customer identification by financial institutions or identification by law enforcement authorities of parties potentially involved in money laundering or a predicate offence. This could be of special concern where there is a presence of a large number of exempted companies registered in the jurisdiction.

Which authority has the legal responsibility for collecting corporate information and issuing certificates of incorporation.

Is there a Registry of Companies for companies doing business whether incorporated within or outside the jurisdiction.

Are there provisions for companies incorporated within or outside of the jurisdiction but conducting the majority of their business outside of the jurisdictions to be registered as exempted companies.

Are the shares of exempted companies in non-negotiable, negotiable or in bearer form.

Of all companies registered in the country, how many are exempted companies.

Do the registration requirements under the law require companies seeking to be incorporated in the country to file the following:

Memoranda and Articles of Association (the memoranda and articles of association are only required to contain the name of the company and the proposed location of the registered office of the company);

location of the registered office (the company must also make a public notice of this);

lists containing the names and addresses of directors and officers.

Are companies incorporated in the country seeking to register as exempted companies required to file, in addition to the usual information, a declaration signed by a proposed director to the effect that the operation of the proposed exempted company will be conducted mainly outside the Islands.

Are companies once registered in the country required to notify the Company Registry within 30 days of any change in names and addresses of directors and officers.

Do companies incorporated outside of the country and seeking to register within file the following:

memoranda and articles of association (certified and authenticated);

names and addresses of at least one person resident in the country authorized to accept on the company's behalf service of process and any notices required to be served on it; and

lists of directors and officers.

Do companies incorporated outside of the country, once registered within, required to notify the Company Registry within 21 days of any changes in their memoranda and articles of association, directors, or persons authorized to accept service on behalf of companies.

Do annual filings with the Company Registry as outlined below require:

- for exempted companies, a declaration reporting:⁷
 - any changes in its memorandum of association;
 - that its operations have been mainly outside the jurisdiction;

- that it has not conducted business in the country other than in furtherance of the company's business outside the jurisdiction; and
 - that the company's board of directors has held at least one meeting in the country during the calendar year.
- for companies other than exempted companies:
 - a list of shareholders including, *inter alia*, names, addresses and number of shares held.⁸

Are all companies required to keep written records of their shareholders.

As regards exempted companies with bearer shares, does the register only contain the date of issue of shares, the certificate number and notice of the fact that the certificate was issued to bearer.

Is the shareholder register maintained at the registered office of the company or, with respect to exempted companies, at any place within or without the country.

Is the register made available for inspection during business hours (subject to reasonable restrictions) to any shareholder without charge and to any other person for a fee.

Are companies, other than exempted companies, required to provide a list of shareholders to the Company Registry and is the list updated annually.

Does the list of shareholders include, *inter alia*, the names and addresses of shareholders, the number of shares held, the date on which the person was entered on the register as a shareholder, and the date on which a person ceased to be a shareholder.

Are registrants required to provide the Company Registry (or any other governmental authority) with character references and police clearance certificates for all shareholders, directors and officers.

Are companies allowed to have nominee directors.

Are all companies required to keep proper books of account, namely, keeping those books necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

Is there a framework to monitor compliance with these obligations

What legislative provisions govern the operation of management companies doing business in the country.

Is a management company which could be defined as a person or business that provides client managerial services, acts as a director or shareholder of a client company, or controls all or substantial assets of the client company, unless exempted, required to be licensed.

Of all licensed management companies how many are exempted management companies.

In an application for a management company license do the documents to be provided include , *inter alia*:

- the name of the applicant or applicant company;
- the address of its principal or registered office;
- the names and address of all the directors and all of the persons who will provide the management company with specialized or technical advice;
- evidence of the proper incorporation of the company domestically or in the country of incorporation as the case may be;
- written character references vouching for the fact that neither the applicant, applicant company, or any director or officer of the company has a criminal record in or outside the country;
- the names, the addresses and nationalities of all persons who are shareholders, if any;
- the names addresses, nationalities and references of all persons who are directors, partners, managers or officers.

Do businesses that perform certain administrative services -- such as the maintenance of a registered office; the conduct of directors' and general meetings; the preparation, filing and keeping of statutory returns; the forwarding of mail; the holding of issued capital of a company; or the provision of nominee shareholders for the purpose of formation of a company-- not viewed to be in the "business of company management" and are exempted from the licensing requirement.

Are businesses providing the following management services, among others, exempt from licensing:

- the provision of a director (or a proxy director or an alternate director)-
 - to facilitate the formation of a company; or
 - for the purpose only of convening or holding, in the country, annual meetings of boards of directors or shareholders of a company;
- the provision of services to a company, bank or trust licensee by a subsidiary of the licensee in connection with the business of the licensee; or
- the provision of services to a company, listed on a stock exchange recognised by the authorities, by a person who does not serve as a licensed management company for any other company.

Like registered companies, are licensed management companies required to maintain such books and records that accurately reflect the business of the licensee.

Is a licensed management company required to prepare and file an annual accounting of its books, performed in accordance with generally accepted accounting principles and certified by an independent auditor.

Is there a legal framework to monitor compliance with these obligations.

COMMENT. There would be cause for concern where only certain types of management companies operating in the jurisdiction must be licensed and where a large class of management companies – including those providing nominee shareholders for the purpose of formation of a company or holding the issued capital of a company -- are exempt from licensing.

This is so because it allows the clients of these management companies to conduct business without the authorities or financial institutions being able to find out for whom the company is acting or the nature of the client's business. This could be seen as a serious shortcoming in an anti-money laundering regime.

In order to guard against criminals or their confederates holding management functions or controlling management companies seeking a licence, as with banks and certain mutual fund administrators and trust companies, licensed management companies should be required to provide the authorities with character references and police clearance certificates for directors and officers. Ultimately, the strength of the licensing system depends on effective due diligence by the licensing authority.

Does the legislation require financial institutions to identify persons on whose behalf transactions are being conducted.

Does the definition of a financial institution include intermediaries such as lawyers, counsels, accountants, or persons acting on behalf of other businesses.

Do banks and trust companies, life insurance companies, casinos, securities broker-dealers, and mutual fund administrators serve as eligible introducers.

Are eligible introducers exempted from customer identification requirements.

FATF has expressed concern as to whether systems that exempt customer identification requirements for certain transactions involving eligible introducers are consistent with FATF Recommendations and provide sufficiently rigorous checks on the identity of clients of banks and other financial institutions. The FATF has decided to consider the issue and may in the future need to discuss the adequacy of the eligible introducer system and the position on existing accounts.

Criterion 15: Do laws or regulations prohibit international exchange of information between administrative anti-money laundering authorities or do not grant clear gateways or subjecting exchange of information to unduly restrictive conditions?

Criterion 16: Are relevant administrative authorities prohibited from conducting investigations or enquiries on behalf of or for account of their foreign counterparts?

Criterion 17: Has obvious unwillingness to respond constructively to requests (e.g., failure to take the appropriate measures in due course, long delays in responding) been observed?

Criterion 18: Are there restrictive practices in international cooperation against money laundering between supervisory authorities or between FIUs for the analysis and investigation of suspicious transactions, especially on the grounds that such transactions may relate to tax matters?

Do the laws authorise the disclosure to a foreign financial services supervisory authority information in its possession regarding the affairs of a financial institution licensed in the country.

Do the laws explicitly prohibit disclosing to a foreign financial services supervisory authority any information relating to the identification of customers and clients of a financial institution licenced in the jurisdiction.

Is information shared with foreign financial services supervisory authorities only for the purpose of consolidated supervision.

Can the court compel information and testimony in response to a request issued by or on behalf of a foreign court or tribunal.

Must the information or testimony that is being sought be in connection with a civil proceeding already instituted or being contemplated before the foreign court or tribunal

Can a foreign administrative authority empowered to file civil cases be able to avail itself of the court's authority during the course of an investigation.

Is it that the investigation should be in its advanced stages in order to meet the requirement that the information or testimony being sought is in connection with a civil proceeding being contemplated before a foreign court.”

Can the court compel information and testimony in assistance of a foreign administrative authority that is a party to an ongoing civil proceeding.

Is it that the information and testimony must be requested by or on behalf of the foreign court or tribunal hearing the matter.

Can the authority only share information that is already in its possession.

Where information is in the possession of the authority, can it share information relating to the identification of clients.

Does the authority have the capacity to compel either regulated or unregulated individuals or institutions to provide information to assist a foreign administrative authority.

Does the securities authority, which regulates securities firms and industry professionals, have powers to assist overseas regulatory authorities by sharing confidential client information absent a court order.

Criterion 19: Is the laundering of the proceeds from serious crimes being criminalised?

Do the laws expands the predicate offences from narcotics trafficking to the broader category of all crimes.

Can a person report a suspicion that funds or investments are tied to serious crimes other than drug trafficking.

Are persons who report such suspicious transactions protected from civil liability for breach of legal obligations toward third parties.

Does the reporting of such suspicious transactions extend beyond financial institutions to non-financial service providers (e.g., real estate agents).

Criterion 20: Do laws or regulations prohibit international exchange of information between judicial authorities (notable specific reservations to the anti-money laundering provisions of international agreements) or place highly restrictive conditions on the exchange of information?

Criterion 21: Has obvious unwillingness to respond constructively to mutual legal assistance requests (e.g. failure to take the appropriate measures in due course, long delays in responding) been observed?

Criterion 22: Does the jurisdiction refuse to provide judicial cooperation in cases involving offences recognised as such by the requested jurisdiction especially on the grounds that tax matters are involved?

NOTE. Foreign judicial authorities may seek assistance from the country in connection with investigations of money laundering or predicate offenses pursuant to mutual legal assistance treaties or letters rogatory. Under a treaty, the provision of assistance is mandatory if the assistance sought and the crime being investigated fall within the ambit of the agreement. The execution of a letter rogatory, on the other hand, is discretionary and is based upon the concept of international comity.

NOTE Where the law requires that a request for assistance in obtaining information or evidence be made in connection with a criminal proceeding that has already been instituted. This it is said may likely prove problematic given that judicial authorities begin to conduct investigations long before filing a proceeding.

With which countries has the jurisdiction entered into an MLAT.

Does the MLAT specifically identify money laundering as falling within the scope of the agreement.

What other criminal offences are covered by the MLAT.

Where foreign judicial authorities in need of information and evidence seek assistance through letters rogatory, are these to be submitted to the court.

Pursuant to which legislative arrangements are these letters rogatory addressed.

Can the court only obtain the information or evidence sought if it is requested by or on behalf of a foreign court and the request follows the filing of a criminal proceeding.

Can assets that later may be subject to forfeiture by order of a foreign court be frozen in the jurisdiction during an investigation if foreign criminal authorities solicit the assistance of the court.

Can foreign judicial authorities seek to enforce confiscation orders in the jurisdiction's courts.

Are there any significant impediments to judicial cooperation.

Do the laws of the country allow for the exchange of evidence and information with foreign judicial authorities.

Do the laws allow for assistance to be given to foreign states in obtaining evidence in civil matters, required for the purpose of proceedings in other jurisdictions, whether those proceeding are pending before the requesting court or are contemplated and in the investigate stage.

Does the law allow for collaboration with other countries in implementing the Vienna Convention against Illicit Traffic in Narcotic Drugs by providing a framework for cooperation in supplying evidence located in the country with respect to criminal proceedings that have been instituted or criminal investigations that are being carried out, in a foreign jurisdiction.

Does the law permit co-operation with requests related exclusively to fiscal offences if there is no treaty relationship with the requesting country.

Are there prompt responses to mutual assistance requests from other countries.

Does the burden of proof placed on Mutual Legal Assistance Treaties requests by the Courts exceed the treaty standard

Can suspicious transaction reports be disclosed by the Reporting Authority to a foreign law enforcement authority.

Is the consent of the Attorney General required

Is the Attorney General required to consider inter alia, the purpose for which the disclosure is to be made and the interests of third parties.

Do permissible disclosures include disclosure in relation to an offense to which the domestic legislation applies (or would apply had it occurred in the country) and fraudulent acts or statements (including tax fraud).

Is it a requirement that the disclosures are required to:

- report the possible commission of an offense;
- initiate a criminal investigation respecting the matter disclosed;
- assist with any investigation or criminal proceedings respecting the matter disclosed;
- generally to give effect to the purposes of the anti money laundering legislation.

On an application made by the Attorney General or the court on behalf of the Government of a “designated country,” can a court may freeze assets located in the country.

Can the Reporting Authority upon the Attorney General’s consent, disclose to a foreign law enforcement agency information from a suspicious transaction report.

Does the legislation define foreign law enforcement agency, and does it if so, include foreign judicial authorities as defined in *the FATF Ad Hoc Report on Non-Cooperative Countries and Territories namely to* include law enforcement, judicial/prosecution authorities, authorities that deal with mutual legal assistance requests, as well as certain types of financial intelligence units.

Does the term exclude certain types of financial intelligence units.

COMMENT Where these questions are answered in the negative it is said that they present a handicap to the efforts of foreign intelligence units and other foreign administrative authorities involved in combating money laundering or a predicate offence when the illegal activity has a connection to the jurisdiction.

Where the assistance of the court is limited to the use in the context of an administrative investigation, the foreign administrative authority must be acting on behalf of a court in connection with a civil proceeding already instituted or being contemplated before that court. However, it is said that in most instances, administrative authorities begin to conduct investigations long before filing or contemplating a civil action in court. Indeed, foreign administrative authorities generally need information and testimony most when an investigative record is first being developed. Moreover, in many jurisdictions, financial intelligence units and a number of administrative authorities serve as the investigative arm of prosecution authorities. The decision to file is the province of the prosecution authorities and would, in any event, result in a criminal, as opposed to civil, proceeding.

In order for administrative authorities to serve effectively as part of the front-line defense, they must have access to information necessary to prevent, detect and take action against money laundering and predicate offenses. Thus, foreign administrative authorities such as financial intelligence units and regulators are likely to seek the assistance of the administrative authority in the jurisdiction, charged with the administration and enforcement of the laws relating to the activities of financial institutions.

Criterion 23: Are the administrative and judicial authorities provided with the necessary financial, human or technical resources to exercise their functions or to conduct their investigations?

Criterion 24: Is there inadequate or corrupt professional staff in governmental, judicial or supervisory authorities or among those responsible for anti-money laundering compliance in the financial services industry?

Which agency conducts due diligence with respect to license applications.

How much resources are devoted to analyzing, vetting and verifying information in license applications prior to making a recommendations.

How many licensed banks and trusts are located in the country.

How many staff members are assigned to the Banking and Trust Division (on-site supervision and off-site supervision) and are involved in vetting and analyzing license applications.

How many licensed insurance companies are located in the country.

How many staff members are assigned to the Insurance Division and are involved in vetting and analyzing license applications.

How many regulated mutual funds, licensed mutual fund administrators, and licensed company managers are located in the country.

How many members of staff are assigned to the Investment Division and are involved in vetting and analyzing license applications.

Are supervisory authorities sufficiently staffed in comparison with the size of the financial sector.

Do Law enforcement forces dealing with money laundering have sufficient training.

Criterion 25. *Is there a centralised unit (i.e., a financial intelligence unit) or an equivalent mechanism for the collection, analysis and dissemination of suspicious transactions information to competent authorities?*

What legislation allows for the creation of a Reporting Authority for suspicious transaction reports.

Who has powers to issue directions to the Reporting Authority respecting its powers and duties under the law.

Which agency undertakes money laundering investigations.

What is the structure and staffing complement of the Reporting Authority.

Is the Reporting Authority a repository for both financial intelligence and the receiving point for suspicious transaction reporting under the legislation

Do the computer systems of the Reporting Authority have access to similar databases such as immigration, company registry, vehicle licensing, and land registry and serve as a mechanism to analyse information.

Does the Reporting Authority serve as the central authority for receiving, analyzing and disseminating suspicious transaction reports and is it permitted to disclose information contained within the reports to law enforcement authorities within and outside the country and are there any restrictions to disclosure?

Is there an FIU or equivalent mechanism in existence with functions and powers in line with the characteristics of FIUs in the Egmont Group.

How many memoranda of understanding or co operation letters of agreement are in force with which allow the sharing of information with counterpart agencies and organizations in foreign countries for the investigation of possible money laundering offenses.

MONEY LAUNDERING PREVENTION GUIDELINES FOR CFATF MEMBER GOVERNMENTS, FREE TRADE ZONE AUTHORITIES, AND MERCHANTS

Background

1. On October 18, 2000, government, law enforcement, and Free Trade Zone officials, operating under the aegis of the CFATF, met in Aruba to develop compliance programs and best practices guidelines to ensure that Free Trade Zones are operated in a manner that prevents their misuse by criminal elements.
2. These officials took note that in today's globalized economy, domestic and international trade, including that coursing through Free Trade Zones, is especially vulnerable to misuse by criminals engaged in illicit trafficking of narcotics, other serious crimes, and related trade-based money laundering.
3. Meeting participants acknowledged this problem and voiced their commitment to devising and implementing reasonable measures to reduce the risks of money laundering.
4. Taking note of Article 18 of the 1988 United Nation Convention Against the Illicit Traffic of Narcotic Drugs and Psychotropic Substances, (the Vienna Convention), CFATF Members recognized the need to implement enhanced regulatory measures in Free Trade Zones designed to prevent and sanction illicit drug trafficking and money laundering through Free Trade Zones.
5. With the goal of protecting legitimate international trade through Free Trade Zones against criminal misuse, the CFATF has undertaken to develop these Money Laundering Prevention Guidelines (Guidelines) for its Members and for Free Trade Zone Authorities and Free Trade Zone Businesses operating in their jurisdictions.
6. Acknowledging that crime in today's global economy cannot be effectively eradicated by government alone, CFATF Members premise these Guidelines upon the principle that Governments and the private sector must work together as partners, and that any legislative regime enacted and implemented by Governments must ensure transparency and integrity in commerce.
7. Free Trade Zone Authorities and businesses operating in Free Trade Zones in the region must operate in accordance with and adhere strictly to effective anti-money laundering rules and regulations that guarantee this transparency and integrity.
8. There must be optimal cooperation between and among individual Governments and their Free Trade Zone Authorities, businesses operating in those Zones, and law enforcement entities to ensure the success of this undertaking. CFATF Members acknowledge the need for international cooperation between Governments and undertake, through implementation of these Guidelines, to ensure the creation of common and compatible databases to collect and report data relating to international commerce.
9. Equally important, CFATF Members further undertake to ensure that this data is made available to competent authorities in other countries in accordance with applicable law,

subject to strict safeguards to ensure proper use of information, to detect and prosecute crime and related proceedings.

10. Finally, CFATF Members are cognizant of the fact that the economic potential of a Free Trade Zone is of great importance to their respective economies. Simultaneously, they acknowledge that this economic potential is threatened by criminal misuse of Free Trade Zones.
11. Accordingly, in devising these Guidelines, CFATF Members have endeavored to achieve a balance between protecting and promoting the economic potential of Free Trade Zones, while at the same time providing effective preventative measures and all the tools required in order to effectively combat crime in them.

Methodology

1. In researching trade-based money laundering through the Region's Free Trade Zones, the CFATF convened a two-part Typology Exercise. Part 1 was held October 18, 2000, in Aruba.
2. At this meeting, CFATF judicial, law enforcement, and Free Trade Zone officials examined and addressed:
 - Vulnerabilities of Free Trade Zones;
 - Operations of the financial and non-financial sectors within a Free Trade Zone;
 - Reporting mechanisms and due diligence practices within Free Trade Zones.
3. Part 2 of this Typology Exercise convened on March 29, 2001, in Port of Spain, Trinidad.
4. At this meeting, CFATF judicial, law enforcement, and Free Trade Zone officials discussed:
 - The Private Sector approach;
 - The necessary regulatory and supervisory framework;
 - The format and content of the proposed Recommendations.

CONCLUSIONS AND RECOMMENDATIONS

With these considerations and objectives in mind, and upon the Plenary's recommendation based upon the observations and information provided by the noted experts, the Council of Ministers recommends that, where necessary, each CFATF Member Government:

1. Devise, enact, and effectively implement a comprehensive legislative regime affecting Free Trade Zones. The legislative regime must clearly and unequivocally define the term "Free Trade Zone" and must govern all areas of its operations. Areas of Free Trade Zone operations to be governed include, but are not limited to: the granting and revocation of licenses to operate a business therein; record keeping and reporting requirements for these businesses; and, establishing and defining the oversight and supervisory authority, functions, responsibilities, and powers of the Free Trade Zone Authority. Where necessary, such a legislative regime should meet the following requirements:

- (a) The Free Trade Zone Authority, if necessary, should be physically present and operate in the Free Trade Zone. The appropriate National authorities should, at minimum, oversee and supervise all operations in the Free Trade Zone and enforce sanction violations of all applicable laws and regulations.
 - (b) Businesses operating in Free Trade Zones must comply with all applicable laws and regulations and must establish an anti-money laundering compliance program which includes an independent review and internal audits. It is strongly recommended that businesses designate a compliance officer who shall be responsible for monitoring and ensuring implementation of the compliance program.
 - (c) Businesses operating in Free Trade Zones should be required to identify their clients and to keep the record of each transaction and to report suspicious activities to the competent authorities.
 - (d) Free Trade Zone Businesses should be required to report suspicious transactions to the competent authority in the form and manner that the authority directs. Additionally, it may be required that all businesses operating in Free Trade Zones should report to the competent authority all transactions in cash or negotiable bearer instruments exceeding US\$ 10,000.00 or its equivalent in other currency, or postal or other money orders, travelers checks and third party checks.
 - (e) Governments should discourage businesses operating in Free Trade Zones from accepting cash payments, or payments in money orders or third party checks, travelers checks, wire transfers, or other means from parties that are not directly related, as either the seller or buyer, to the underlying transaction. These businesses should, at a minimum, record such transactions and, when determined as suspicious report such transactions to the competent authorities.
2. Require competent Authorities to make available to regulated businesses current copies of all applicable laws, administrative resolutions, regulations, advisories and directives regarding: the conduct of business in the Free Trade Zone; compliance with all applicable legal requirements; and, advisories regarding suspicious activity and recommended countermeasures.
 3. Require competent Authorities to designate, as part of their core operation, a specialized unit responsible for all matters dealing with the prevention of money laundering and to carry out ongoing related training for businesses operating in the Free Trade Zone. This unit should, at a minimum, produce an instruction manual detailing the powers vested in the Authority, the obligations of businesses operating in the Free Trade Zone, and the internal anti-money laundering mechanisms, including all reporting and record keeping requirements, which must be maintained by these businesses.
 4. Devise and implement all necessary measures to establish and promote coordination between the administrative and all other authorities involved in the prevention, investigation, and prosecution of money laundering activities.
 5. Take affirmative measures to ensure uniformity in data collection practices affecting international commerce and enact measures to ensure that the data collected related to international commerce is available to other governments in accordance with applicable law.

INTERPRETATIVE NOTES

1. Definition of a Free Trade Zone

A Free Trade Zone⁹ may be defined as:

An area or regime within a country under special customs and/or tax controls, in which enterprises are licensed to conduct business or provide services for export purposes through the granting of special incentives to stimulate their development.

Such areas could include, among others:

- The receipt of goods duty free for processing and export;
- The provision of financial services such as banking, brokerage services and insurance;
- The provision of services such as tourism and gambling;
- The provision of technology based services;
- The provision of services with the petroleum industry.

2. Admission of Businesses to Operate in Free Trade Zones

- (a) A legislative regime regulating Free Trade Zones (FTZ) must, among other things, govern the granting and revocation of licenses to operate a business therein. Because these guidelines are intended to help governments to ensure transparency and integrity in legitimate international trade and thereby protect it against criminal misuse, it is important to identify the parties to any given transaction.
- (b) It is equally important to fully and clearly identify the parties who control and operate businesses within a Free Trade Zone regime and to ensure that these are bound by all applicable laws and can be reached by competent authorities.
- (c) Accordingly, Governments should ensure that businesses are registered and incorporated in accordance with applicable laws.
- (d) These laws should require that Articles of Incorporation be filed upon registration and that the identity of all corporate officers and owners be fully disclosed. The identity of shareholders should be made accessible as determined by the applicable laws.
- (e) Further, any changes made to all of the foregoing information must be reported to the competent authorities and should be verified and updated periodically (minimum once every three years) to reflect any changes in ownership, location or other matters.

⁹ **Such organisations could be defined under various names, such as:** Free Zones, Freeport Zones, (Port) Free Trade Zones, Foreign Trade Zones, Duty Free Trade Zones, Commercial Free Trade Zones, Export Processing Zones, Logistic Zones, Trade Development Zones, Industrial Zones/Parks/Areas, Hi-Tech Industry Parks, Hi-Tech and Neo-Tech Industrial Development Zones, Investment Zones, Bonded Zones, Special Economic Zones, Economic Development Zones, Economic and Technological Development Zones, Resource Economic Development Zones and Border Economic Cooperation Zones.

3. Free Trade Zone Businesses Operating as an Agent.

- (a) In some cases a business not physically based in, registered, or incorporated in the same country as the Free Trade Zone may operate through a wholly-owned subsidiary, or other business that is physically present in the zone and registered and incorporated locally. In such cases, the business located within the Free Trade Zone and incorporated under local law is operating in a representative capacity, or as an Agent (company/branch).
- (b) To ensure transparency and integrity in all operations conducted by that Agent, applicable law should require that, whenever the business is acting as an Agent for another party, it must disclose that fact to the Free Trade Zone Authority. This information should be provided to all persons and all authorities with whom the Agent conducts business on behalf of the other party. Further, the Agent, in all such cases, should fully disclose the identity of the person on whose behalf he is acting.

4. Revocation of Licence to Operate a Business in a Free Trade Zone

- (a) Competent Authorities governing a Free Trade Zone will vary from one jurisdiction to the next, depending upon the provisions of local, applicable law. These Guidelines assume that for any Free Trade Zone there will be a Free Trade Zone Authority.
- (b) At a minimum, the competent Authorities should be empowered to impose sanctions such as imposition of fines, the suspension or revocation of licenses to operate a business.
- (c) Conditions that shall result in the suspension of business operations and/or the revocation of a license to conduct business must be clearly defined by the competent authority, likewise conditions that could result in the imposition of a civil or administrative fine shall be clearly defined by the competent Authority.

CALP/CARIBBEAN ANTI-MONEY LAUNDERING PROGRAMME

Following the launch of the Programme, recruitment of staff and promotion of assistance, available to all member countries the last twelve months has witnessed a full and extensive programme delivery. Demand has been very high for all the three sub-programme services offered and I am pleased to report that with a planned approach and frequent use of outside consultants we have been able to satisfy all requests for assistance.

With the support and co-operation of other agencies and organizations engaged in anti-money laundering activity, within the Region, we have been able to unite collective efforts to ensure a full range of service delivery to member countries whilst avoiding duplication of effort and waste of resources. Towards these efforts my thanks go the United Nations Drugs Control Programme (UNDCP), Centre Interministerial De Formation Anti-Drouge (CIFAD), Federal Bureau of Investigation (FBI) United States Justice Department and the Anti-Money Laundering Unit of the Inter-American Drug Abuse Control Commission (CICAD).

Additionally, working together with other programmes offered through the United States Embassy, Barbados, further assistance has been identified allowing the provision of various items of equipment, in Eastern Caribbean countries, for the formation of Financial Intelligence Units.

As the life of the five year Programme approaches mid term it is interesting to reflect on the tremendous advances made by the member countries throughout the Region. At the beginning of 1999 few countries had comprehensive anti-money laundering legislation, a number had no laws at all touching upon this area of criminality. Most countries that had anti-money laws were limited to seizing assets derived from proscribed drug activity and at that time there had been no successful money laundering prosecutions within the Region.

That position has now radically altered with far reaching legislation enacted throughout the Region criminalizing money laundering in respect of all serious crime and many examples of successful or on-going prosecutions. The expertise of law enforcement officers and prosecutors in many countries is evident and the members of the Programme are delighted to have been associated with these positive developments. General comments on the three inter-related sub programmes are as follows:

Legal/Judicial (Fitz-Roy Drayton)

The burgeoning development of financial services throughout the Region has witnessed the need for governments to strengthen laws to prevent and detect money laundering activity. This has merely reflected what has been happening world wide. The message has been obvious, financial services are part of global activity and consequently require countries so involved to play by global rules. Caribbean countries have been fast to react and our legal/judicial advisor has been regionally active responding to requests to develop and draft the necessary laws, regulations and associated working guidelines. Legal input at conferences, seminars and workshops has been undertaken in most jurisdictions with dedicated meetings being arranged for judges, magistrates and prosecutors to ensure all are keep abreast of changing legislation and working practices. As with all financial issues changes occur frequently so the requirement to change and develop laws and respond to test cases and resultant case law, associated with anti-money laundering, will ensure the need for our advisor to constantly advise country officials of such world wide developments and appropriate remedy.

Financial Sector (Manuel Vasquez)

New legislation and working practices, touching upon money laundering, has seen the requirement to ensure that the financial sector in all countries have been kept advised of such changes and trained to respond to changing circumstances and responsibilities. To this end many conferences, seminars and workshops have been held in most countries when experts from a variety of disciplines have been engaged to assist programme delivery. Assistance has also been given in the formation of working guidelines and advice for on and off shore jurisdictions in preparation of reporting procedures in respect of unusual or suspicious financial transactions.

A number of video and compact disc presentations have been developed for all segments of the financial organizations to assist training and to provide compliance officers, within such organizations, to train their own staff in the future. Copies of the videos and CDs have been made available to financial establishments, at minimal cost, and orders for these popular productions arrive daily in our office.

It is with regret that I must record that Manuel Vasquez, at the conclusion of his two year contract, recently left his attachment to the Programme. It is to his credit, and no little doubt to his high profile with the Programme, that he was recruited, by the International Monetary Fund (IMF), to head up their new Anti-Money Laundering Section. We take this opportunity to thank him for his considerable contribution to the programme efforts and wish him every success for the future with such an important world-wide organization.

Law Enforcement (Barnard Humphris)

Many Police and Customs Officers and other law enforcement officials have now been subject of our regionally wide training courses. Previous mention has been made to the increasing number of money laundering cases that are being undertaken and our law enforcement advisor has been constantly engaged in advising and assisting in the investigation and presentations of such cases. In association with the Project Management Office in Barbados a data base has been developed to record details of all so trained individuals. This practice allows to the easy identification of those requiring additional training and the avoidance of duplicate training at the same time ensuring an accurate record of regional expertise when the need arises.

The last year has also seen the formation of Financial Intelligence Units in a number of countries. The programme has arranged the attachments of expert consultants to these offices which has allowed the smooth development of these undertakings and the appropriate installation of computers and other equipment. It has long been accepted that the ability and need for small countries to form Financial Intelligence Units to work to International standards (Egmont) is both unrealistic and unnecessary. However, to benefit from exchanges of intelligence between Internationally recognized Units that standard must be reached. To this end a study is to be undertaken by the United Nations Global Money Laundering Programme into the clustering of small countries working through a shared F.I.U. facility. The study will be focused upon the Eastern Caribbean countries and for this reason all Financial Intelligence Units developed in this sub-region, through the programme, have been set up with similar paper trails and working practices to ensure any future collaboration will be easily accomplished.

The future

Our programme project document was completed in April, 1998 and it is therefore a snap shot of the needs of the Caribbean region at that time. Many changes internationally and regionally have occurred since. It is therefore totally appropriate that the programme is subject of a mid term review aimed at accessing the effectiveness of the programme to date and the direction for the future. That review, to be undertaken by the consulting company K.P.M.G. of the United Kingdom, will be, in part, conducting this review within the margins of the CFATF Plenary in the Dominican Republic. I urge all participants to give their constructive views as to the effectiveness of the programme delivery to date, and the anticipated needs for the remaining life of the programme.

Brian J. Reynolds O.B.E.
Programme Manager

**LIST OF ENGAGEMENTS
OCTOBER 2000 - SEPTEMBER 2001**

DATE	DESTINATION	EVENT
OCTOBER 2000		
16 – 20/10/00	Aruba – C. Wilson & Staff	CFATF Plenary XII & Council VI
30/10/00	Barbados – C. Wilson	Bridgetown Group Meeting
NOVEMBER 2000		
22 - 26/11/00	London/Portugal – C. Wilson	FATF Meeting
DECEMBER 2000		
10 –16/12/00	Miami – C. Wilson	FATF NCCT
14 - 15/12/00	Martinique – P. Lapaque	CIFAD
19 - 22/12/00	Haiti – C. Wilson	
JANUARY 2001		
9 - 11/01/01	Aruba – C. Wilson	Funeral of CFATF Chairman
26/01 - 04/02/01	Paris/London - C. Wilson	FATF Plenary
FEBRUARY 2001		
12 - 13/02/01	Barbados – C. Wilson	CARICOM Meeting
MARCH 2001		
18 - 19/03/01	Miami – C. Wilson	Institute of International Research
APRIL 2001		
11 – 22/04/01	Paris/London - C. Wilson	FATF Ad Hoc /Commonwealth Secretariat
26 - 27/04/01	Martinique – P. Lapaque	CIFAD
29/04 – 10/05/01	Cayman Is., Panama, Miami, Bahamas – C. Wilson	FATF NCCT Meetings
MAY 2001		
09 – 10/05/01	Caracas, Venezuela – C. Wilson,	CFATF ME Ex. Training Workshop
20 – 26/05/01	Miami – C. Wilson	FATF NCCT Face to Face
29/05/01	St Vincent – C. Wilson	Meeting with Prime Minister
30/05 – 02/06/01	Washington – C. Wilson	OAS/CIDAD
JUNE 2001		
10 – 11/06/01	Nevis – C. Wilson	CFATF / CALP Meeting
11 – 14/06/01	Puerto Rico – P. Lapaque	Caribbean Gaming and Tourism Conf.
13 – 26/06/01	Antigua, UK, Paris, Switzerland – C. Wilson	FATF Plenary
27 – 28/06/01	Barbados – P. Lapaque	Bridgetown Group Meeting

DATE	DESTINATION	EVENT
JULY 2001		
20 – 21/07/01	Cayman Islands - C. Wilson	Function – Cayman Island Delisting
14 – 25/07/01	Namibia – C. Wilson	ESAAMLG Plenary & Council
AUGUST 2001		
31/08 – 09/09/01	Paris – C. Wilson	FATF Plenary
SEPTEMBER 2001		
18/09/01	Dominica – C. Wilson	Press Conference - NCCT
17 - 19/09/01	Bolivia – P. Lapaque	GAFISUD Training Seminar

CHAIRMAN'S WORK PROGRAMME 2001 – 2002

I have instructed the Secretariat to prepare documents for consideration by the Council dealing with various aspects of the Work Programme for 2001 - 2002. Comments and suggestions from the Council will be taken into account during our discussions of each segment of the Work Programme that will be reviewed and adopted as submitted or as amended by the Council.

The proposed Work Programme 2001 - 2002 focuses on the following areas:

THE MUTUAL EVALUATION PROGRAMME

TECHNICAL ASSISTANCE AND TRAINING

TYOLOGY EXERCISES

OUTREACH EFFORTS/DEPUTY DIRECTOR

PUBLIC RELATIONS

PUBLIC EDUCATION

BACKGROUND

The CFATF is now at a very opportune juncture with a bright and optimistic future. Although the Work programme will look towards the next year, the current optimistic climate calls also for the exploration of some long-term goals.

It is in the best interests of all our Members and the Caribbean Basin Region as a whole for the CFATF's anti-money laundering monitoring programme to be meticulous and rigorous. Therefore, the thrust of the Work Programme for the next year would mandate the Secretariat to ensure that all CFATF Members are in compliance with the current anti-money laundering benchmarks as endorsed by Council of Ministers Meeting VI as expeditiously as possible.

Indeed, within our midst, we have appropriate guidance on best practice with those benchmarks, through the sterling examples of Bahamas, Cayman Islands and Panama whose current anti-money laundering regimes in some respects, go beyond what pertains at the moment in some developed countries.

Building adequate anti-money laundering defences is an ongoing exercise so as to effectively meet ever-changing challenges. The governments of these three jurisdictions have committed themselves to continuous strengthening of their infrastructures.

Additionally, these three CFATF Members have indicated that they intend to invigorate their participation in all aspects of CFATF affairs and to lend the benefit of their expertise and experiences for the advancement of all CFATF Members. This position should be very much welcomed by us all.

The work plan as outlined, envisages that within one year every CFATF Member would have in place legislation that is in compliance with the Second Round Mutual Evaluation benchmarks, these being the 19 CFATF and 40 FATF Revised Recommendations and the 25 point FATF NCCT criteria. Recent regional experiences have shown that this goal is attainable.

On completion of this task, the CFATF as an organisation would be able to project a stronger voice on the international stage and to call for and to secure an equal role in setting future international anti-money laundering agenda.

Given this positive and confident mindset, the Work Programme for the CFATF will entail the following steps:

STAFFING AND BUDGET

Assembling a three person Team of Legal, Financial and Law Enforcement Experts, that will be responsible for:

Reviewing the benchmarks that will be utilised during the Second Round of Mutual Evaluations, namely the Revised 40 FATF Recommendations, the Revised 19 CFATF Recommendations and the 25-point FATF NCCT criteria.

Drawing up a template based, inter alia, on the current legislative programmes instituted by the Bahamas, Cayman Islands and Panama which will be considered best practice guides.

Analysing the current anti-money laundering framework of all CFATF Members, identifying where there are shortfalls vis-à-vis the template and thereafter seeking discussion with the Member in question as to concurrence on factual accuracy.

The next step would be constructing a legislative programme in keeping with the template, for enactment within a timely period, advisably within six months to one year. This work has already begun and all Members are urged to support this initiative and to fully cooperate with the Secretariat.

The additional staff requirements here will have no impact on the annual contributions of Members as the attendant support has been committed by the governments of Canada, the Netherlands Antilles and the Commonwealth Secretariat, for the Legal, Law Enforcement and Financial Experts respectively.

It is indeed gratifying to note the continuing support for CFATF activities by the Government of Canada and the Commonwealth Secretariat. Importantly also, we must note the move by CFATF Member States themselves to assume a greater role in meeting the financial responsibilities of the organisation.

Commendations must therefore go to the Government of the Netherlands Antilles in this regard. Commendations must also go to the Government of the Bahamas for providing additional manpower support to this Team of Experts by the secondment of a Law Enforcement official for a three year period and meeting all the attendant expenses themselves.

Whilst on the issue of the budget, all Members are requested to ensure that the annual contribution for the coming period is submitted to the Secretariat by April 30th 2002, with a view to the continued efficient operation of the Secretariat.

THE MUTUAL EVALUATION PROGRAMME

The Mutual Evaluation Programme is a core aspect of our work and during the next year in keeping with the schedule, six Mutual Evaluations will be conducted. In order to deepen the understanding of the Mutual Evaluation Examiners of their duties during the Missions, a series of training workshops will be undertaken.

It is a clear testament to the commitment of this organization that we were able to complete the First Round of Evaluations as planned, and as we continue with the Second Round I am certain that in like fashion we will all ensure that all Mutual Evaluation visits will occur as arranged.

The terms of the Second Round of Mutual Evaluations require a firm demonstration of effective implementation of the new anti money laundering regimes.

Members need not wait for the onset of their particular Mutual Evaluation Visit in the Second Round to commence the implementation process.

It will be prudent for Members to draw up and to provide the Secretariat with their respective Implementation Plans with set timetables and to notify the Secretariat and all Plenary Meetings as various aspects of the Plan are fulfilled.

Individual Member States and the Region as a whole, will be able to assert to the world community a responsible image, through a rolling public relations campaign, as each Member attains compliance with the new benchmarks and the progress of effective implementation.

The existing Mutual Evaluation framework, whilst instrumental in getting the Mutual Evaluation Programme off the ground, is not quite adequate as a monitoring mechanism in the current international scenario.

The current climate requires much more than the preparation of Mutual Evaluation Reports for discussion every four years or so. As complimentary to the Mutual Evaluation Programme and with a view to ensuring that the most up to date information is readily available on regional anti-money laundering preparedness, the Secretariat will be tasked to prepare the first of what I hope will be completed on an annual basis, a compilation of Country Reports on the anti-money laundering infrastructure for each of the twenty-five Members.

As with the Mutual Evaluation Reports, the final contents of these annual Country Reports, it is suggested, should be determined after discussions with the respective Member. Thereafter, they should be discussed in Plenary and approved by the Council of Ministers before publication to the general public.

The purpose of these reports are multi faceted in that they will be integral to the monitoring function of the Secretariat. Deficiencies in the anti-money laundering structures of Members States will be discovered on a more continuous basis, thereby allowing rectification measures to be taken in a more timely fashion, and in advance of their Mutual Evaluation visit.

These reports will also facilitate the assessment by the Mutual Evaluation Examiners, who, with the benefit of the information contained in the reports could undertake the on site visit more confidently and be directly concerned with those areas where the deficiencies were highlighted.

Importantly also, they will allow Members to continuously update their anti-money laundering infrastructure on a timely basis and in keeping with current international benchmarks as the latter respond to changing criminal methodologies and regulatory standards.

TECHNICAL ASSISTANCE AND TRAINING

For the English speaking CFATF Members and some Non Members, the CFATF/ Caribbean Anti-Money Laundering Programme (CFATF/CALP) is presently providing valuable assistance in terms of training and technical assistance.

I am pleased to note that the Secretariat has commenced discussions with both the OAS/CICAD and the Inter American Development Bank for the finalising of similar training activity for the Spanish-speaking Members. It is anticipated that the work in this regard will commence in early 2002 and I will urge the Secretariat to continue with its efforts so that this target is attained.

TPOLOGY EXERCISES

The ever-increasing sophistication of the international criminal organizations which pose considerable dangers to the good governance of small States demands that the CFATF keep abreast of current criminal methodologies.

Future exercises will examine the important areas of:

- Cyberspace – Electronic regulation and supervision
- Free Trade Zones
- Money laundering possibilities in the conduct of International Trade
- Interest Gaming
- Offshore Financial Services
- Economic Citizenship Programmes
- The proliferation of arms and ammunition and their connection to drug trafficking and money laundering
- Estimating the magnitude of money laundering in the Region

However for the coming year, priority should be given to the conducting of Typology Exercises on the dangers of facilitating international criminals that are attendant on the Economic Citizenship Programmes that exist in the Region and on the important issue of Terrorist Financing. CFATF and COSUN Members who wish to contribute to this Exercise either financially or technically should urgently consult with the Secretariat.

OUTREACH EFFORTS/DEPUTY DIRECTOR

It an honour and indeed a pleasure to extend on behalf of the Government and people of the Dominican Republic, a warm welcome to the Government and people of our neighbour, the Republic of Haiti, the newest CFATF Member.

The interest of Guatemala in becoming a CFATF member is a welcomed development which should be fully encouraged. The Secretariat will be requested to pursue matters here rigorously along with continued efforts with El Salvador, Honduras and Guyana.

It is unfortunate that Nicaragua has failed to respond positively to our persistent invitations to be more actively involved in the affairs of our organization. Nevertheless, our efforts here should continue.

I would like to take this opportunity to commend the very generous and gracious decision of the government of Panama to second one of its valuable and senior officials, Mr. A. Antonio Hyman Bouchereau to the Secretariat for a three-year period as Deputy Director.

This is a very important step in the continued development and maturity of this organization and demonstrative of the commitment to regional ownership by Members, signaling an intention to assume a greater portion of the financial responsibilities for our affairs. This however, does not indicate that continued partnership with our COSUN colleagues is being accorded reduced importance. On the contrary, it is testimony to a desire by the CFATF for full and meaningful partnership in the international fight against drug trafficking and money laundering.

The secondment of Mr. A. Antonio Hyman Bouchereau will bring a wealth of knowledge and expertise to the work that has to be undertaken at this crucial time in CFATF history and its quest to extend the hand of friendship to Central American colleagues, to have close ties with GAFISUD and to support and encourage our newest member the Republic of Haiti.

PUBLIC RELATIONS

The CFATF is an important regional institution with a vital role to play. Accordingly, the Organization must be given a higher profile regionally and internationally. However hamstrung as it is by a lack of funding which does not allow initiatives which go beyond core anti-money laundering activity, no adequate public relations activity could have been undertaken.

Currently, the principal vehicle for outlining the significant ongoing achievements of the CFATF is the Annual Report. To date, the organization continues for the most part, to be shrouded in secrecy particularly and importantly in the Region.

It is crucial given the various initiatives that center on the international financial services area and the growing importance of this sector to the economic well being of the region, that the regional perspective be heard.

It is important that the achievements of Members in strengthening domestic institutional capacity is continuously publicized through a rolling media campaign, the publication of the CFATF twice yearly journal, and the more effective use of the CFATF Website which will be overhauled through an enhanced interactive design. This will allow for the timely availability of much more information on individual Members States and the ongoing affairs of the organization.

At the moment access to the international media is very limited and therefore, the importance of disseminating pertinent and up to date information through the use of the CFATF Website is now very critical.

The CFATF Website will be the voice of the Caribbean Basin region to the international community and part of the restructure will entail links to regional and international media houses with video facilities allowing for interviews with appropriate regional figures on a rolling basis and also crucially on the occurrence of breaking news developments.

The restructuring will also allow for sections on each of the twenty-five Member States containing legislative provisions on the anti-money laundering regimes, information on the framework and avenues to secure timely cooperation on criminal and civil matters and developments on the regulation and supervision of the financial sector.

Importantly, this will allow the international community to be aware of CFATF affairs as correctly told by the CFATF. No doubt all Members will agree that this facet of the Work programme is critical and your active inputs to the Secretariat on this score is vital.

Another important element of this strategy is the development of close working relationships with the FATF, FATF style regional bodies and other international organisations. It is now imperative that this Organisation immediately equips itself with the tools to facilitate the ability:

to effectively monitor anti money laundering policy developments in FATF countries and those International Organisations that can be influenced to institute programmes which can impact adversely or otherwise on regional economies;

and

to anticipate future anti-money laundering international trends and seek to influence them in the protection of the best interests of the region.

The increased staff complement will be pivotal to success in this regard.

PUBLIC EDUCATION

The current international thrust is for the extending of the anti-money laundering network to all the corners of the globe. In tandem it is vital that the CFATF ensure that anti-money laundering knowledge and education should be disseminated widely and should also be deeply embedded in the consciousness of all facets of Caribbean Basin Society.

Whilst a significant degree of outreach has been and continues to be undertaken with the public sector, there is also a need to reach out to private sector practitioners such as attorneys, stockbrokers and bureaux de change operators.

Sustained economic development is a sine qua non of Caribbean Basin stability and the dangers posed by international financial criminal activity should not go unchallenged.

The CFATF public education and awareness raising campaign to all Member States aims to do just this and will be modelled on the CFATF/ United Nations Drug Control Programme/Caribbean Development Bank, Grenada Symposium on the Protecting Eastern Caribbean Economies From the Dangers of Criminal Proceeds, and the CFATF/Government of Switzerland/CDB Conference on the International Financial Services Sector.

The Secretariat will be requested to continue its efforts to secure adequate funding arrangements for these exercises as well as those areas of the Work Programme for which no budgetary provisions were made for the 2002 period.

REPORTS BY INTERNATIONAL ORGANISATIONS:

The World Customs Organization

The World Customs Organization, an independent intergovernmental body with a world-wide membership of 158, addresses money laundering through a variety of activities. The activities of the past year include the following.

Conferences on money laundering

The WCO Working Groups on Money Laundering have been organised at its Brussels headquarters. The Fifth Meeting of the Working Group on Money Laundering and Financial Assets was held in Brussels on 11 and 12 September 2000 to provide updated information on money laundering and develop professional response from the Customs point of views. In attendance were Customs experts from the world and delegates from observer organisations including the APG, Council of Europe, European Commission, Europol, FATF, ICPO/Interpol and OGBS. The subjects discussed encompassed a wide range of Customs issues such as cash smuggling, alternative remittance and trade related money laundering.

Adoption of the WCO Recommendation

At its sessions held in Brussels from 28 to 30 June 2001, the WCO Council (General Assembly) adopted a comprehensive anti-money laundering recommendation entitled “Recommendation of the Customs Co-operation Council on the need to develop and strengthen the role of Customs administrations in tackling money laundering and in recovering the proceeds of crime”. This Recommendation, made up of 13 operative paragraphs, includes the best practices for Member Administrations to consider, adopt and implement in order to enhance Customs’ capabilities in terms of money laundering enforcement.

High level regional seminars/meetings

On top of regular meetings, the WCO organised the Second Seminar Meeting of Heads of Asian Customs Enforcement Services in Chiang Mai, Thailand from 23 to 25 May 2000, focusing on drug trafficking and money laundering. Building on the success of this meeting, the Seminar for Heads of East and Southern Africa Customs Enforcement Services was held in Nairobi, Kenya from 29 to 31 May 2001 and successfully examined the issues of arms/drug smuggling and money laundering. The participants were high-level Customs officials from 15 countries in this region and experts from observer organizations including the ESAAMLG, UNAFRI, UNODCCP and Interpol. As money laundering is an issue requiring appropriate legislation, a multi-agency approach and international co-operation, the WCO believes that organization of high-level meetings is extremely important to suitably involve Customs in national/international anti-money laundering strategies. The Third Seminar for Heads of Asian Customs Enforcement Services is planned on 25 October 2001 in New Delhi, India and will review the money laundering situations in the region and update the regional strategy.

World-wide survey on the current Customs competence in money laundering enforcement

The WCO Secretariat, instructed by the WCO conference in September 2000, conducted a survey in October 2000 to all Members in order to research the current competence on border control of proceeds of crime. The survey addressed such issues as types of control, background legislation and investigation competence. The WCO Enforcement Committee held in March 2001 discussed the result of the survey and recognised considerable value of its analysis to Members introducing or reviewing anti-money laundering control measures.

Intelligence/information

The WCO Customs Enforcement Network (CEN), an EDI-based new information and communication system containing a database devoted to currency seizures, has been operational since June 2000. All 10 RILOs (Regional Intelligence Liaison Offices) have access to the system and more than 100 Member Administrations have joined the network. The WCO Secretariat's main activities with regard to the CEN are currently aimed at supporting CEN users, completing the Network by connecting missing Member Administrations, encouraging the systematic use of the CEN, redrafting a global access policy for the system and facilitating the use of the database for analysis purposes. The contents and functions of the CEN are continuously being improved, in order to encourage and facilitate data input. This should result in enhanced output quality and better facilitation capabilities.

Awareness raising/training for trade-related money laundering

Awareness raising for trade-related money laundering has been included in the WCO's commercial fraud programme, where detection methods for identifying illicit or unusual trade are addressed. The WCO has provided regional and national seminars aimed at Customs officers and will continue to provide assistance to the best of its resources.

The above is a brief description of recent developments. The WCO looks forward to making a contribution to other international and regional initiatives in this domain.

Activities of UN Drug Control Programme and the Global Programme against Money Laundering October 2000- September 2001

Mentors

During the year GPML mentors continued their work in Antigua Barbuda, Barbados and Jamaica.

The mentor in Barbados was Mr. Graham Pinner, the Deputy Director of the Australian Transaction Records and Analysis Centre. He assisted Barbados in establishing its Financial Intelligence Unit, which became operational in September 2000.

The mentor in Jamaica was Ms. Carolyn Davy, the Legal Executive /Manager of the Office of the Director of Public Prosecutions in Melbourne Australia. She assisted the Jamaican Government in developing the capacity of its prosecution services.

The mentor in Antigua was Mr. Clive Scott the former Senior Assistant Director of Public Prosecutions in Melbourne Australia. He assisted that Government in preparing for a major money laundering prosecution and also assisted in drafting amendments to the country's anti-money laundering legislation.

The mentorships of Mr. Pinner and Ms Davy ended in June. Mr. Scott's work in Antigua will conclude at the end of October.

Feasibility Study re Proposed Regional FIU

The other major initiative in the Caribbean was the commencement of a study to examine the feasibility of establishing a regional financial intelligence unit in the OECS. At the start of the year GPML made a presentation to a meeting in Trinidad and Tobago which was attended by representatives of seven OECS countries, the United States Embassy, the Canadian High Commission, the EC/Bridgetown representative, the Caribbean Development Bank and the Eastern Caribbean Central Bank among others. GPML obtained the services of Mr. Boudewijn Verhelst, the Deputy Director of the Belgian FIU and the head of the legal working group of the Egmont Group, as a facilitator for the meeting. At the end of the meeting there was broad agreement that the concept of a regional FIU should be explored further.

GPML in conjunction with the Caribbean Development Bank obtained the services of Mr. Jan Beens the Criminal Investigation Coordinator with the Financial Economic Crime Unit of the Amsterdam Police Force and Dr Shazeeda Ali, a lecturer in law at the University of the West Indies Mona Campus, to undertake the consultancy. The consultants attended the March plenary meeting of CFATF and held initial discussions with representatives of OECS countries. Subsequent to this Dr Ali has undertaken a comprehensive analysis of relevant legislation of OECS member states. This analysis will assist in determining the type of information that is likely to be held by authorities in individual OECS states and the extent to which such information could be shared with a regional FIU.

The principal consultant is currently awaiting the finalising of arrangements to visit each OECS member country to hold more in-depth discussions with relevant officials.

Assistance to Haiti

GPML participated in a mission to Haiti to raise awareness on issues related to narcotics and money laundering. The mission made addresses to the judiciary, law enforcement officers, the Central Bank and representatives from the private sector. GPML also reviewed and commented on the country's draft money laundering legislation, which was passed into law in February 2001.

UNDCP organized the inter-agency mission to Haiti to assist Haiti to integrate more fully into the regional institutions and supported Haiti's application to become a full member of CFATF.

Other Assistance

The recommendations and proceedings emanating from the Grenada July 2000 "Protecting Eastern Caribbean Economies from the dangers of Criminal Proceeds" symposium were re-published at the request of the CDB and distributed among the participants of the CDB Annual Board of Governors meeting held in May 2001 in St. Lucia.

As part of the anti money-laundering awareness raising strategy agreed to with CFATF a seminar was sponsored by the Nevis Financial Services Department and the United Nations International Drug Control Programme on the subject of "Due Diligence and Criminal Proceeds Sensitization". The seminar was held on 11 - 12 June 2001 at the Mount Nevis Hotel with approximately 75 persons in attendance.

During the reporting period, The UNDCP Justice Strengthening Project (DOM/E64) in the Dominican Republic assisted the Government of the Dominican Republic in obtaining its first ever conviction in a money laundering case. The Project also provided prosecutors, drug control and money laundering investigators, officials of the Banking Superintendency and members of the judiciary with intensive, practical training on how to effectively investigate, prosecute and adjudicate drug trafficking and money laundering cases.

The training, combined with specific mentoring advice on several actual cases, has provided officials with the essential tools they need to effectively investigate and prosecute such offenses.

The Project has also secured the agreement of the Dominican Government to establish a national Anti-Drug Prosecutor's Office, similar to that already established in several other Latin American jurisdictions.

Finally, the Project has worked closely with the Dominican Congress to draft comprehensive anti-money laundering legislation. It is expected the legislation will become law by the end of 2001.