CARIBBEAN FINANCIAL ACTION TASK FORCE

ANNUAL REPORT

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EXECUTIVE SUMMARY

El Salvador was warmly welcomed into the membership of the CFATF family at the Tenth Ministerial Council Meeting held in Antigua in October 2003. This achieved the goal initially set in 1996 of extending the membership to Guatemala, Honduras and El Salvador in Central America.

Mr. Tim Wren, the first Executive Director passed away on March 12th 2003 and is mourned by his wife and two daughters to whom condolences are extended.

In October 2002, in The Bahamas CFATF held its Ninth Ministerial Meeting when the Honourable Alfred M. Sears, Attorney General and Minister of Education of The Bahamas was elected CFATF Chairman for the period October 2002 to October 2003. At the Tenth Ministerial Meeting which was held in Antigua and Barbuda in October 2003 Sir Ronald Michael Sanders, Chief Foreign Affairs Representative with Ministerial Rank of Antigua and Barbuda was elected Chairman for the period October 2003 to October 2004. For this same period Mrs Delia Cardenas Superintendent of Banks, Republic of Panama was elected Deputy Chairman.

In this the tenth operational year under the distinguished and skilful Chairmanship of The Honourable Alfred Sears, Attorney General and Minister of Education, Government of The Bahamas, the CFATF engaged in a period of consolidation, while remaining fully engaged with our international partners on the key issues fighting money laundering and countering terrorism financing.

On the administrative front, the Memorandum of Understanding, the organisation's constitutive document, drawn up and signed on October 10th 1996 is being reviewed and modernised to meet current circumstances.

In recent years, the membership has increasingly affirmed the notion of regional responsibility for the affairs of the organisation. In a first for the region, the Government of Panama seconded one of its senior officials Mr. Hyman Bouchereau, to the post of Deputy Executive Director of the Secretariat for a three-year term. However, on August 15th 2003 after a two-year period, the organisation lost Mr. Bouchereau when he took up a position with the International Monetary Fund.

With a view to strengthening organisational capacity, Ministers endorsed the appointment of a full time translator at the Secretariat. Members have responded positively to the Chairman's call for timely payment of annual contributions, a move that has enhanced financial stability in the Secretariat's day-to-day operations.

The drive to strengthen the regional anti money laundering and combating the financing of terrorism infrastructure on a continuous basis continued its forward movement. The Mutual Evaluation Programme, the principal mechanism for monitoring regional compliance with international standards proceeded on schedule.

Covering the same ground as the Mutual Evaluations but making more robust the framework for monitoring compliance, is the annual compilation and publication of Country Reports which allow for the availability of pertinent information in a more timely fashion. There is a need for greater responsiveness from members to participation in the Mutual Evaluation processes, and also in the compilation of Country Reports. Both of these exercises are in the interests of members, providing opportunities for their officers to broaden their experiences, and for their countries to showcase their achievements. Therefore, members are encouraged to respond to these essential processes more expeditiously.

This year saw the advent of the new anti money laundering and combating the financing of terrorism assessment tool, the common Methodology. Ministers at the Special Barbados Ministerial Meeting did

not endorse the use of the Methodology but the positive observations on its use by several Members at the Panama Plenary along with the Chairman's concerns about mission fatigue and the inefficient use of scarce resources in small CFATF jurisdictions encouraged the use of the new assessment tool on a voluntary basis for the Mutual Evaluations of Dominica, Grenada, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines.

In the preparatory work for these Missions CFATF collaborated closely with the IMF/World Bank in the organisation of training workshops for CFATF Mutual Evaluation Examiners in the use of the Methodology. These close working relations also extended, inter alia, to the CFATF providing Law Enforcement Experts for Fund/Bank Financial Sector Assessment Programme and Offshore Financial Centre Programme Missions to CFATF jurisdictions. Given this level of involvement with the Methodology, the CFATF is now fully able to contribute effectively and constructively to the review of the methodology in the Post Pilot Programme dialogue.

The level of involvement of the CFATF Working Group and the general membership in the FATF process to revise the Forty Recommendations resulted in Ministerial endorsement of the 2003 Revised FATF Recommendations for use in the Third Round of Mutual Evaluations that should commence late 2004. Ministerial endorsement was similarly extended to the Interpretative Notes and Best Practices Papers produced by the FATF on the Eight Special Recommendations for Combating the Financing of Terrorism.

Returning to the theme of regional responsibility, Ministers extended the organisation's mandate to allow for the design and implementation of programmes to meet the technical assistance and training needs of all CFATF Members post 2004.

During his term of office Chairman Sears was firm in his view and his policies on the importance of sustained dialogue and close collaboration with our friends and important allies who comprise the CFATF Group of Cooperating and Supporting Nations, as well as all of our other international partners. The diplomatic skill and dexterity he demonstrated as the CFATF navigated some of the burning issues of the past year, has brought us to a position where the Caribbean Basin Region can now play a constructive and useful role in the global discourse on the revision of the new common Methodology and on other anti-money laundering and combating the financing of terrorism issues.

CONDOLENCES

The CFATF family takes this opportunity to offer condolences to the wife and two daughters of Mr. Tim Wren first Executive Director of the CFATF Secretariat who passed away on March 12 2003.

Mr. Wren formerly of the National Drug Intelligence Unit, United Kingdom was appointed at the November 1992 Ministerial Meeting in Kingston, Jamaica. Supported administratively by the Strategic Services Agency, Ministry of National Security, Government of Trinidad and Tobago he established the Secretariat in 1994 and remained in post until 1997.

Mr. Wren was a United Kingdom representative to the Financial Action Task Force and a member of various national committees dealing with the development of confiscation laws and the introduction of money laundering counter-measures in the financial sector. He had advised various governments on the implementation of confiscation laws and had lectured extensively. In 1993 he left the police service in order to take up the post as the first Executive Director to the Caribbean Financial Action Task Force.

CFATF OVERVIEW

The Caribbean Financial Action Task Force (CFATF) is an organisation of thirty states of the Caribbean Basin, which have agreed to implement common countermeasures to address the problem of 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, were complementary to the then 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 against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. 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 international standards to prevent and control money laundering and to combat the financing of terrorism. 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 Antigua and Barbuda, Anguilla, Aruba, The Bahamas, Barbados, Belize, Bermuda, The British Virgin Islands, The Cayman Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Republic of Haiti, Honduras, Jamaica, Montserrat, The Netherlands Antilles, Nicaragua, Panama, St. Kitts & Nevis, St. Lucia, St. Vincent & The Grenadines, Suriname, The Turks & Caicos Islands, Trinidad & Tobago, and Venezuela.

Representatives of the Governments of Canada, the Kingdom of the Netherlands, France, The United Kingdom, and the United States of America (the "Cooperating and Supporting Nations"), meeting together in San Jose, 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.

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. By virtue of being signatories to the Memorandum of Understanding establishing the CFATF, these Nations are committed to making such contributions 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:

Self-assessment of the implementation of the recommendations.

An ongoing programme of Mutual evaluation of members.

Co-ordination of, and participation in, training and technical assistance programmes.

Biannual plenary meetings for technical representatives.

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 and terrorist financing with the aim of increasing 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 terrorist financing.

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.

Based on the initiative of Aruba, the CFATF in October 2000 conducted Part 1 of a Typology Exercise into the money laundering possibilities in the Free Trade Zones. Part 11 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. 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 April 2002, the CFATF and GAFISUD, the Financial Action Task Force of South America organized in Tobago, a Joint Hemispheric Typology Exercise on Terrorism and Terrorist Financing.

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, international organisations. Included among these international organisations are OAS/CICAD, CARICOM, the Caribbean Customs Law Enforcement Council (CCLEC), the Caribbean Development Bank (CDB), APG Secretariat, The Commonwealth Secretariat, E.C./E.U., E.C.D.C.O., ECCB, FATF Secretariat, GAFISUD, GPML, IADB, INTERPOL, OGBS, Jersey, the United Nations International Drug Control Programme (UNDCP) and World Customs Organization (WCO).

With the support of and in collaboration with UNDCP, the CFATF Secretariat 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 & Tobago. The CFATF Chairman for the period October 2002 to October 2003 was the Honourable Alfred M. Sears, Attorney General and Minister of Education of The Bahamas. The Chairman since October 2003 is Sir Ronald Michael Sanders, Chief Foreign Affairs Representative with Ministerial Rank of Antigua and Barbuda.

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.

Antonio Hyman-Bouchereau, a Panamanian National, was the Deputy Director. A Lawyer, specializing in International Economic Law he worked in related issues in both the Private and Public Sectors in his country. As head of the Regulations Department of the Superintendence of Banks in Panama, Mr. Hyman played a key role in the enhancement of the anti-money laundering framework applicable to the financial sector of that country.

ADMINISTRATIVE ISSUES

THE REVIEW OF THE MEMORANDUM OF UNDERSTANDING

On April 10th, 2002, Plenary XV held in Tobago authorized the formation of a Working Group for the revision of the Memorandum of Understanding (MOU), the organisation's constitutive document which was initially drawn up and signed on October 10th 1996 in San Jose Costa Rica. The Group's membership comprised of Antigua and Barbuda, Barbados, the Dominican Republic, Panama and Venezuela and was mandated to report on its findings by June 10th, 2002.

With a view to taking the exercise forward the Secretariat proposed that initial submissions would be forwarded to the Secretariat by May 10th, 2002, which would then be collated into one document and returned to the Members of the Group and that a meeting of the Members of the Working Group in Port of Spain should be arranged around May 30th, 2002, to further consider the collated document for finalization and circulation to the CFATF Members by the June 10th, 2002 deadline.

No response was forthcoming and consequently the Working Group did not meet. However, the Dominican Republic and Panama submitted proposals prior to the June 10th deadline. Given this fact, upon the recommendation of Plenary XVI that was held in Nassau on October 2002, the Chairman relieved the Working Group of its functions and directed that all Members send their suggestions for the amendment of the MOU to the Secretariat by December 15, 2002.

Prior to the expiration of this deadline comments and suggestions for the amendment of the MOU were then received from Panama, the Dominican Republic, Antigua and Barbuda and Jamaica. The United Kingdom submitted comments on behalf of the Group of Cooperating and Supporting Nations (COSUNs).

The collated proposals were distributed to Members, COSUNs and Observers on January 13, 2003 to facilitate discussions at the Panama Plenary XVII during March 2003 and comments were requested by the end of February 2003. Only Haiti responded.

During discussions at the Panama Plenary, the Dominican Republic, Aruba and Panama submitted a revised text that was later circulated to the Membership in preparation for the October Antigua and Barbuda Plenary. This text also included an Explanatory Preamble, Declarative Annex and Regulatory Proposal from Venezuela.

At Council Meeting X held in Antigua in October 2003, Ministers agreed that the decision on finalizing the MOU would be postponed for discussion at the March 2004 Plenary Meeting. All Members and COSUNs are required to submit new proposals to the Secretariat by December 15th, 2003 so that they could be collated and re-circulated for comments by December 30th. No further comments will be entertained after January 30 2004.

MEMBERSHIP AND OBSERVER STATUS

MEMBERSHIP

EL SALVADOR

The Republic of El Salvador, by letter dated 13th January, 2003 from The Honourable Belisario Artiga, Attorney General, outlined its interest in becoming a Member of the CFATF. Mr. Nelson Mena, Head of the Attorney General's Chambers' Financial Investigations Unit, addressed the Panama Plenary on behalf of the Attorney General, reiterating the country's desire to join the organization and summarized the efforts being undertaken in order to build a strong anti money laundering framework.

The Plenary was also advised that the Financial Intelligence Unit was already a Member of the Egmont Group. Mr. Mena's presentation illustrated the advanced stage of the country's efforts to build an anti-money laundering framework consistent with international standards.

The Panama Plenary enthusiastically and unanimously expressed their support for El Salvador's membership and commended the jurisdiction on the work that they had done toward strengthening the national anti money laundering and combating the financing of terrorism infrastructure. The Plenary agreed to make a positive recommendation on El Salvador's membership application to the Council of Ministers.

At the Antigua and Barbuda Ministerial in October 2003, El Salvador was warmly welcomed into the CFATF family of nations, thereby bringing the membership to thirty and achieving a goal which began in 1996 at the Second CFATF Plenary when, it was decided that the then Chairman should invite the governments of Honduras, Guatemala and El Salvador to attend the Ministerial Meeting as Observers. The Honourable Belisario Artiga Artiga, Attorney General signed the Memorandum of Understanding on behalf of El Salvador on October 23rd 2003.

OBSERVER STATUS.

GERMANY

By letter dated 16th January, 2003 the German Finance Ministry sought and was provided with relevant information on Observer Status to the CFATF as well as the steps to and responsibilities of Cooperating and Supporting Nation (COSUN) Status.

The Panama Plenary was advised that for some time the Executive Director and His Excellency Ulrich Nitzsche, Germany's Ambassador to Trinidad and Tobago, had held several meetings both at the Secretariat and at the German Embassy. Discussions centered on the overall development of the CFATF within the context of the global initiatives on the international financial services sector, the progress of the Financial Action Task Force Non Cooperative Countries or Territories (FATF NCCT) Initiative, and the steps being taken by Members to combat the financing of terrorism. COSUN and Observer Status to the CFATF was also discussed and encouraged.

Both Plenary XVIII and Ministerial Meeting X welcomed the attendance of a German delegation headed by Mr. Udo Franke Counselor, at the German Embassy in Washington who expressed continuing interest in being involved in CFATF affairs and further advised that the formal German response was still under consideration by the Ministry of Finance.

THE EGMONT GROUP OF FINANCIAL INTELIGENCE UNITS (FIUS)

By letter dated October 20th 2003 the Egmont Group of Financial Intelligence Units submitted a formal request to obtain Observer Status to the Caribbean Financial Action Task Force. It was noted that the Egmont Group has a complementary role at the operational level in the fight against money laundering and terrorist financing which can be of benefit to and would foster greater cooperation between both organisations since the CFATF was already an observer to the Egmont Group.

Both Plenary XVIII and Ministerial Meetings X enthusiastically granted the status of Observer to the Egmont Group of FIUs.

COMPOSITION OF THE STEERING GROUP

Plenary IV resolved to form a Steering Group, which as agreed, shall:

1.) comprise the Chairman, the Chairman-elect, the CFATF Executive Director and Deputy Director, one COSUN and three CFATF Members;

2.) the COSUNs would participate in the Steering Group on a rotating basis;

3.) the Government of the Netherlands was designated as the first COSUN representative;

4.) the initial CFATF Members to participate on the Steering Group shall be the Cayman Islands, the Netherlands Antilles, and Trinidad and Tobago.

Plenary IV resolved further that the Steering Group shall:

1.) advise the Secretariat regarding issues of policy, which arise and require action prior to meetings of the CFATF Council of Ministers;

2.) on all significant matters relating to internal CFATF policy, consult in co-ordination with the Secretariat with all CFATF Member Governments at the Ministerial Level; and,

3.) at annual meetings of the CFATF Council of Ministers, provide a full briefing on its activities and, when appropriate, formulate recommendations for the Council.

Plenary XVI was required to consider and make a recommendation to the Council of Ministers as to the composition of the Steering Group for the 2002-2003 period.
Fixed positions on the Steering Group are the Chairman, the Deputy Chair, the Executive Director, the Deputy Director and the outgoing Chair.

In The Bahamas Ministerial Meeting, Ministers endorsed the composition of the Steering Group as follows: The Chair – The Bahamas, Deputy Chair – Antigua and Barbuda, the Outgoing Chair – Dominican Republic, Venezuela, British Virgin Islands, Haiti and COSUN representative Spain, along with the Executive Director and Deputy Director. Ministers also endorsed the recommendation that the Steering Group has the authority to call upon all past Chairmen to share their expertise and experiences in the conduct of all aspects of the organization's affairs.

Plenary XVIII recommended and Ministers agreed that The Steering Group for the 2003 -2004 period should comprise. The Chair – Antigua and Barbuda, Deputy Chair – Panama, Outgoing Chair – The Bahamas, Belize, Costa Rica and Guatemala, COSUN representative The Netherlands along with the Executive Director and the Deputy Executive Director.

Council X decided that there was no need to amend the Memorandum of Understanding to authorise the Steering committee to call on the expertise of former Chairmen when and if required.

STAFFING

DEPUTY EXECUTIVE DIRECTOR

Mr. Argo Antonio Hyman-Bouchereau, a Panamanian national joined the CFATF Secretariat on January 1st 2002 in the position of Deputy Executive Director for a three-year term, on secondment from the Superintendence of Banks, Government of Panama where he worked as Head of the Regulations Department.

The CFATF family of nations is indebted to Mrs. Delia Cardenas, Superintendent of Banks and the Government of Panama to whom we express profound appreciation for the valuable contribution of such a senior and valuable official to the growth and development of the CFATF.

The Deputy Executive Director departed effective August 15th, 2003 and the Government of Panama extended apologises for the fact that the period of secondment was prematurely terminated and that it was not possible to provide for a replacement. Chairman Sears empathised with this position and thanked Panama for its strong support of CFATF affairs.

Members have been requested to consider identifying and nominating suitable candidates as soon as possible. It is not anticipated that a replacement will be provided for during the 2004 period. In the interim however, the presence of the Legal, Financial and Law Enforcement Experts at the Secretariat becomes a crucial necessity.

TRANSLATOR

With a view to making the Secretariat more internally self sufficient in terms of translation capacity, a proposal for changes in the staff complement was put forward with the following rationale:

Mrs. Michelle Morales, a national of Trinidad and Tobago who lived in Venezuela for nine years, joined the Secretariat as Bilingual Executive Secretary on September 26th 2000. Her main duties have been to assist the Deputy Director with the secretarial administration of the Mutual Evaluation Programme and to assist with the operations of the Secretariat generally. Her fluency in Spanish has been of immense value with the day-to-day enquiries to the Secretariat.

The Steering Group reviewed and agreed to a proposal from the Secretariat, which envisaged Mrs. Morales being principally engaged to translate documents from English into Spanish and Spanish into English. Some administrative support to both the Deputy Director and Executive Director would continue to be part of her work schedule.

ADMINISTRATIVE STAFF

The proposal also entailed the engagement of a junior administrative assistant to provide secretarial and administrative assistance to the Deputy Director. Ms. Julia James was appointed effective February 3rd 2003.

None of these appointments had budgetary implications in terms of increased contributions to the membership since some of the provisions approved in the 2002-2003 budget in The Bahamas under Professional Services have been reallocated to staff remuneration.

ANNUAL AUDITED FINANCIAL STATEMENTS

The Auditor's Statement and Financial Report regarding the operations of the Secretariat for the year ending December 31st, 2002 as prepared by PricewaterhouseCoopers, were considered by Plenary who recommended its approval to the Council of Ministers **X** which was granted. The Auditor's Statement and Financial Reports are attached at Annex **A.** and confirm that the affairs of the organisation continue to be managed in a safe, transparent and prudent fashion.

The accumulated fund shows an increase in the figure over the previous year and includes the funds allocated for the payment of salaries to the Law Enforcement Expert, Caribbean Anti Money Laundering Programme (CALP), who is paid through the CFATF, Legal Expert at the Secretariat who is paid from funds provided by the Government of Canada and the Law Enforcement Expert at the Secretariat who is paid completely from funds provided by the Government of the Netherlands Antilles. It also includes contributions from the United Kingdom, United States of America and The Bahamas towards the Mutual Evaluation Examiners Training Workshop.

However it must be noted that a significant portion of the US$298,000 accumulated fund, is utilized to meet the operating expenses of the Secretariat pending receipt of annual contributions from Members and COSUNs, the majority of which is received by the Secretariat during the third/fourth quarter of the financial period.

The increase in fixed asset results from purchase of the new car for the Secretariat as authorized by Ministers. The accounts payable and accrued expenses represent fees for accounting services and reimbursement of VAT payments which, although paid to the CFATF under the terms of the Headquarters Agreement are in fact due to the CALP based on the Programme's expenditure.

Generally, submission by Members of their annual contributions improved during the 2001-2002 period, however these efforts need to continue. Two new Members Guatemala and Honduras, who were admitted during October 2002 prepaid their annual contributions for 2003 on 17/10/02 and 29/11/02 respectively.

Of the figures shown as contributions accrued, two Members, Jamaica and Montserrat met these obligations in January and June 2003 respectively. One COSUN Member whose contribution remained outstanding during 2002 made good the obligation during February 2003.

The increase in overseas travel came as a result of additional costs incurred for the April 2002 Plenary held in Tobago in relation to staff- travel, hotel, per diem and also in relation to payment for delegates to attend Typology Exercise in Tobago where the funds had been provided by France, Canada and the United States**.**

Ministers endorsed the financial statements to December 2002, which were prepared by accountants Aegis and approved by long standing auditors PriceWaterhouseCoopers. The organization's financial affairs were shown as being conducted in a prudent fashion on an ongoing basis. Submission of

membership annual contribution is improving consistently and the support of our traditional friends and allies is committed and strong.

PREMISES

The Executive Director continued discussions with representatives of the Ministry of National Security, Government of Trinidad and Tobago, to acquire additional space given the growing needs of the Secretariat as well as the needs of our current host, Strategic Services Agency, Ministry of National Security with whom the Secretariat has been co-located since inception.

Chairman Sears during the CARICOM Heads of Government Conference in Jamaica in July 2003 spoke to the Honourable Prime Minister of Trinidad and Tobago on the issue, who responded positively. This initiative was followed up by a letter from the Executive Director to the Office of the Prime Minister where the matter is now under active consideration in keeping with the ongoing commitment of the Government of Trinidad and Tobago to the organisation.

ONGOING STRENGTHENING OF THE REGIONAL ANTI MONEY-LAUNDERING/COMBATING THE FINANCING OF TERRORISM INFRASTRUCTURE

THE MUTUAL EVALUATION PROGRAMME

The main objective of the CFATF is to achieve effective implementation of and compliance with international and regional standards to prevent and control money laundering. An important mechanism for monitoring adherence by the membership to this obligation is the Mutual Evaluation Programme.

In July 2001, the CFATF commenced its Second Round of Mutual Evaluations, with Missions being undertaken by the Secretariat to Panama, Dominican Republic, Costa Rica, Barbados, Cayman Islands, Trinidad & Tobago, The Bahamas, Turks and Caicos Islands and Antigua and Barbuda thus far.

The final Mutual Evaluation Reports of Panama, Dominican Republic, Costa Rica, Cayman Islands, Trinidad & Tobago and The Bahamas were adopted by the Council of Ministers in The Bahamas during October 2002.

As is traditional, the six jurisdictions agreed to a twelve-month timeframe within which to implement the Examiners' Recommendations and to provide progress reports to each Plenary Meeting as to steps being taken in this regard.

At the March 2003 Plenary in Panama, the Mutual Evaluation Reports of Barbados, Antigua and Barbuda and Turks & Caicos Islands were discussed. In all cases, the Examiners were commended for the quality of their work and confirmation was provided that numerous issues raised for which recommendations had been advised by the Team of Examiners had been addressed by the countries concerned. In some cases an update of changes to the framework, which were made since the Mutual Evaluation Exercise was presented. Recommendations were made by the Plenary that these reports should be forwarded to Ministers for adoption as final.

Ministers at the Antigua and Barbuda Ministerial considered the Mutual Evaluation Reports and adopted the reports of Antigua and Barbuda and the Turks and Caicos Islands as final. In relation to the Mutual Evaluation Report for Barbados Ministers agreed to excise paragraphs 249 and 278 on the basis that emotive language and editorial commentary should not be part of Mutual Evaluation Reports in general. Summaries of these Reports are provided at Appendix B.

MUTUAL EVALUATION SCHEDULE

During 2002-2003 further Mutual Evaluations were scheduled as follows:

St. Vincent & The Grenadines initially set for November11-15, 2002 was postponed to the 1st week in February and further postponed again to and did occur September 1-5 2003.

Bermuda was scheduled for January13-17, 2003 and then postponed to March 2003 and further postponed to a date to be fixed. Consideration is being given to the results of the International Monetary Fund's Offshore Financial Centre Assessment Mission to Bermuda forming the basis for its Mutual Evaluation Report.

St. Lucia was scheduled March 3-7 2003 and did occur during September 1-5 2003.

St. Kitts & Nevis was scheduled May 12-16 2003 and did occur during September1-5 2003.

Dominica was scheduled for September15-19 2002, and did occur during September 1-5 2003.

Jamaica was scheduled for 21-25 July 2003 but was postponed to 24-28 November 2003.

British Virgin Islands is scheduled for November 17-21 2003.

Grenada was scheduled for March 8-12 2004 but was brought forward to September 8-12 2003.

The outstanding Mutual Evaluations to complete the Second Round are Anguilla, Belize, Bermuda, El Salvador, Guatemala, Guyana, Haiti, Honduras, Montserrat, Nicaragua, Suriname and Venezuela.

The Mutual Evaluation of Aruba and the Netherlands Antilles are conducted by the FATF as they are members of the FATF within the framework of the Kingdom of the Netherlands.
Whilst noting the progress made thus far during the Second Round of Evaluations, there are some areas where cause for concern continues to exist. These included delays due to:

- Less than full co-operation from some Members in the completion of the Self Assessment Questionnaires,
- The appointment of qualified Examiners and in the finalization of the Mutual Evaluation Reports by the Examined Country.
- Less than full co-operation from some Examiners in the completion of the first drafts of the Mutual Evaluation Reports.

It has been widely recognized for some time that the continuous demands being made on Member Countries from a wide variety of sources have placed severe burdens on small countries with limited staff and financial resources. This has sometimes worked counter to compliance with set deadlines. Consequently, the Secretariat has and will continue to explore options as to how these burdens and attendant difficulties could be alleviated, a task that is assisted in large measure through the commitment of Members to working closely with the Secretariat with a view to rectifying these problems.

COUNTRY REPORTS

In October 2001 Ministers authorised the compilation and publication on an annual basis **of** Country Reports on the anti money laundering and combating the financing of terrorism infrastructure of all Members.

The first draft compilation of Country Reports which reflect the current Anti Money Laundering and Combating the Financing of Terrorism Infrastructure of all CFATF Members, has proven to be a useful tool to the Mutual Evaluation Examiners in approaching the Mutual Evaluation Missions. Given that the information in the Country Reports would be updated on an annual basis the need for completion of the Self Assessment Questionnaires and the Mutual Evaluation Survey Forms is now otiose.

Accordingly, The Bahamas Plenary recommended and Ministers agreed with the view that the annual Country Reports now preclude the need for completion of the Self Assessment Questionnaire and Mutual Evaluation Survey Form.

The Secretariat has requested full co-operation from Members in order to finalize the Country Reports and has circulated several requests for information from members with a view to ascertaining steps being taken to enact legislation to come into compliance with the FATF 8 Special Recommendations on Terrorist Financing. Information has also been sought on the participation of Members in the United Nations process with regard to the United Nations Convention for the Suppression of the Financing of Terrorism and United Nations Security Council Resolution 1373.

Members are again urged to co-operate with the Secretariat in the finalisation of their respective reports and are again encouraged to draw upon the pro-active example of Antigua and Barbuda whose representatives along with Deputy Executive Director Hyman and the Experts at the Secretariat arranged two meetings, first in Barbados on the margins of the January Ministerial and subsequently at the Secretariat in Port of Spain that led to the finalisation of Antigua and Barbuda's Country Report.

AML/CFT METHODOLOGY

As originally scheduled, the Second Round of Mutual Evaluations end in early 2005. However, this targeted schedule has been affected due to developments with the new common AML/CFT Methodology.

The new common AML/CFT methodology was finalized at the FATF Plenary on October 11, 2002 and an overview of the document was presented by officials of the IMF and the World Bank at both the Plenary and Ministerial Meetings in The Bahamas. During the discussions, it was confirmed that the FATF had agreed to use the Methodology in its own Mutual Evaluations and had recommended that the FATF style regional bodies should consider using this document after being given proper time to read and review the document and to consider using it in their evaluation process.

Members expressed concerns about the consultative process and emphasized the need for careful and comprehensive review of the Methodology document before a decision could be taken on endorsement. At the same time, however, it was emphasized that this should not be seen as not wishing to co-operate with the IMF, since Members wished to be positively engaged in the process.

With a view to further discussions and determining the way forward, Ministers endorsed the holding of a Special Ministerial Meeting on January 15th, 2003, which was held in Barbados. Ministers decided not to endorse the use of the AML/CFT Methodology in the CFATF Mutual Evaluation Programme and a Communiqué was issued which outlined the rationale for the decision. Appendix **C.**

Following concerns expressed by the CFATF Group of Co-operating and Supporting Nations and the IMF/WB, the Chairman, whilst in Paris to attend the February 2003 FATF Plenary Meeting, held discussions with representatives from both camps in order to clarify issues.

In putting forward the IMF's Paris proposal for Joint CFATF/IMF Missions to the OECS jurisdictions, Chairman Sears was concerned about the mission fatigue that these small jurisdictions

would have to experience by having two Missions assessing the same AML/CFT issues in a short space of time, and the attendant inefficient use of limited human and financial resources.

At the Panama Plenary, discussions were held on the Methodology as well as developments since the Chairman's visit to Paris. A wide range of opinions were ventilated. The Plenary heard:

- The Netherlands Antilles indicate that the IMF Mission to that country was friendly and fruitful. The idea of the Joint Missions using the Methodology was an acceptable solution which was well reflected in the letter from the Chairman and that it was up to the OECS Members to decide if to proceed.

- The Dominican Republic confirms its support for the use of the Methodology since it was a positive element and a very good contribution to the assessment process.

- Panama confirm the Methodology was not different from the benchmarks used in CFATF Mutual Evaluations and supported its use by the CFATF;

- Turks and Caicos Islands confirm that they had both the CFATF Mutual Evaluation and the IMF FSAP Mission in very quick succession;

- That the two teams were supplied with the same materials; that their experts were knowledgeable and courteous, that the same questions were asked and that the outcome of both Missions as reflected in the Reports were similar.

- That it was pointless to have both these Missions which covered some similar areas and that the time could be better spent reviewing the recommendations and enacting legislation.

- Jamaica confirm that the case was made for the inclusion of regional experts in IMF Missions.

- Venezuela confirmed and welcomed the detailed structure of the Methodology; agreed that it was easier to answer the questions in the document, that Venezuela had no difficulties with it and that there were no inconsistencies with the 40 Recommendations.

- On Wednesday 26th March 2003 the Secretariat received a letter from the British Virgin Islands confirming its support for the joint Mission proposal.

- The Plenary also heard the IMF confirm that the Methodology had also been used in The Bahamas, Anguilla, Montserrat, British Virgin Islands, Turks and Caicos Islands and Bermuda. The Methodology was also used in Haiti as a technical assistance needs assessment tool.

- That there was good collaboration between the IMF and the CFATF Secretariat in identifying experts to go on IMF Missions to CFATF jurisdictions.

- That CFATF Experts had been used in IMF Missions as follows:

The Bahamas	Law Enforcement Expert supplied by the CFATF Secretariat;
Anguilla and Montserrat	Legal Expert – CFATF Member;
Turks and Caicos Islands	Law Enforcement Expert – The Bahamas;
Bermuda	Law Enforcement Expert – Barbados;
Netherlands Antilles	Legal Expert – Dep. Director, CFATF Secretariat;
Haiti	Legal Expert – Dep. Director, CFATF Secretariat.

- That the Chairman is to be congratulated for encouraging the spirit of cooperation;

- That the concerns of the CFATF had been taken to the IMF Board and they look forward to working closely with the CFATF to develop synergies to mutual benefit;

- That the pool of CFATF regional experts would be utilized not only for regional IMF Missions but also in Missions to other countries outside the region;

- That the IMF looked forward to receiving the names of CFATF Experts;

- That Mutual Evaluation Reports prepared by the CFATF on the basis of the use of the Methodology will be used in IMF Missions and would satisfy the AML/CFT Assessments for those Missions so that duplication would be avoided;

The Panama Plenary was also advised that the response to the call in the Ministerial Communiqué for letters to be sent to the World Bank and the IMF with copies being sent to the Secretariat was not very encouraging in that only four countries had sent the letters to the World Bank and the IMF with the requisite copies to the Secretariat. In a later development, the Secretariat on July 14th, 2003 received a copy of the letter written to the Bank and Fund by the Prime Minister of Barbados.

JOINT MISSIONS & TRAINING

Between February 23rd and May 28th, 2003, letters confirming participation in the Joint September 2003 Missions from the OECS jurisdictions were received at the Secretariat. The Steering Group and general membership were kept abreast of those developments by letter of May 19th and 26th and June 5th, 2003.

Both the Fund and Bank participated in a one-day seminar for Financial Secretaries, Regulators, Law Enforcement and the Eastern Caribbean Central Bank in the use of the new Methodology for assessing compliance with AML/CFT Standards. This was hosted by the Eastern Caribbean Central Bank on April 30th, 2003 and the CFATF Secretariat collaborated with this effort. The discussions provided a greater understanding of the issues and facilitated an informed decision to proceed with the proposal for the Joint September Missions by the five OECS jurisdictions.

During June 4-6, 2003 in Port of Spain, Trinidad, hosted by the CFATF Secretariat, the Fund and Bank conducted a training workshop on the new Methodology for CFATF Examiners. Nineteen CFATF Examiners, the Legal, Financial and Law Enforcement Experts at the Secretariat and four members of staff at the Eastern Caribbean Central Bank were trained. The World Bank met travel, hotel and per diem costs of all the participants.

In order to firm up arrangements for the Joint Missions, the Executive Director attended a Co-ordination Meeting at the Eastern Caribbean Central Bank during June 23-24 2003 in St. Kitts between the CFATF Secretariat, the Eastern Caribbean Central Bank, the Financial Secretaries of the above countries, the International Monetary Fund and the World Bank.

The objective was to devise an efficient and effective framework in which both the CFATF Mutual Evaluation Missions and the IMF/ World Bank Financial Sector Assessment Programme Missions could be conducted.

By letter dated July 21st, 2003, the Secretariat advised the membership as to developments vis-à-vis the framework for the Joint Missions and the training of CFATF Mutual Evaluation Examiners in the use of the Methodology

A further training workshop for CFATF Examiners was held during August 19-21, 2003 in Kingston, Jamaica. A further twenty-seven Examiners were trained, along with three staffers from the Eastern Caribbean Central Bank.

These training workshops helped equip a sufficient number of Examiners that allowed the CFATF Secretariat to comfortably and confidently staff the five Mutual Evaluation Teams for the Joint Missions in September. The World Bank has agreed to meet the costs of some of these Examiners for the September Missions and has contributed U.S.$5,000 towards the costs.

The Fund and Bank have also agreed to continue participation in further training seminars, possibly five to ensure that all 161 CFATF Examiners from each of the 30 CFATF Member countries are trained in the use of the Methodology. Membership and COSUNs' contributions will be used to cover the attendant expenses.

The Fund/Bank will also assist the Secretariat in training a cadre of CFATF Trainers who will take part in the future training workshops and will be able to conduct follow up training within our region when the Methodology is revised.

During 2002 pledges of US$56,000 were made by Aruba $2,500, The Bahamas- $7,500. Cayman Islands -$5,000, United Kingdom- $16,000, and the United States- $25,000 to conduct a training workshop during the first quarter of 2003 for Mutual Evaluation Examiners.

These funds will be used to ensure that all 161 Mutual Evaluation Examiners will be trained in the use of the new AML/CFT Methodology. Already the hotel and per diem costs of some of the delegates who attended the Jamaica training workshop were met from these pledged funds, as were some of the costs of the Port of Spain workshop in relation to coffee breaks, interpreters and attendant audio equipment. The residue will be utilised over the course of the next five workshops.

POST PILOT DIALOGUE

There is no denying that due to the concerns of Members, discussions on this issue between October 2002 and January 2003 were quite forceful.

Chairman Sears is firm in his views that cordial and harmonious relations between CFATF Members and our international partners is of vital importance to regional peace and security. His frank and open discussions in Paris with our Group of Co-operating and Supporting Nations as well as the IMF and the World Bank have significantly changed the tone of the discourse on the Methodology and created the environment for constructive and amicable engagement for the Post Pilot Project talks.

The decision by Dominica, Grenada, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines have now firmly set the CFATF as a whole on course to play an important role in the revision of the Methodology, come the end of the Pilot Project in November 2003 and the design of the future global assessment framework.

The CFATF is the only FATF style regional body that has used the Methodology in five Mutual Evaluations.

The CFATF has supplied Independent Anti-Money Laundering Law Enforcement Experts (IAE) for FSAP Missions within the region. One LEA from Barbados, Mr. Erwin Boyce was part of a Mission to Bermuda, an LEA from The Bahamas, Mr. Basil Collie went on Mission to Turks and Caicos Islands and Russell Ursula from the Secretariat went to The Bahamas and Belize. Amalin Flanegin, Aruba went on Mission to the Cayman Islands.

The CFATF involvement, apart from facilitating the participation of regional experts who are familiar with the regional AML/CFT framework in the Fund/Bank Missions, which is more palatable to regional jurisdictions when they are being assessed, has already resulted in CFATF suggestions in improving the interplay between the Legal and Law Enforcement criteria in the Methodology.

The IMF at the Barbados Ministerial had indicated that the sharing of assessments will economize on scarce assessment resources, avoid assessment fatigue in the jurisdiction being assessed, and should achieve a more rapid assessment of AML/CFT regimes worldwide.

The use of the Methodology by the OECS jurisdictions has allowed the Bank/Fund to use the results of the CFATF Evaluations for their FSAP/OFC purposes.

Given the informal indications by Bermuda that it will request CFATF Ministers to use the results of its FSAP for CFATF Mutual Evaluation purposes, the other side of this scenario where the CFATF would utilize the results of the Bank/Fund OFC/FSAP assessments, potentially can be part of the CFATF's contribution to the Pilot Project.

On current schedule, the Second Round of Mutual Evaluations should end in 2005. However, were the assessments as alluded to by the IMF be shared, then it is possible for the CFATF Second Round of Mutual Evaluations to be competed by mid 2004.

The Antigua and Barbuda Plenary discussed the progress of developments on the new AML/CFT Methodology and;

- Endorsed the principle of the use of a common and mutually agreed Methodology in the assessment of AML/CFT regimes globally.

- Agreed to continue to use the current Methodology-October 2002 version- for the completion of the second round of Mutual Evaluations where countries to be evaluated so agree.

- Agreed to participate in the post pilot review of the use of the Methodology incorporating inter alia the experiences of CFATF jurisdictions and examiners using the methodology.

- Affirmed that its peer review process will continue to be the underlying principle for the CFATF mutual evaluation programme.

- Agreed that as a general rule CFATF will do a Mutual Evaluation of a member jurisdiction simultaneously with an IMF/WB FSAP/OFC, and the CFATF AML/CFT assessment will be accepted by the IMF/WB in their normal review process.

- Agreed that in cases where AML/CFT assessments have already been conducted by the IMF/WB, and the jurisdiction concerned agrees, CFATF will use the AML/CFT assessment in its normal review process as if it were a CFATF Mutual Evaluation.

These recommendations were put forward and endorsed by Ministers who further agreed that Sir Ronald Sanders, as Chairman, would write to the Fund and the Bank on the process for consultation over the content of the text of the revised Methodology and the need for all FATF style regional bodies to be consulted in their respective geographic locations, in a similar fashion as is done with the FATF.

THE FATF REVISED FORTY RECOMMENDATIONS

In 1990, the Financial Action Task Force (FATF) elaborated the original FATF Recommendations in order to prevent the proceeds of illegal drug related activity from being channelled through financial systems globally.

These original recommendations were revised in 1996 in order to reflect the changing methods and techniques for laundering the proceeds of crime and were endorsed by more than 130 countries as the international anti-money laundering standard.

In response to the events of September 11th the FATF expanded its mandate to deal with the financing of terrorism and developed the Eight Special Recommendations on Terrorist Financing. These recommendations outlined measures for combating the funding of terrorist acts and terrorist organizations.

An analysis of money laundering methods and techniques has revealed an increasing and sophisticated process of using legal entities to conceal the true ownership and control of illegal proceeds along with the involvement of professionals giving aid and advice in the laundering process.

This changing international scenario led the FATF to review and revise the Forty Recommendations, which are now designed to combat both money laundering and terrorist financing.

The FATF has advised that "the review process for revising the Forty Recommendations was an extensive one, open to FATF members, non members, observers, financial and other affected sectors and interested parties. This consultation process provided for a wide range of input, all of which was considered in the review process".

By virtue of the principles enshrined in the Kingston Declaration, CFATF Member States agreed to endorse and implement both the 40 FATF Recommendations of 1990 and the 19 CFATF Aruba Recommendations, measures that were used as the benchmark for the First Round of Mutual Evaluations.

In October 1996 the CFATF Council of Mutual Ministers took note of the 1996 Revised 40 Recommendations and resolved to initiate a Typology Exercise and form a Working Group to consider the new Recommendations and to propose any necessary revisions and or interpretative notes to the Recommendations adopted by the CFATF.

Rather than pursue a one stage Typology Exercise, circumstances dictated a broader approach. Accordingly four Typology Exercises examined money laundering possibilities in diverse areas ranging from Domestic Financial Institutions to the emerging Cyberspace Technologies.

The reports compiled from these Exercises formed the factual basis on which the Working Group and the wider membership considered the CFATF response to the 1996 FATF Revised Recommendations.

Council of Ministers Meeting IV during November 1998 considered the reports and recommendations on the four Typology Exercises and resolved to endorse the 1996 FATF Revised 40 Recommendations. Ministers further agreed that the process of implementation should commence immediately.

The impact of the Revised Recommendations on the 19 CFATF Recommendations was also considered by the Working Group and their findings as outlined in the Revised 19 CFATF Recommendations were also endorsed by Ministers.

Council IV further resolved that in the context of the Mutual Evaluation programme, both the FATF and the CFATF Revised Recommendations would be applicable on commencement of the Second Round of Mutual Evaluations, namely January 1st 2001. At the Bahamas Ministerial in 2002 Ministers endorsed the 8 Special FATF Recommendations on Terrorist Financing.

The review process by the FATF which led to the 2003 40 FATF Recommendations was decided upon in October 2000, and in May 2002 a consultative paper on the review was issued.

In June 2002, the FATF Working Group on the Review of the Forty Recommendations was mandated to deal with the issues raised in the consultative paper and to develop drafting proposals to amend or supplement the existing Forty Recommendations. A series of meetings were held and allowed for participation by FATF members, FATF style regional bodies and other international organisations.

As part of the review process, the CFATF formally constituted a Working Group comprising The Bahamas, British Virgin Islands, Cayman Islands, Jamaica and Panama. Working Group Members were advised by the Secretariat of the dates, and agenda of the FATF Working Group meetings and provided with all related documents.

CFATF Working Group members along with the Executive Director attended the FATF Working Group Meetings. Member Countries were kept abreast of developments by the Secretariat and were requested to submit comments, which were in turn forwarded to Working Group Members as well as the FATF Secretariat.

With a view to ensuring that the CFATF Members participated fully in the process to review the Forty Recommendations, a consultative meeting with the Chairman of the FATF Working Group, Mr. Richard Lalonde, was held on the margins of the Panama Plenary on March 20th 2003. Mr. Patrick Moulette, Executive Secretary, FATF Secretariat also attended.

This meeting was attended by delegates from Antigua and Barbuda, Aruba, The Bahamas, Barbados, Costa Rica, Guatemala, Haiti, Netherlands Antilles, Panama, St. Kitts and Nevis, St. Vincent and the Grenadines and Trinidad and Tobago. Representatives of the Eastern Caribbean Central Bank and the International Money Fund were also present.

The 2003 Revised Forty Recommendations were finished at the FATF Special Plenary in May 2003 which was attended by the Executive Director and Ms. Rochelle Delevaux Central Bank of The Bahamas who represented Chairman Sears.

The Revised Recommendations were adopted by the June 2003 FATF Plenary as a new comprehensive framework for combating money laundering and terrorist financing which is effective immediately. Appendix **D**.

The FATF has issued a call upon all countries to take the necessary steps to bring their national systems for combating money laundering and terrorist financing into compliance with the new FATF Recommendations and to effectively implement these measures. However, there is no fixed date for implementation.

The FATF Revised Recommendations were considered by the October 2003 Antigua and Barbuda Plenary and a recommendation was made to Ministers that the FATF Revised Recommendations should be endorsed by the CFATF for use in the Mutual Evaluation Programme.

Ministers agreed that:

The 2003 FATF 40 recommendations should be endorsed whilst noting Barbados' reservation with regard to Clause #6 and the definition in the glossary of Politically Exposed Persons.

The implementation process for the 2003 FATF 40 recommendations should commence immediately.

The benchmarks for the Third Round of Mutual Evaluations should be the 2003 FATF 40 Recommendations and the 8 Special Recommendations on Terrorist Financing.

The second compilation of Country Reports should be completed on the basis of the new benchmarks.

IMPACT OF THE FATF REVISED FORTY RECOMMENDATIONS ON THE 19 CFATF RECOMMENDATIONS.

In the context of the CFATF, the FATF Forty Recommendations have been complemented with the 19 CFATF Recommendations which have specific relevance to the Caribbean Basin Region.

With the advent of the FATF Revised Forty Recommendations a natural corollary would be to ascertain what if any changes should be made to the current composition of the 19 CFATF Recommendations.

In order to advance the progress of this exercise the Secretariat prepared a report outlining initial impressions as to where amendments were required. These were discussed at the Antigua and Barbuda Plenary where a Committee established by the Chairman recommended that the 19 CFATF Recommendations be eliminated. However Ministers declined to endorse this recommendation, indicating that further discussion is required during the March 2004 Plenary.

FATF EIGHT SPECIAL RECOMMENDATIONS ON COMBATTING THE FINANCING OF TERRORISM

In the immediate aftermath of the tragic events of September 11th, 2001, CFATF Ministers at the Santo Domingo Ministerial gave a firm commitment to stand with the rest of the international community in the fight against the financing of terrorism.

The April 2002 Tobago Plenary was the first opportunity for CFATF Members to collectively consider both the FATF Eight Special Recommendations on terrorist financing, and participation in the attendant global Self Assessment Exercise.

CFATF members did participate in the FATF Self Assessment Exercise and an analysis by the FATF of the competed questionnaires that were submitted showed overall CFATF performance to be good. However, much more still had to be done in terms of coming into full compliance with all the Special Recommendations.

Members were also encouraged to participate fully in the initiative by the United Nations Counter Terrorism Committee in relation to signing and ratifying the United Nations Convention for the Suppression of the Financing of Terrorism and various Security Council Resolutions.
Ministers considered and endorsed during the Antigua and Barbuda Ministerial the following FATF documents, which provide useful guidance on the Implementation of the Eight Special Recommendations.

- Interpretative Note to Special Recommendation III Freezing and Confiscating Terrorist Assets. **Appendix E.**

- Best Practices regarding the Freezing of Terrorist Assets. **Appendix F.**

- Interpretative Note to Special Recommendation VI Alternative Remittance. Appendix **G.**

- International Best Practices – Combating the Abuse of Alternative Remittance Systems Appendix **H.**

- Interpretative Note to Special Recommendation VII – Wire Transfers. Appendix **I**.

- Combating the Abuse of Non Profit Organizations – Best Practices Paper – Special Recommendations VIII - Appendix **J.**

These documents were endorsed by Ministers for use during the Third Round of Mutual Evaluations which should commence during the latter half of 2004.

REGIONAL FINANCIAL INTELLIGENCE UNIT FOR THE ORGANISATION OF EASTERN CARIBBEAN STATES

The establishment of a national Financial Intelligence Unit (FIU) in each Member country of the Organisation of Eastern Caribbean States (OECS) was considered a significant factor and of vital importance for the overall improvement of anti money laundering capacity in the sub region. With this in mind, former Chairman Robert Mathavious initiated discussions with representatives from the United Nations Programme Against Money Laundering and the Caribbean Development Bank around July 2001.

As a next step, a representative of the Egmont Group and a consultant engaged by the United Nations Global Programme Against Money Laundering and funded by the Caribbean Development Bank toured the region during September 2001. Coming out of this tour was a Draft Report on the feasibility of a Financial Intelligence Unit for the OECS sub-region and the way forward to bring this project to fruition.

This Report was circulated to the Members forming the OECS sub-region for their comments and was presented to the Plenary. It was emphasized that the proposed regional FIU should not be seen as a replacement for national FIU's, which are essential to each country's anti money laundering infrastructure and it was recognized that the Draft Report would have required revision in order to take account of new legislative provisions in Member Countries such as St. Vincent and the Grenadines where applicable.

The fact that some OECS Members had yet to establish a national FIU raised concerns about their ability to assist with the funding arrangements for the sub regional FIU. Additionally, the potential for further changes in legislation to accommodate reporting from national to the sub-regional unit, when countries were at the very time engaged in overhauling their legislative frameworks, was proving to be a difficult consideration.

Despite these concerns there was ongoing support for the creation of a sub regional FIU and The Bahamas 2002 Plenary recommended that the relevant Members governments should consider whether a Working Group should be formed so as to explore the implications of the regional unit.

The issue was further discussed at the October 2003 Antigua and Barbuda Plenary which recommended and Ministers agreed that this matter should be laid to rest in light of the fact that Members from the sub region have not responded enthusiastically with regard to taking it forward.

THE BLACK MARKET PESO EXCHANGE

The Black Market Peso Exchange, the largest money laundering system in the Western Hemisphere is also the primary money laundering method used by the Colombian Drug Cartel. It is considered an alternative remittance system next to Hawala and the Chit. On the 31st August 2000 in Bogotá Colombia, a Multilateral Agreement between the United States of America, Colombia, Panama and Aruba was signed to establish an International Task Force out of which came the Black Market Peso Exchange System Multilateral Working Group. Shortly thereafter, Venezuela joined the Group.

During the March 2001 CFATF Plenary Meeting it was proposed that the Black Market Peso Exchange Recommendations could be introduced to the CFATF and to GAFISUD and implemented by Member Countries so as to increase the participation of countries in this exercise.

On March 14th 2002 The Senior Officials Group of the Black Market Peso Exchange System Multilateral Working Group signed a Statement in Washington, D.C. which includes valuable recommendations to combat this trade based money laundering system which is the largest in the region. The recommendations therein were presented by Mr. Roland Wever International Liaison Officer, Aruba, cabinet of the minister Plenipotentiary of Aruba, Kingdom of the Netherlands to then CFATF Chairman Bonaparte Gautreaux Piñeyro, President of the National Drugs Council off the Dominican Republic in order that they could be considered for adoption by the CFATF. This position was supported by the United States of America. **Appendix K.**

In many ways these recommendations elaborate on the CFATF-Money Laundering Prevention Guidelines for CFATF Member Governments, Free Trade Zone Authorities and Merchants which were adopted in October 2001. CARICOM enquired as to whether an avenue could be found to widen the definition of the Exchange System beyond the peso. However Panama, Venezuela and the United States supported maintaining the existing name which had become a term of art for this specific type trade based money laundering system.

The Black Market Peso Exchange System Multilateral Working Group consisting of Aruba, Colombia, Panama, United States and Venezuela requested that the Washington Statement be considered by the Plenary. The Statement was endorsed by Ministers in Antigua and Barbuda during in October 2003.

TECHNICAL ASSISTANCE & TRAINING

The CFATF is the only specialized anti money laundering and combating terrorist financing organisation in the Caribbean Basin Region. Our achievements and accolade as the most successful of the FATF style regional bodies are widely recognised and Member countries continue to accept the importance of adhering to their international obligations.

The CFATF now stands at an opportune juncture, and is well placed to effectively face the challenges of safeguarding the integrity of regional and international financial systems from criminal organisations, in conjunction with our international partners.

The delivery of technical assistance and training with a view to rectifying identified deficiencies in the regional anti money laundering and combating the financing of terrorism framework is vital to achieving success on this front.

In tandem, the Memorandum of Understanding, the organisation's mandate has been extended to allow for the authority to design and implement programmes to meet the technical assistance and training needs of all CFATF Members.

The Inter American Development Bank engaged the CFATF as implementing agency for a US$100,000 project involving training seminars for public and private sector officials in the financial sector in CFATF Member Countries Panama, Costa Rica, Dominican Republic and Venezuela. This project has added to the growing experience and capacity of the CFATF to act as implementing agency for training projects.

In preparation to undertake the expanded mandate, Chairman Sears consulted Mr. Percival Marie of the CARIFORUM Secretariat who indicated they will soon engage the European Commission in discussions to design specific projects for anti money laundering efforts in the region. Significant resources are to be allocated and the Chairman was informed that the design of the final project will be jointly agreed by the CFATF as implementing agency and by CARIFORUM and the European Commission.

Looking to the future, the Secretariat is very advanced in the development of a technical assistance and training project for all 30 CFATF Members and is cognisant of the limited resources currently available from the international donor community to meet the growing technical assistance and training needs of organizations like the CFATF.

With this in mind, discussions will continue, with the Group of Cooperating and Supporting Nations, CARIFORUM, the IADB, the World Bank, the United Nations Counter Terrorism Committee and other donor organisations so that the design of the training programme could be tailored based on a realistic assessment of what level of resources could be made available post 2004.

The Secretariat will also take into account and report on developments relating to the work of the recently formed Counter Terrorism Action Group and the FATF Working Group on Terrorist Financing that has been mandated to perform assessments and to identify deficiencies that can be addressed through technical assistance.

There is a growing recognition globally of the importance of and pivotal role that FATF style regional bodies can play in promoting successfully, the fast moving international anti money laundering and combating the financing of terrorism agenda. Indeed this vision is in line with sentiments recently expressed at a meeting between the United Nations Counter Terrorism Committee and Regional Organisations where it was advocated that the role of FATF-style regional bodies like the CFATF should be enhanced and made central to global AML/CFT efforts.

This view was supported by the United Nations Counter Terrorism Committee at the CFATF Panama Plenary and in other fora by the World Bank The CFATF has now fully embraced this ethos and has pledged to do all in its power to continue strengthening the organs of this institution so that the new technical assistance and training remit could be undertaken effectively and with an efficiency that serves the best interests of our 30 Member countries. The CFATF will continue to participate in the World Bank Technical Assistance and Training Database Project which seeks to match country needs with donor resources.

With a view to taking these matters forward, a Technical Assistance and Training Working Group is to be created and Members were requested to make nominations to this group which will work in conjunction with the Secretariat under the supervision of the Chairman and the Steering Group. The mandate of this group is to determine the needs of Member countries, to devise the technical assistance and training plan, to engage the donor community and to guide the Secretariat in the implementation of this new remit in conjunction with the Chairman and Steering Group.

The Working Group will report to the membership on the progress of its work on January 2nd 2004, subsequently at the March 2004 Plenary and under such timetable in the future as the Plenary decides.

EXTERNAL RELATIONS

The growing accomplishments of member countries in strengthening their domestic anti money laundering and combating the financing of terrorism protective mechanisms is testimony to the seriousness with which the CFATF as a whole pursues its mandate to monitor and encourage compliance with international standards.

In recognition of the important role that this organisation plays in the global battle against money laundering and combating the financing of terrorism, there is an increasing level of interest in CFATF affairs. Ministers were encouraged by the continued interest of Germany which is considering the requirements of Observer and COSUN status. The ongoing drive to secure the establishment of Financial Intelligence Units in every CFATF member is to be given further impetus with the grant of Observer status to the Egmont Group.

The support of the Group of Cooperating and Supporting Nations who have a vested interest in the Region's capacity to counter money laundering and the financing of terrorism, will continue to be important to the Caribbean Basin Region's successes in pursuit of the wider goal of participating in the protection of the international financial system from trans national criminal organisations.

THE CARIBBEAN REGIONAL COMPLIANCE ASSOCIATION

A regional compliance association has been formed consisting of representatives from Trinidad and Tobago, The Bahamas Association of Compliance Officers (BACO), The Cayman Islands Compliance Association, (CICA), The British Virgin Islands Association of Compliance Officers and Practitioners, (ACO), and The Barbados Association of Compliance Professionals, (BACP). The inaugural regional compliance association event was held in Nassau, in the form of a two-day conference on Thursday October 9th, 2003. The conference was held under the auspices of Minister Alfred Sears, Attorney General of The Bahamas and Chair of the Caribbean Financial Action Task Force (CFATF).

The rationale for the formation of a Regional Compliance Association came from the belief that it is necessary to reflect, *and perhaps even broadcast*, our region's commitment to good compliance practice, especially in light of the current challenges. It is felt that a centralized regional body, comprised of national associations, could best accomplish this.

Caribbean nations which have not as yet formed themselves into a body dedicated to the advancement of best compliance practice, would benefit from the existence of an umbrella regional compliance association which would promote sound compliance standards, commensurate with risk and good governance, through its encouragement of the formation of national compliance associations.

The Regional Compliance Association will provide our respective memberships with important regional wide networking opportunities as well as a forum for regional conferences and workshops. It will also provide a consolidated representative body for regional statements, an additional voice in debates and would make itself available to act as an advisory source for organizations concerned with the well-being of our region such as CFATF.

CARIBBEAN ANTI MONEY LAUNDERING PROGRAMME

A major thrust for 2003 has been assisting countries in the Eastern Caribbean to improve their anti-money laundering systems and working practices and enable them to be removed from the FATF non co-operating countries and territories list. This has now been accomplished with the last country, St. Vincent & the Grenadines being removed in June, 2003. This country, together with a number in the Caribbean, has now been accepted as a member of the Egmont Group.

At year-end only two of the twenty-one member countries, Guyana and Haiti, are without financial intelligence units. Both of these countries have however selected suitable staff for an FIU, have office premises and are expected to be fully active in very early 2004. Full office equipment for the FIUs in both Guyana and Haiti have been provided through their Embassy of the United States of America.

The main overall focus for 2003, in keeping with the programme's second objective, has been to ensure regional sustain ability. This has been accomplished as follows: Law Enforcement: Basic training for financial investigators was handed over to the Regional Police Training Centre in Jamaica in January, 2003.

CALP continued to monitor the programme and assist in some areas of delivery throughout the year with Jamaica accepting total responsibility in December, 2003.

The Advanced Investigators Training Courses for 2004 will be held at the Regional Police Training School, Barbados, together with "Train the Trainer" being held in tandem. At the end of the year these courses will be handed over to that school for the future.

Financial Sector: Whilst undertaking training with the financial organisations CALP has targeted compliance and training officers as part of our "Train the Trainers" approach. Our five training videos/CDs have also been updated and circulated to enable financial organisations to undertake their own training post 2004.

Legal/Judicial: Working with the University of the West Indies, and in partnership with the University of Florida, a legal faculty in anti-money laundering laws and practices has been developed. This programme, aimed at lawyers, Police Officers and Bankers, has on "on line" study capability which rewards the student with a diploma for successful study. Additionally, award of the diploma also accrues credits that can be used for further study to degree level.

CARICOM

Efforts to ensure even closer ties between the CFATF and CARICOM continued apace throughout the past year. The Caricom Secretariat was invited to participate in the Barbados Working Group that was mandated to formulate the CFATF position on the new AML/CFT Methodology.

Additionally, Mrs. Gloria Richards-Johnson of the Caricom Secretariat and the Executive Director, on the occasion of the United Nations Security Council Counter Terrorism Committee March 6th 2003 New York meeting, used the opportunity to advance the call by the CFATF for a Global Forum on money laundering within the United Nations framework.

FINANCIAL ACTION TASK FORCE

The constructive and harmonious ties between the FATF and the CFATF continued over the past year. An important event was the consultative forum between CFATF Members, the Chairman of the FATF Review Group for the revision of the Forty Recommendations and the FATF Executive Secretary which facilitated CFATF endorsement of the 2003 Revised FATF Recommendations.

Chairman Sears attended the February and September 2003 FATF Plenary Meetings and was represented by Ms. Rochelle Deleveaux, Legal Counsel, Central Bank of The Bahamas at the June 2003 FATF Plenary meeting in Berlin.

The traditional address by the FATF President to the CFATF Ministerial meeting did not occur during the year 2002-2003.

FATF NON COOPERATIVE COUNTRIES OR TERRITORIES (NCCT) INITIATIVE

St. Vincent and the Grenadines was delisted at the June 2003 Berlin FATF Plenary.

Guatemala is the only CFATF jurisdiction that remains on the FATF list. However it has been recognized that the implementation process in this jurisdiction is very advanced. Accordingly, Guatemala has been asked to submit an Implementation Plan and was urged to resolve the single outstanding issue on unlicensed banks.

The Bahamas, Grenada and St. Vincent and the Grenadines are still subject to monitoring by the FATF through the provision of Progress Reports to the FATF Plenary.

GAFISUD

The productive partnership between this hemisphere's two FATF style regional bodies continue to be solidified. GAFISUD Executive Secretary attended the Panama Plenary during March 2003 and outlined the various avenues through which GAFISUD and the CFATF benefit from the cordial dialogue in the execution of their respective work programmes. Additionally, he strongly endorsed the view that in the global battle against money laundering and combating the financing of terrorism, the FATF-style regional bodies are key.

GAFISUD's Report to CFATF Plenary Meeting XVIII is attached at Appendix L.

INTER AMERICAN DEVELOPMENT BANK

The commencement of delivery of a training programme for the employees of banking institutions and the Superintendents of Banks in the Dominican Republic, Costa Rica, Panama and Venezuela did not occur in the first quarter of 2003 as was anticipated. However the consultants who had been engaged, undertook preparatory work through visits to the jurisdictions in order to examine the legislation with the assistance of relevant officials and to adapt the course materials as required.

The CFATF Secretariat continues to work closely with both the IADB's Washington office and the representative office in Trinidad and Tobago so as to ensure that the training courses, which were made possible with the generous financial assistance from the Bank, are conducted successfully.

OAS/CICAD

Provided the following report on OAS/CICAD programs regarding the fight against ML in the region/hemisphere where CFATF member states are involved:
During 2002-2003 all Spanish speaking countries of south America, including Venezuela, benefitted from a program funded by the IADB/CICAD regarding the training of judges and prosecutors. We are now in the replicating stage of these courses through the local people trained by CICAD.

Since the beginning of 2003, we have started a 2M$ project, co funded by the IADB and CICAD, regarding the creation and development of national FIUs in all south American countries, including Venezuela. Dr. Rodolfo Uribe, who was the head of the Colombian FIU for years is now in charge of this project. CICAD is now looking, with the help from other international organizations, to the possibility of extending this project to some Central American countries.

CICAD and the IADB are currently finishing a very comprehensive interactive course for bankers/regulators and lawyers on anti-money laundering issues. This CD will provide for an on-line access course in different languages and will soon be distributed to all our member states and the international organizations that request it.

CICAD and CICTE are developing a project course for all Law Enforcement bodies of the Spanish-speaking countries of the hemisphere. This project, which aims to create in each individual countries a pool of anti-ML trainers/experts, should start by the beginning of next year.

Additionally, CICAD would like to emphasize the need for an integrated approach among all international organizations involved in the training against organized crime and money laundering. In that regard, OAS/CICAD is developing and will continue to do so, joint efforts and projects with countries and international organizations which are playing a key role in that field, such as the IMF, the WB, GAFISUD and of course CFATF. We think that it is the best solution to enhance our member states' ability to tackle the impact of trans-national organized crime in the hemisphere.

OFFSHORE GROUP OF BANKING SUPERVISORS

The Offshore Group of Banking Supervisors in the absence of Chairman Colin Powell who, due to other commitments could not attend the Antigua and Barbuda Ministerial meeting, was represented by Mrs. Delia Cardenas of Panama. A Report on the current work of the OGBS is provided at **Appendix M.**

UNITED NATIONS OFFICE ON DRUGS AND CRIME/ GLOBAL PROGRAMME AGAINST MONEY LAUNDERING.

This longstanding Observer organisation to the CFATF provided a Report on its activities to the Antigua and Barbuda Ministerial meeting which is attached at **Appendix N.**

APPENDICES

APPENDIX A

FINANCIAL REPORTS AND AUDITOR'S STATEMENTS

Caribbean Financial Action Task Force

Financial Statements

31 December 2002

(Expressed in United States Dollars)

Caribbean Financial Action Task Force

Contents **Page**

Auditors' Report

To the Secretariat of
Caribbean Financial Action Task Force

We have audited the balance sheet of Caribbean Financial Action Task Force as at 31 December, 2002 and the income and expenditure account and cash flow statement for the year then ended as set out on pages 2 to 9. These financial statements are the responsibility of the Task Force's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with international standards on auditing. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material mis-statement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Task Force as at 31 December, 2002 and the results of its operations and its cash flows for the year then ended in accordance with international accounting standards adopted by The Institute of Chartered Accountants of Trinidad and Tobago.

Chartered Accountants
Port of Spain
Trinidad, W.I.
22 July 2003

Caribbean Financial Action Task Force

Balance Sheet

	Note	31st December 2002 US$	2001 US$
Current Assets			
Cash		309,526	248,508
Contributions outstanding		56,659	52,418
Prepaid expenses		2,202	1,800
VAT recoverable		3,281	3,289
Due from Caribbean Anti-Money Laundering Programme		699	221
		372,367	306,236
Current Liabilities			
Accounts payable and accrued expenses		16,716	11,707
Due to CAMLP		21,349	--
Contributions prepaid		18,913	--
		56,978	11,707
Net Current Assets		315,389	294,529
Fixed Assets	4	75,732	61,097
		391,121	355,626
Representing			
Accumulated Fund		391,121	355,626
		391,121	355,626

The accompanying notes form an integral part of these financial statements.

Signed on behalf of the Secretariat:

Executive Director:_____

Caribbean Financial Action Task Force

Income and Expenditure Account

	Note	Year Ended 31st December 2002 US$	2001 US$
Income			
Contributions - donor countries	5	613,410	543,910
- International Finance Conference		--	18,349
- Inter-American Development Bank		13,489	--
Loss on Exchange		(7,523)	(5,999)
Interest received		6,636	11,244
Other income		2,898	13,169
		628,910	580,673
Expenditure			
Advertising		--	467
Audit fee		5,080	4,688
Conference expenses		61,351	14,602
Courier service		382	777
Depreciation		15,487	8,387
Insurance		2,379	505
Insurance - workmen's compensation		92	73
Interest and bank charges		229	926
Loss on disposal of fixed assets		--	1,668
Motor vehicle expenses		739	1,943
Miscellaneous expenses		862	752
National insurance		1,510	1,502
Newspapers and periodicals		128	840
Overseas travel		134,206	105,608
Pension contributions		--	--
Postage and stamps		34	184
Printing and stationery		5,580	6,632
Professional services		49,896	54,907
Rentals		1,457	772
Repairs and maintenance		--	2,254
Security	614	--	
Staff welfare		48	48
Subscription		436	365
Telephone and faxes		12,413	12,813
Travelling and subsistence		1,688	700
Wages and salaries		298,804	283,117
		593,415	504,530
Surplus For The Year		35,495	76,143

Caribbean Financial Action Task Force

Accumulated Fund

	Note	Year Ended 31st December 2002 US$	2001 US$
Accumulated Fund			
- Beginning of year		355,626	279,483
Surplus		35,495	76,143
- end of year		391,121	355,626

The accompanying notes form an integral part of these financial statements.

Caribbean Financial Action Task Force

Cash Flow Statement

	Year Ended 31st December 2002 US$	2001 US$
Operating Activities		
Surplus for the year	35,495	76,143
Adjustments to reconcile surplus to net cash from operating activities:		
Depreciation	15,487	8,387
Loss on disposal of fixed assets	--	1,668
Translation adjustment	--	--
Net change in operating assets and liabilities	40,158	(82,017)
Net cash inflow from operating activities	91,140	4,181
Investing Activities		
Purchase of fixed assets	(30,122)	(24,666)
Sale of fixed assets	--	2,274
Net cash outflow from investing activities	(30,122)	(22,392)
Net Cash (Outflow)/Inflow For Year	61,018	(18,211)
Cash and Cash Equivalents		
- beginning of year	248,508	266,719
- end of year	309,526	
	248,508	

The accompanying notes form an integral part of these financial statements.

1 **Incorporation and Principal Activity**

The Caribbean Financial Action Task Force is the mechanism put in place to help The Caribbean and Latin American Governments who signed the Kingston Declaration of Money Laundering to monitor and ensure full implementation of the Declaration.

By Legal Notices Nos. 63 and 64 dated April 22 1994, the Caribbean Financial Action Task Force and its Secretariat ***"being a regional agency"*** were accorded all the privileges and immunities set out in the Fifth Schedule of the Privileges and Immunities ***(Diplomatic Consular and International Organisations)*** Act.

2 **Reporting Currency**

These financial statements are expressed in United States Dollars.

3 **Significant Accounting Policies**

(a) Accounting convention

These financial statements are prepared in accordance with International Accounting Standards.

(b) Fixed assets

Fixed assets are depreciated on the reducing balance basis at rates estimated to write off the depreciable amounts of the fixed assets over their useful lives.

The annual depreciation rates used are

Office equipment	-	15%
Furniture and fixtures	-	10%
Motor vehicle	-	25%

(c) Foreign currencies

Transactions involving foreign currencies are translated at the rates prevailing at the dates of such transactions. Monetary assets and liabilities in foreign currencies are translated at the rates prevailing at the balance sheet date. Exchange gains and losses are reflected in the income and expenditure account.

Overseas contributions are held in an United States dollar account until funds are required and have been converted into Trinidad and Tobago dollars at the current exchange rate averaging US$1.00 = TT$6.25

At 31st December, 2001 the exchange rate was US$1.00 = TT$6.2902.

Caribbean Financial Action Task Force

Notes To The Financial Statements - 31 December 2002
(Expressed in United States Dollars)

4 **Fixed Assets**

Cost	At 01/01/02 US$	Additions	Disposals	At 31/12/02 US$
Motor vehicles	9,589	25,931	--	35,520
Furniture and fixtures	19,579	--	--	19,579
Office equipment	62,741	4,191	--	66,932
	91,909	30,122	--	122,031

Depreciation	At 01/01/02 US$	Current Charge	Disposals	At 31/12/02 US$
Motor vehicles	8,185	6,743	--	14,928
Furniture and fixtures	5,624	1,392	--	7,016
Office equipment	17,003	7,352	--	24,355
	30,812	15,487	--	46,299
Net Book Amount	61,097			75,732

(Expressed in United States Dollars)

5	**Contributions - Donor Countries**	**2002 US$**	**2001 US$**
	These are as follows:		
	Co-operating and supporting nations:		
	Canada	84,168	85,747
	France	44,176	39,364
	United Kingdom of Great Britain and Northern Ireland	144,964	14,316
	United States of America	--	50,000
	Kingdom of the Netherlands	28,929	30,000
	Spain	29,484	15,478
	Switzerland	--	28,717
	Mexico	23,978	--
		355,699	263,622
	Member countries:		
	Anguilla	9,988	9,185
	Antigua /Barbuda	10,000	9,197
	Aruba	9,988	14,173
	Bahamas	20,211	9,389
	Barbados	10,000	9,377
	Belize	10,000	9,197
	Bermuda	10,000	9,197
	British Virgin Islands	10,000	9,197
	Cayman Islands	10,000	9,197
	Costa Rica	9,351	9,166
	Dominica	9,988	--
	Dominican Republic	9,376	9,185
	Grenada	--	6,277
	Honduras	9,376	--
	Jamaica	--	9,197
	Monsterrat	--	9,185
	Netherlands Antilles	10,000	9,165
	Panama	9,365	9,173
	St Kitts & Nevis	803	9,197
	St Lucia	9,376	10,006
	St Vincent	10,000	5,000
	Suriname	--	9,185
	Trinidad and Tobago	10,080	9,235
	Turks and Caicos	10,000	9,197
	Nicaragua	9,988	--
	Guatemala	9,537	--
		217,427	201,277
	Contributions accrued:-		
	Nicaragua	--	9,197
	Suriname	10,000	--
	Dominica	--	9,197
	Grenada	10,000	2,908
	St Vincent	--	4,197
	Venezuela	10,000	3,751
	Jamaica	10,000	--
	Montserrat	10,000	--
		50,000	29,250

(Expressed in United States Dollars)

5	**Contributions - Donor Countries** (continued)	**2002 US$**	**2001 US$**
	Prepaid contributions:-		
	Contributions prepaid - net	(9,716)	49,761
	Total Cash Contributions	613,410	543,910
	Non-cash contributions which are not included in these financial statements are as follows:		
	France – emoluments of Deputy Director	125,000	125,000
	Trinidad and Tobago - office accommodation	18,000	18,000
		143,000	143,000

APPENDIX B

BARBADOS MINISTERIAL COMMUNIQUE

CFATF IX Special Ministerial Meeting

Barbados January 15, 2003

The Member States of the Caribbean Financial Action Task Force (CFATF) reaffirm their commitment to the global struggle against money laundering and the financing of terrorism and strongly recommend utilizing the United Nations framework, based on collaboration and open participation, to work towards a Global Convention on Money Laundering.

The CFATF notes that prior to its adoption by the IMF Board on 15th November, 2002, three successive versions of the Anti-money Laundering/Combating the Financing of Terrorism Methodology were used by the IMF/WORLD BANK with the concurrence of their Boards during Financial Sector Assessment Programmes and Offshore Financial Centre Assessments of CFATF Member States.

At this stage, the CFATF has not endorsed the AML/CFT Methodology for the 12 month IMF/WB Pilot Project ending in November 2003 but it acknowledges that the Methodology will continue to be used in assessments of its Member States as part of the Pilot Project.

In response to the CFATF's desire for meaningful consultation, the representatives of the IMF/WORLD BANK have indicated that they will refer to their management and boards the CFATF's proposal for collaboration with the Working Group established by CFATF and comprising policy and technical personnel.

The focus of the Working Group will be to:

1) Review the process and outcome of the twelve (12) month Pilot Project as well as the details of its successor framework.

2) Review the substance of the criteria in the Methodology Document which is premised on the fact that Money Laundering/Financing of Terrorism are risks to the global financial system. In this connection, the CFATF Secretariat will conduct a study that compares the incidence of money laundering and terrorist financing activity in CFATF Member States with the prevalence of such activity in developed countries to determine whether there is a real risk of CFATF Member States undermining the global financial system.

3) Review the membership of the IMF/World Bank Assessment Teams and ensure that the Assessors are experienced in Money Laundering, Criminal Justice and Law Enforcement matters and include experts drawn from the Region.

4) Address the approach adopted in the Methodology and its application to ensure its fairness and relevance to the circumstances of Member States and the disproportionate burdens which are placed on the human and financial resources of the CFATF Member States by the many assessments to which they must respond.

The CFATF has announced that the members of the Working Group are The Bahamas, Antigua and Barbuda, Barbados, Cayman Islands, Guatemala and Haiti, and will be assisted by the CARICOM Secretariat.

The CFATF responded positively to the suggestion by Canada that the CFATF continues to participate in the FATF Review Group of the FATF 40 Recommendations.

The meeting also recommended that letters should be written to the President of the World Bank and the Managing Director of the International Monetary Fund and the Executive Directors representing CFATF Member States expressing concern of each country about their desire for a meaningful consultative process in respect of the AML/CFT Methodology.

APPENDIX C

SUMMARIES OF MUTUAL EVALUATION REPORTS

SUMMARY OF MUTUAL EVALUATION OF BARBADOS

Barbados, the most easterly of the Caribbean islands, is an independent English speaking Commonwealth country. The judicial, political and administrative institutions are closely modelled on the British system. The Mutual Evaluation of Barbados by the Caribbean Financial Action Task Force took place from 11 to 17 November 2001. The team of examiners was lead by the CFATF Executive Director Calvin Wilson and included the Deputy Director, Antonio Hyman Bouchereau, the Financial Examiner, Mrs. Ingrid Bullard, Deputy Permanent Secretary, Ministry of Legal Affairs, St. Lucia; the Law Enforcement Examiner, Mr. Robert Woods, Detective Sergeant, Financial Reporting Unit, Cayman Islands; and the Legal Examiner, Mr. Frans van Deutekom, Senior Legislation Advisor, Parket Procureur General, Aruba.

LEGISLATIVE FRAMEWORK

Since 1997 Barbados has undertaken strong legislative efforts to strengthen its anti-money laundering legislative framework. The Money Laundering (Prevention and Control) Act (the ML Act) was enacted in 1998. As a consequence, the Financial Intelligence Unit (FIU) of the Anti Money Laundering Authority (AMLA) was established and new Anti- Money Laundering Guidelines for banks, insurance companies, offshore companies, the Barbados Stock Exchange, credit unions and the Post Office were issued.

The ML Act criminalizes the offence of money laundering and institutionalizes the AMLA and the FIU. The Act imposes legal obligations on a full range of financial institutions. These obligations include the reporting of unusual and suspicious transactions and all unusual transfers of international funds above $10,000, record keeping and customer identification requirements. The Act regulates the powers of the AMLA/FIU and contains provisions for the freezing and forfeiture of assets in relation to money laundering. Furthermore the Act introduces a special reporting duty for transfers of currency into or out of Barbados and allows for national and international information-exchange. The Act gives the AMLA/FIU the power to issue guidelines in respect of the detection, prevention and deterrence of money laundering.

The provisions of the ML Act apply to both onshore and offshore financial institutions i.e. insurance companies, international business companies, international trusts, on- and off-shore banking institutions, co-operative societies and credit unions, as well as all other deposit taking institutions. As a result of an amendment, the provisions of the ML Act have been extended to cover any person whose business involves money transmission services or any other services of a financial nature.

The AMLA in conjunction with the Central Bank of Barbados issued specific anti-money laundering guidelines to the onshore and offshore banking institutions. In addition, the AMLA also issued guidelines for insurance companies, the Securities Exchange, the credit unions, the Post Office, and international business companies. The guidelines stipulate anti-money laundering measures to be taken as well as provide specific criteria in determining

whether a transaction is suspicious or unusual. The present legislative framework provides the AMLA/FIU with the powers to control the financial sector with regard to compliance with the ML Act. There is no code of conduct for the legal profession with regard to money laundering.

Other statutes which have enhanced the legislative framework include the International Business (Miscellaneous Provisions) Act 2001, the Company (Amendment) Act 2001, and the 2001 amendment to the Mutual Assistance in Criminal Matters. These laws allow for better assessments of licence applicants, registration of segregated cell companies and extension of mutual assistance in criminal matters to countries that are party to the 1988 Vienna Convention.

THE FINANCIAL SECTOR

At the date of the Mutual Evaluation the financial sector of Barbados comprised; 7 domestic banks, 57 offshore banks, 14 non-bank financial institutions, 376 international/exempt insurance companies of which 216 are active, 66 exempt insurance management companies 33 of which are active, 1 stock exchange, 3,855 international business companies, 2,975 foreign sales corporations and 144 societies with restricted liability.

The Central Bank of Barbados is responsible for the regulation and supervision of financial institutions licensed under the International Financial Services Act and the Financial Institutions Act and includes commercial banks, trust companies, finance companies, merchant banks, and brokerage houses. Supervision is carried out by the Central Bank Supervision Department which is staffed by knowledgeable experienced individuals. The supervisory regime is based on the Basle Committee's Core Principles of Banking Supervision and includes a combination of on-site examinations and off-site surveillance.

The Insurance Act 1996, the Co-operative Societies Act No 23 and its 1993 amendment, the International Financial Services Act, the Exempt Insurance Act and subsidiary legislation, the International Business Companies Act 1991 and its 1992 revision provide for the licensing and supervision of relevant institutions by respective agencies. The supervisory regime consists mostly of offsite surveillance based on reports submitted by the regulated institutions. Periodic prudential on-site inspection should be conducted within similar legal provisions as exist for on-shore banks.

The ML Act provides for the establishment of the AMLA. Members of the AMLA were appointed in September 2000. The ML Amendment Act of 2001 made provision for the day-to-day administration of the FIU. The ML Act and it amendment outlines the powers and responsibilities of the AMLA and the legal obligations of financial institutions.

The AMLA has prepared a comprehensive manual for issue to all financial institutions which will serve as a practical guide. The AMLA is responsible for establishing training requirements and providing necessary training in anti-money laundering procedures for financial institutions. The Authority has conducted training programs and seminars for officers at all levels in the financial sector. Discussions with representatives of several financial entities revealed that institutions have been implementing the required policies, procedures and controls i.e. appointment of compliance officers, establishment of reporting systems and audit functions, screening of employees etc.

LAW ENFORCEMENT

The Drug Abuse (Prevention and Control) Act Chap. 131 prohibits or regulates the importation, exportation etc of controlled drugs and possession of related equipment. It also provides for the forfeiture of anything used in connection with an offence committed under the Act. Confiscation of assets is covered by the Proceeds of Crime Act.

The extent of money laundering in Barbados before and after the implementation of the current anti-money laundering systems is uncertain. However, most of the supervisory bodies seem to be quite aware of developments in their sector. As a result of introduced policies and procedures, known criminals are not depositing funds directly into the banking system. There is also no evidence of foreign drug cartels using the local banking system. For the year 2000 and up to November 2001, there were 13 money laundering investigations, 3 prosecutions, 2 convictions and $3.5 million in proceeds were frozen or seized.

The Royal Barbados Police Force has an established strength of 1,269 officers. The drug squad has a compliment of 23 officers and several territorial divisions have officers allocated to combat drug abuse. There is a small marine unit and a joint customs/police contraband enforcement team. The Financial Investigation Unit was established in December 2000 and has a staff of 4 officers. The main function of the Unit is the investigation of suspicious or unusual activity reports submitted by the Financial Intelligence Unit. The Unit is well trained and keen but overworked, understaffed and housed in poor facilities. There is dire need for more computers and software relevant to the work. This matter is currently being addressed and the Unit hopes to expand.

The Customs department has a staff of 477. It is responsible for entry processing and drug interdiction at the airport, seaports and Post Office and also monitors cross border cash movements.. The Customs department has developed close relationships with the Immigration Department, Police Department, Coast Guard, Post Office, local businesses and external agencies. There are signed memoranda of understanding between Customs and the Police and Coast Guard. The Customs department has conducted controlled deliveries of narcotics in conjunction with the Police and with different overseas agencies. While the Barbados Customs runs well, consideration should be given to enhancing the facilities provided for the department, particularly vessels to counter drug shipment.

The Financial Intelligence Unit (FIU) was set up to receive, analyze and disseminate all suspicious/unusual activity transactions reports. Reports with reasonable grounds for the involvement of criminal activity are forwarded to the Commissioner of Police for onward transmission to the Financial Investigation Unit of the Royal Barbados Police Force. The FIU is empowered by law to conduct necessary investigations and can share information with local and international agencies, the latter on the basis of memoranda of understanding. The FIU is staffed with two lawyers, an information technology expert and a receptionist/secretary. It is hoped that the FIU will join the Egmont Group shortly.

The Director of Public Prosecutions is responsible for prosecuting all crimes in Barbados and has confidence in the standards of the investigators and the judicial system to keep abreast of changes in criminal activity. The DPP has ten members of staff.

RECOMMENDATIONS

The Legal Framework

Special attention should be paid regarding the position of lawyers and accountants towards money laundering risks, and developments in the offshore banking business and segregated cell companies.

Reporting performance of non-financial institutions should be improved, the FIU expanded and a clear Customs department system for the reporting of the importation and exportation of currency developed.

Money laundering training programs for the judiciary should be implemented.

Non-financial institutions should be legally required to comply with AMLA anti-money laundering guidelines.

The existing legal exemption from the reporting duty on the importation and exportation of currency for professional carriers and exempt companies should be reconsidered.

Codes of conduct concerning money laundering should be developed for accountants and attorneys.

Agreements on international information-exchange between the FIU and foreign FIUs should be developed.

The Supervisor of Insurance should not supervise offshore insurance companies on the basis of mutual agreement.

The Financial framework

An off-site surveillance and on-site examination supervision regime similar to the domestic banks should be implemented for onshore and offshore insurance companies, mutual fund managers and administrators and credit unions.

Outstanding statutory reports of the Supervisor of Insurance should be brought up-to-date and additional technical support provided to the Office of the Supervisor of Insurance.

The (new) International (Off-Shore) Banking Act should be enacted as soon as possible and should reflect the Basle Principles on Banking Supervision.

Given the size of the offshore sector and the expanded definition of financial institution, consideration should be given to increasing the technical staff engaged in the supervisory functions of the Central Bank.

The legal and administrative framework for the supervisory functions of the Office of the Registrar of Co-operatives should be enhanced.

Additional technical staff is necessary to support the work of the AMLA.

Training in all forms for all entities including the AMLA is necessary as an ongoing process.

Law Enforcement Framework

The Financial Intelligence Unit and the Financial Investigation Unit need to be strengthened with additional staff and better facilities.

Ongoing training of staff within the two units in money laundering techniques and trends and financial investigations should be a continuous process. Barbados should continue to actively seek membership of the Egmont Group.

A review should be taken of the manner and resources being used to patrol the coastline with particular regard to the need for additional vessels.

The public awareness campaign should be continued and expanded where possible.

SUMMARY OF MUTUAL EVALUATION ON THE TURKS AND CAICOS ISLANDS

1. The Second Round Mutual Evaluation of the Turks and Caicos Islands (TCI) took place from May 13-17, 2002. The Mutual Evaluation team comprised Mr. Kenneth Baker, Financial Expert (British Virgin Islands); Mr. De Lara Mc Clure Taylor, Legal Expert (St. Kitts and Nevis); and Mr. Paul Chaves, Law Enforcement Expert (Costa Rica). Mr. Antonio Hyman-Boucherau, then Deputy Executive Director of the Secretariat led the team.

2. With regard to the drug situation in the TCI, its favourable location makes it susceptible to be used as transhipment point and temporary storage for drug traffickers. It is believed that the major problem is the transshipment of cocaine, which originates in South America and is channeled through the TCI to the North American and European markets.

3. The TCI is exposed to money laundering because of a large offshore financial services sector; KPMG comprehensively reviewed the TCI's financial and offshore industry in October 2000 (KPMG 2000 Report). The Report concluded that although the anti-money laundering regulatory framework of the TCI had recently enhanced considerably, that at that time there remained areas where financial regulation fell 'short of good practice and international.'

4. The TCI anti-money laundering framework is comprised of several pieces of legislation, including the Proceeds of Crime, International Co-operation and Mutual Legal Assistance Ordinances. Additionally, the financial sector has legislation that covers banking, insurance, mutual funds, trusts, companies etc. In conjunction with the legislation governing money laundering, the legislative framework for the sector deals with customer identification requirements, transaction reporting, record-keeping requirements and information access and sharing.

5. Crime and violence are very rare in the TCI, with major security concerns being illegal immigration (basically from Haiti), fugitives escaped from prisons, unreported country entrance (not immigration related), drug trafficking and economic crimes.

6. The major problem is believed to be the transshipment of cocaine although no statistical data was available to confirm this belief. There is no major drug production in the Islands and marijuana has been mostly eradicated. Firearms are very restricted and the police must clear their possession.

7. With regard to international co-operation, the TCI as a UK Overseas Territory has been party to the 1961 UN Single Convention and its 1972 Protocol, the 1971 UN Convention on Psychotropic Substances and the 1988 UN Vienna Convention since 1995. The Mutual Legal Assistance Treaty (MLAT) between the United States and the UK was also extended to the TCI in November 1990. The MLAT Ordinance enacted by the TCI Government has the objective to enable the provision of mutual legal assistance between the US and the TCI for the prosecution, investigation and suppression of criminal offences.

8. The anti-money laundering regime in the TCI complies with most international requirements however; deficiencies exist in the legislative framework with regard to

certain mandatory requirements. While these deficiencies have not hindered implementation of an effective anti-money laundering system in the TCI, they make the system vulnerable.

9. The TCI has made gigantic steps in its efforts to implement KMPG'S 2000 Report recommendations in order to curtail possible use of its financial frame- work for money laundering schemes. However, the TCI anti-money laundering legislative framework and its recent enhancements together with its infrastructure are very new and it will take some time to undertake an effective review of their functioning.

SUMMARY OF MUTAL EVALUATION REPORT OF ANTIGUA AND BARBUDA

The Second Round of Mutual Evaluations of the Antigua and Barbuda took place from September 16-20, 2002. The Team of Examiners selected to conduct the Mutual Evaluation comprised Ms. Louise Mitchell, the Legal Examiner, Saint Vincent & the Grenadines; Mr. Adrian Saunders, the Financial Examiner, Trinidad & Tobago; and Mr. Russell Ursula, the CFATF Secretariat Law Enforcement Expert. The Team was led by CFATF Deputy Executive Director, Mr. A. Antonio Hyman-Bouchereau.

During the last 2 years, the government of Antigua and Barbuda has shown a clear commitment to a regulatory anti-money laundering regime that meets international standards. It has devoted a considerable amount of resources to combating money laundering and terrorist financing. The implementation and enforcement of this anti money laundering framework is starting to show results at this point in time. The Antigua and Barbuda Government has criminalized terrorism financing specifically with the adoption of a new Terrorism Act in 2001. The Act provides for the freezing and confiscation of assets in the case of terrorism financing. Together with its Money Laundering Prevention Act and the Proceeds of Crime Act, Antigua and Barbuda has in place strong anti-money laundering and counter terrorism financing regime Antigua and Barbuda has also been very instrumental in delivering significant proposals to combat crime on a regional level (CARICOM Crime Task Force) during the years 2001 and 2002.

Like other Caribbean island States Antigua with its many beaches, bays, inlets, and a relatively isolated Barbuda are being used as transhipment points for those persons involved in the international drug trade. While the country is not a significant producer of marijuana, it is strategically located close to Puerto Rico (US) and serves as a regional air hub with direct connections to Europe (UK) and North America (Canada). The severe actions against drugs transportation from Jamaica to the UK by UK officials during 2001 and 2002 seems to be shifting the regional drug trafficking routes and are seemingly aggravating the situation of Antigua being used as a hub for transportation of drugs to US and Europe. However, actions by ONDCP drug intelligence staff and the Police Drugs squad utilising modern profiling techniques have led to a vast increase in interceptions of drug couriers to the UK. Drugs transports by air are mostly done by “body-packers” who frequently also come from the UK as tourists and afterward return with their cargo.

Like every other country in the world, which has a vibrant domestic and international financial sector, and a flourishing Internet gaming industry Antigua and Barbuda is potentially vulnerable to money laundering. Between 1998 and 2000, 35 offshore banks were closed either as a result of their involvement in money laundering or Canadian and US based Ponzi scheme operators, or because of the stringency of the regulatory regime. At the time of the evaluation, only twenty-two (22) banks were providing offshore banking services.

The Antigua and Barbuda anti money laundering (AML) framework comprises the Misuse of Drugs Act 1993; Money Laundering Prevention Act, 1996 as amended in 2001, 2002; the Money Laundering Prevention Regulations, 1996; the Proceeds of Crime Act, 1993; the Prevention of Terrorism Act, 2001; the Prevention of Money Laundering Guidance Notes; the Mutual Assistance in Criminal Matters Act, 1993; the Extradition Act 1993; the International Business Corporations Act, 1982 as amended from time to time and the International Business Corporations Regulations made thereunder.

The Money Laundering Prevention Act 1996(MLPA) is the key piece of legislation in the Antigua and Barbuda legal AML Regime. It has been continuously updated, with many amendments in 2001 in particular, in line with international recommendations. It now stands as a very strong piece of AML law, particularly in the area of conviction based forfeiture.

The MLPA presents a wide definition of money laundering to include the proceeds of any unlawful act or omission that would constitute an offence in Antigua and Barbuda. The definition also extends to acts or omissions committed outside of the State, subject to the dual criminality principle.

The Proceeds of Crime Act, 1993 (POCA) provides for the forfeiture or confiscation of the proceeds of crime and sets out the confiscation and forfeiture provisions under Part II. There is a strong provision in section 9 of this Act that allows for the forfeiture of assets to proceed in the absence of a conviction where the defendant has absconded.

The Mutual Assistance in Criminal Matters Act 1993 makes provision for mutual assistance in criminal matters with Commonwealth as well as non-Commonwealth countries and allows for assistance in obtaining evidence; locating or identifying person; obtaining article by search and seizure, arranging the attendance of person to give evidence; transferring a prisoner and in serving documents. This Act is a very important tool for the law enforcement authorities in Antigua and Barbuda as well as its foreign counterparts.

The Extradition Act 1993 provides for the extradition from Antigua and Barbuda for crimes committed in a foreign jurisdiction. An extraditable offence means conduct which, if it were committed in Antigua and Barbuda, would be punishable with a term of imprisonment of twelve months or more.

The 2001 amendments in the MLPA are operating effectively in the area of conviction-based forfeiture. While no one has been convicted in Antigua and Barbuda of money laundering offences, persons have been convicted in the USA with evidence adduced from Antigua which has resulted in the forfeiture of funds frozen in Antigua. This is because Antigua and Barbuda has taken the step of allowing foreign money laundering convictions, as well as local ones, to trigger its confiscation laws. The amendments in any case added new industry groups to the definition of “financial institutions” contained in the Act. The most notable is the offshore gaming industry. These financial institutions operate quite differently from the banking sector. The amendments in the International Business Corporation Act (IBCA) in October 2000 require resident agents to ensure the accuracy of the records and registers that are kept by them. Failure to do so is an offence and the agent is liable, on conviction, to a fine of fifty thousand dollars ($50,000.) Agents must also know the identity of the beneficial owners and be in a position to disclose this information to the Authorities upon request.

Antigua and Barbuda introduced Internet Gaming regulations in 2001 (Interactive Gaming and Interactive Wagering Regulations 2001). An Offshore Gaming Directorate to supervise Internet Gaming has also been established to this end. This Directorate has issued Internet Gaming Technical Standards and Guidelines. These reports are to be sent to the ONDCP.

The Government of Antigua and Barbuda has also established the Supervisory Authority (SA) as mandated by the Money Laundering Prevention Act (MLPA). The Supervisory Authority is also the Director of the ONDCP which is the national central Financial Intelligence Unit that receives all suspicious transactions reports from financial institutions.

The Supervisory Authority has also issued regulations that implement suspicious transactions reporting systems. The latest guidelines were issued on the 9th of September 2002.

The principal supervisory/regulatory agencies are: the Office of National Drug and Money Laundering Control Policy (Supervisory Authority for financial institutions under the MLPA); the Financial Sector Regulatory Commission (FSRC), responsible for the supervision and regulation of the international/off-shore banks, trusts, insurance companies and other international business companies and the Eastern Caribbean Central Bank (ECCB) is responsible for the supervision and regulation of the domestic/on-shore banks and finance companies. These three institutions provide the supervisory umbrella required for achieving compliance with international standards.

The International Financial Services Regulatory Authority, a statutory body, was established in November 1998. Its name was changed in 2002 by legislation to the Financial Services Regulatory Commission (FSRC). The FSRC is responsible for the administration of the International Business Corporations Act (IBC Act), including but not limited to, issuing certificates of incorporation to international business corporations, regulating international business corporations, licensing and regulating international financial institutions. By an amendment in May 2002, the Commission was made responsible for regulation and supervision of the domestic insurance companies, non-bank financial institutions and cooperative societies. FSRC is also responsible for the regulation and supervision of the Internet Gaming industry through its division, the Directorate of Offshore Gaming.

The Office of National Drug and Money laundering Control Policy (ONDCP) is the Department responsible for money laundering and illegal drugs intelligence and investigations. It was first established administratively by Cabinet in 1996 and is currently headed by a special advisor to the Prime Minister. The operational units of the ONDCP comprise: a Financial Investigation Unit (4 investigators), a Financial Intelligence Unit (3 analysts), a National Joint Headquarters Unit (2 officers) and a Drugs Intelligence Unit (3 officers). The ONDCP also has a legal department consisting of 2 experienced lawyers and an office manager with 5 supporting staff members. The total numbers of persons working in the ONDCP now stands at 23. The investigative officers are seconded from the immigration, police, customs and defence force. A British Advisor with Customs background is currently seconded to the ONDCP to assist with the organization of the various units and the training of personnel.

The Royal Police Force of Antigua and Barbuda (RPFAB) are responsible for the investigation of financial crime and drug trafficking offences, but money laundering investigations is the sole responsibility of ONDCP. The RPFAB has a total of 683 officers (2000 est.).

The Customs and Excise Department (CED) is responsible for maintaining the integrity of the border and has a role in monitoring illegal drug and currency shipments under the Customs Act, the Exchange Control Act, and the MPLA. The CED has 190 posts and is also represented in the ONDCP (Communication officer within the National Joint Headquarters).

The Defence Force of Antigua and Barbuda (ABDF) is primarily concerned with the territorial integrity of the islands and territorial waters of Antigua and Barbuda. It consists of 162 posts (with exclusion of the Coast Guard). An Intelligence Unit is established within the ABDF. It is involved in intelligence gathering operations which threaten national security,

including drug trafficking. It also disseminates relevant information to the RPFAB and ONDCP in order to assist in law enforcement investigations.

The Antigua and Barbuda Coast Guard, which is under command of the ABDF, has thirty-nine (39) posts. The Antigua and Barbuda Coast Guard has responsibility for the defence of territorial waters, prevention of illegal fisheries, and environmental protection also has a role in monitoring immigration laws and illegal drug and currency shipments. The Coast Guard has a good working relationship with the ONDCP. It also has good working relationships with the Immigration of Antigua and Barbuda and the RPFAB even though it is admitted that the communication with the Police could be improved upon.

Antigua and Barbuda's new institutional anti money laundering framework is adequate and compliant with international standards and is being enforced. Consequently, as a result of the work of Antigua and Barbuda's law enforcement agencies, there have been convictions in other jurisdictions. There have been no money laundering convictions within Antigua and Barbuda as yet, however a number of persons and entities has been charged and are before the Courts.

Antigua and Barbuda participates actively in regional law enforcement initiatives, structures, treaties and regional and international law enforcement operations related to money laundering and terrorist financing investigations.

While there is an acceptable level of communication and coordination between local law enforcement agencies, there is room for some improvement. In this regard the Government of Antigua and Barbuda has decided to formalize the existing operational relationships of the ONDCP, the Police, Customs, and the ABDF through the establishment of Memoranda of Understanding between them. The Government of Antigua and Barbuda is to be commended for this initiative and the priority it has placed on harmonizing the work of its agencies to counter money laundering and terrorist financing.

APPENDIX D

2003 REVISED FATF FORTY RECOMMENDATIONS

INTRODUCTION

Money laundering methods and techniques change in response to developing counter-measures. In recent years, the Financial Action Task Force (FATF)[1] has noted increasingly sophisticated combinations of techniques, such as the increased use of legal persons to disguise the true ownership and control of illegal proceeds, and an increased use of professionals to provide advice and assistance in laundering criminal funds. These factors, combined with the experience gained through the FATF's Non-Cooperative Countries and Territories process, and a number of national and international initiatives, led the FATF to review and revise the Forty Recommendations into a new comprehensive framework for combating money laundering and terrorist financing. The FATF now calls upon all countries to take the necessary steps to bring their national systems for combating money laundering and terrorist financing into compliance with the new FATF Recommendations, and to effectively implement these measures.

The review process for revising the Forty Recommendations was an extensive one, open to FATF members, non-members, observers, financial and other affected sectors and interested parties. This consultation process provided a wide range of input, all of which was considered in the review process.

The revised Forty Recommendations now apply not only to money laundering but also to terrorist financing, and when combined with the Eight Special Recommendations on Terrorist Financing provide an enhanced, comprehensive and consistent framework of measures for combating money laundering and terrorist financing. The FATF recognises that countries have diverse legal and financial systems and so all cannot take identical measures to achieve the common objective, especially over matters of detail. The Recommendations therefore set minimum standards for action for countries to implement the detail according to their particular circumstances and constitutional frameworks. The Recommendations cover all the measures that national systems should have in place within their criminal justice and regulatory systems; the preventive measures to be taken by financial institutions and certain other businesses and professions; and international co-operation.

The original FATF Forty Recommendations were drawn up in 1990 as an initiative to combat the misuse of financial systems by persons laundering drug money. In 1996 the Recommendations were revised for the first time to reflect evolving money laundering typologies. The 1996 Forty Recommendations have been endorsed by more than 130 countries and are the international anti-money laundering standard.

In October 2001 the FATF expanded its mandate to deal with the issue of the financing of terrorism, and took the important step of creating the Eight Special Recommendations on Terrorist Financing. These Recommendations contain a set of measures aimed at combating the funding of terrorist acts and terrorist organisations, and are complementary to the Forty Recommendations[2].
A key element in the fight against money laundering and the financing of terrorism is the need for

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1 The FATF is an inter-governmental body which sets standards, and develops and promotes policies to combat money laundering and terrorist financing. It currently has 33 members: 31 countries and governments and two international organisations; and more than 20 observers: five FATF-style regional bodies and more than 15 other international organisations or bodies. A list of all members and observers can be found on the FATF website at http://www.fatf-gafi.org/Members_en.htm

2 The FATF Forty and Eight Special Recommendations have been recognised by the International Monetary Fund and the World Bank as the international standards for combating money laundering and the financing of terrorism.

countries systems to be monitored and evaluated, with respect to these international standards. The mutual evaluations conducted by the FATF and FATF-style regional bodies, as well as the assessments conducted by the IMF and World Bank, are a vital mechanism for ensuring that the FATF Recommendations are effectively implemented by all countries.

THE FORTY RECOMMENDATIONS

A. LEGAL SYSTEMS

Scope of the criminal offence of money laundering

1. Countries should criminalise money laundering on the basis of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the Vienna Convention) and the United Nations Convention against Transnational Organized Crime, 2000 (the Palermo Convention).

   Countries should apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences. Predicate offences may be described by reference to all offences, or to a threshold linked either to a category of serious offences or to the penalty of imprisonment applicable to the predicate offence (threshold approach), or to a list of predicate offences, or a combination of these approaches.

   Where countries apply a threshold approach, predicate offences should at a minimum comprise all offences that fall within the category of serious offences under their national law or should include offences which are punishable by a maximum penalty of more than one year's imprisonment or for those countries that have a minimum threshold for offences in their legal system, predicate offences should comprise all offences, which are punished by a minimum penalty of more than six months imprisonment.

   Whichever approach is adopted, each country should at a minimum include a range of offences within each of the designated categories of offences[3].

   Predicate offences for money laundering should extend to conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred domestically. Countries may provide that the only prerequisite is that the conduct would have constituted a predicate offence had it occurred domestically.
   Countries may provide that the offence of money laundering does not apply to persons who committed the predicate offence, where this is required by fundamental principles of their domestic law.

2. Countries should ensure that:
   a) The intent and knowledge required to prove the offence of money laundering is consistent with the standards set forth in the Vienna and Palermo Conventions, including the concept that such mental state may be inferred from objective factual circumstances.

   b) Criminal liability, and, where that is not possible, civil or administrative liability, should apply to legal persons. This should not preclude parallel criminal, civil or administrative proceedings with respect to legal persons in countries in which such forms of liability are available. Legal persons should be subject to effective, proportionate and dissuasive sanctions. Such measures should be without prejudice to the criminal liability of individuals.

[3] See the definition of "designated categories of offences" in the Glossary.

Provisonal measures and confiscation

3. Countries should adopt measures similar to those set forth in the Vienna and Palermo Conventions, including legislative measures, to enable their competent authorities to confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value, without prejudicing the rights of bona fide third parties.

   Such measures should include the authority to: (a) identify, trace and evaluate property which is subject to confiscation; (b) carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property; (c) take steps that will prevent or void actions that prejudice the State's ability to recover property that is subject to confiscation; and (d) take any appropriate investigative measures.

   Countries may consider adopting measures that allow such proceeds or instrumentalities to be confiscated without requiring a criminal conviction, or which require an offender to demonstrate the lawful origin of the property alleged to be liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law.

B. MEASURES TO BE TAKEN BY FINANCIAL INSTITUTIONS AND NONFINANCIAL BUSINESSES AND PROFESSIONS TO PREVENT MONEY LAUNDERING AND TERRORIST FINANCING

4. Countries should ensure that financial institution secrecy laws do not inhibit implementation of the FATF Recommendations.

Customer due diligence and record-keeping

5.* Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names.

   Financial institutions should undertake customer due diligence measures, including identifying and verifying the identity of their customers, when:

   - establishing business relations;
   - carrying out occasional transactions: (i) above the applicable designated threshold; or (ii) that are wire transfers in the circumstances covered by the Interpretative Note to Special Recommendation VII;
   - there is a suspicion of money laundering or terrorist financing; or
   - the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

The customer due diligence (CDD) measures to be taken are as follows:

a) Identifying the customer and verifying that customer's identity using reliable, independent source documents, data or information[4].

b) Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial

4 Reliable, independent source documents, data or information will hereafter be referred to as "identification data".

institutions taking reasonable measures to understand the ownership and control structure of the customer.

c) Obtaining information on the purpose and intended nature of the business relationship.

d) Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including, where necessary, the source of funds.

Financial institutions should apply each of the CDD measures under (a) to (d) above, but may determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship or transaction. The measures that are taken should be consistent with any guidelines issued by competent authorities. For higher risk categories, financial institutions should perform enhanced due diligence. In certain circumstances, where there are low risks, countries may decide that financial institutions can apply reduced or simplified measures.

Financial institutions should verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. Countries may permit financial institutions to complete the verification as soon as reasonably practicable following the establishment of the relationship, where the money laundering risks are effectively managed and where this is essential not to interrupt the normal conduct of business.

Where the financial institution is unable to comply with paragraphs (a) to (c) above, it should not open the account, commence business relations or perform the transaction; or should terminate the business relationship; and should consider making a suspicious transactions report in relation to the customer.

These requirements should apply to all new customers, though financial institutions should also apply this Recommendation to existing customers on the basis of materiality and risk, and should conduct due diligence on such existing relationships at appropriate times.

6.*[*] Financial institutions should, in relation to politically exposed persons, in addition to performing normal due diligence measures:

a) Have appropriate risk management systems to determine whether the customer is a politically exposed person.
b) Obtain senior management approval for establishing business relationships with such customers.
c) Take reasonable measures to establish the source of wealth and source of funds.
d) Conduct enhanced ongoing monitoring of the business relationship.

7. Financial institutions should, in relation to cross-border correspondent banking and other similar relationships, in addition to performing normal due diligence measures:

a) Gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action.
b) Assess the respondent institution's anti-money laundering and terrorist financing controls.
c) Obtain approval from senior management before establishing new correspondent

[*] Recommendations marked with an asterisk should be read in conjunction with their Interpretative Note.

relationships.

d) Document the respective responsibilities of each institution.

e) With respect to "payable-through accounts", be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.

8. Financial institutions should pay special attention to any money laundering threats that may arise from new or developing technologies that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes. In particular, financial institutions should have policies and procedures in place to address any specific risks associated with nonface to face business relationships or transactions.

9.* Countries may permit financial institutions to rely on intermediaries or other third parties to perform elements (a) – (c) of the CDD process or to introduce business, provided that the criteria set out below are met. Where such reliance is permitted, the ultimate responsibility for customer identification and verification remains with the financial institution relying on the third party.

The criteria that should be met are as follows:

a) A financial institution relying upon a third party should immediately obtain the necessary information concerning elements (a) – (c) of the CDD process. Financial institutions should take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay.

b) The financial institution should satisfy itself that the third party is regulated and supervised for, and has measures in place to comply with CDD requirements in line with Recommendations 5 and 10.

It is left to each country to determine in which countries the third party that meets the conditions can be based, having regard to information available on countries that do not or do not adequately apply the FATF Recommendations.

10.* 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 activity.

Financial institutions should keep records on the identification data obtained through the customer due diligence process (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 business relationship is ended.

The identification data and transaction records should be available to domestic competent authorities upon appropriate authority.

11.* 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 competent authorities and auditors.

12.* The customer due diligence and record-keeping requirements set out in Recommendations 5, 6, and 8 to 11 apply to designated non-financial businesses and professions in the following situations:

a) Casinos – when customers engage in financial transactions equal to or above the applicable designated threshold.

b) Real estate agents - when they are involved in transactions for their client concerning the buying and selling of real estate.

c) Dealers in precious metals and dealers in precious stones - when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.

d) Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the following activities:

- buying and selling of real estate;
- managing of client money, securities or other assets;
- management of bank, savings or securities accounts;
- organisation of contributions for the creation, operation or management of companies;
- creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

e) Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed in the definition in the Glossary.

Reporting of suspicious transactions and compliance

13.* If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, directly by law or regulation, to report promptly its suspicions to the financial intelligence unit (FIU).

14.* Financial institutions, their directors, officers and employees should be:

a) Protected by legal provisions from criminal and 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 FIU, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

b) Prohibited by law from disclosing the fact that a suspicious transaction report (STR) or related information is being reported to the FIU.

15.* Financial institutions should develop programmes against money laundering and terrorist financing. These programmes should include:

a) The development of internal policies, procedures and controls, including appropriate compliance management arrangements, and adequate screening procedures to ensure high standards when hiring employees.
b) An ongoing employee training programme.
c) An audit function to test the system.

16.* The requirements set out in Recommendations 13 to 15, and 21 apply to all designated nonfinancial businesses and professions, subject to the following qualifications:

a) Lawyers, notaries, other independent legal professionals and accountants should be required to report suspicious transactions when, on behalf of or for a client, they engage in a financial transaction in relation to the activities described in Recommendation 12(d). Countries are

strongly encouraged to extend the reporting requirement to the rest of the professional activities of accountants, including auditing.

b) Dealers in precious metals and dealers in precious stones should be required to report suspicious transactions when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.

c) Trust and company service providers should be required to report suspicious transactions for a client when, on behalf of or for a client, they engage in a transaction in relation to the activities referred to Recommendation 12(e).

Lawyers, notaries, other independent legal professionals, and accountants acting as independent legal professionals, are not required to report their suspicions if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege.

Other measures to deter money laundering and terrorist financing

17. Countries should ensure that effective, proportionate and dissuasive sanctions, whether criminal, civil or administrative, are available to deal with natural or legal persons covered by these Recommendations that fail to comply with anti-money laundering or terrorist financing requirements.

18. Countries should not approve the establishment or accept the continued operation of shell banks. Financial institutions should refuse to enter into, or continue, a correspondent banking relationship with shell banks. Financial institutions should also guard against establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks.

19.* Countries should consider:

a) Implementing feasible measures to detect or monitor the physical cross-border transportation of currency 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.

b) 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 or terrorist financing cases, subject to strict safeguards to ensure proper use of the information.

20. Countries should consider applying the FATF Recommendations to businesses and professions, other than designated non-financial businesses and professions, that pose a money laundering or terrorist financing risk.

Countries should further encourage the development of modern and secure techniques of money management that are less vulnerable to money laundering.

Measures to be taken with respect to countries that do not or insufficiently comply with the FATF Recommendations

21. Financial institutions should give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply the FATF 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 competent authorities. Where such a country continues not to apply or insufficiently applies the FATF Recommendations, countries should be able to apply appropriate countermeasures.

22. Financial institutions should ensure that the principles applicable to financial institutions, which are mentioned above are also applied to branches and majority owned subsidiaries located abroad, especially in countries which do not or insufficiently apply the FATF 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 parent institution should be informed by the financial institutions that they cannot apply the FATF Recommendations.

Regulation and supervision

23.* Countries should ensure that financial institutions are subject to adequate regulation and supervision and are effectively implementing the FATF Recommendations. Competent authorities should take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in a financial institution.

For financial institutions subject to the Core Principles, the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering, should apply in a similar manner for anti-money laundering and terrorist financing purposes.

Other financial institutions should be licensed or registered and appropriately regulated, and subject to supervision or oversight for anti-money laundering purposes, having regard to the risk of money laundering or terrorist financing in that sector. At a minimum, businesses providing a service of money or value transfer, or of money or currency changing should be licensed or registered, and subject to effective systems for monitoring and ensuring compliance with national requirements to combat money laundering and terrorist financing.

24. Designated non-financial businesses and professions should be subject to regulatory and supervisory measures as set out below.

a) Casinos should be subject to a comprehensive regulatory and supervisory regime that ensures that they have effectively implemented the necessary anti-money laundering and terrorist-financing measures. At a minimum:

- casinos should be licensed;
- competent authorities should take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino
- competent authorities should ensure that casinos are effectively supervised for compliance with requirements to combat money laundering and terrorist financing.

b) Countries should ensure that the other categories of designated non-financial businesses and professions are subject to effective systems for monitoring and ensuring their compliance with requirements to combat money laundering and terrorist financing. This should be performed on a risk-sensitive basis. This may be performed by a government authority or by an appropriate self-regulatory organisation, provided that such an organisation can ensure that its members comply with their obligations to combat money laundering and terrorist financing.

25.* The competent authorities should establish guidelines, and provide feedback which will assist financial institutions and designated non-financial businesses and professions in applying national measures to combat money laundering and terrorist financing, and in particular, in

detecting and reporting suspicious transactions.

C. INSTITUTIONAL AND OTHER MEASURES NECESSARY IN SYSTEMS FOR COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

Competent authorities, their powers and resources

26.* Countries should establish a FIU that serves as a national centre for the receiving (and, as permitted, requesting), analysis and dissemination of STR and other information regarding potential money laundering or terrorist financing. The FIU should have access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of STR.

27.* Countries should ensure that designated law enforcement authorities have responsibility for money laundering and terrorist financing investigations. Countries are encouraged to support and develop, as far as possible, special investigative techniques suitable for the investigation of money laundering, such as controlled delivery, undercover operations and other relevant techniques. Countries are also encouraged to use other effective mechanisms such as the use of permanent or temporary groups specialised in asset investigation, and co-operative investigations with appropriate competent authorities in other countries.

28. When conducting investigations of money laundering and underlying predicate offences, competent authorities should be able to obtain documents and information for use in those investigations, and in prosecutions and related actions. This should include powers to use compulsory measures for the production of records held by financial institutions and other persons, for the search of persons and premises, and for the seizure and obtaining of evidence.

29. Supervisors should have adequate powers to monitor and ensure compliance by financial institutions with requirements to combat money laundering and terrorist financing, including the authority to conduct inspections. They should be authorised to compel production of any information from financial institutions that is relevant to monitoring such compliance, and to impose adequate administrative sanctions for failure to comply with such requirements.

30. Countries should provide their competent authorities involved in combating money laundering and terrorist financing with adequate financial, human and technical resources. Countries should have in place processes to ensure that the staff of those authorities are of high integrity.

31. Countries should ensure that policy makers, the FIU, law enforcement and supervisors have effective mechanisms in place which enable them to co-operate, and where appropriate coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.

32. Countries should ensure that their competent authorities can review the effectiveness of their systems to combat money laundering and terrorist financing systems by maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of such systems. This should include statistics on the STR received and disseminated; on money laundering and terrorist financing investigations, prosecutions and convictions; on property frozen, seized and confiscated; and on mutual legal assistance or other international requests for co-operation.

Transparency of legal persons and arrangements

33. Countries should take measures to prevent the unlawful use of legal persons by money launderers. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. In particular, countries that have legal persons that are able to issue bearer shares should take appropriate measures to ensure that they are not misused for money laundering and be able to demonstrate the adequacy of those measures. Countries could consider measures to facilitate access to beneficial ownership and control information to financial institutions undertaking the requirements set out in Recommendation

34. Countries should take measures to prevent the unlawful use of legal arrangements by money launderers. In particular, countries should ensure that there is adequate, accurate and timely information on express trusts, including information on the settlor, trustee and beneficiaries, that can be obtained or accessed in a timely fashion by competent authorities. Countries could consider measures to facilitate access to beneficial ownership and control information to financial institutions undertaking the requirements set out in Recommendation 5.

D. INTERNATIONAL CO-OPERATION

35. Countries should take immediate steps to become party to and implement fully the Vienna Convention, the Palermo Convention, and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism. Countries are also encouraged to ratify and implement other relevant international conventions, such as the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the 2002 Inter-American Convention against Terrorism.

Mutual legal assistance and extradition

36. Countries should rapidly, constructively and effectively provide the widest possible range of mutual legal assistance in relation to money laundering and terrorist financing investigations, prosecutions, and related proceedings. In particular, countries should:

    a) Not prohibit or place unreasonable or unduly restrictive conditions on the provision of mutual legal assistance.
    b) Ensure that they have clear and efficient processes for the execution of mutual legal assistance requests.
    c) Not refuse to execute a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
    d) Not refuse to execute a request for mutual legal assistance on the grounds that laws require financial institutions to maintain secrecy or confidentiality.

    Countries should ensure that the powers of their competent authorities required under Recommendation 28 are also available for use in response to requests for mutual legal assistance, and if consistent with their domestic framework, in response to direct requests from foreign judicial or law enforcement authorities to domestic counterparts.

    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.

37. Countries should, to the greatest extent possible, render mutual legal assistance notwithstanding the absence of dual criminality.
    Where dual criminality is required for mutual legal assistance or extradition, that requirement should be deemed to be satisfied regardless of whether both countries place the offence within

the same category of offence or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence.

38.* There should be authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value. There should also be arrangements for co-ordinating seizure and confiscation proceedings, which may include the sharing of confiscated assets.

39. Countries should recognise money laundering as an extraditable offence. Each country should either extradite its own nationals, or where a country does not do so solely on the grounds of nationality, that country should, at the request of the country seeking extradition, submit the case without undue delay to its competent authorities for the purpose of prosecution of the offences set forth in the request. Those authorities should take their decision and conduct their proceedings in the same manner as in the case of any other offence of a serious nature under the domestic law of that country. The countries concerned should cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecutions.

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, and/or introducing a simplified extradition of consenting persons who waive formal extradition proceedings.

Other forms of co-operation

40.* Countries should ensure that their competent authorities provide the widest possible range of international co-operation to their foreign counterparts. There should be clear and effective gateways to facilitate the prompt and constructive exchange directly between counterparts, either spontaneously or upon request, of information relating to both money laundering and the underlying predicate offences. Exchanges should be permitted without unduly restrictive conditions. In particular:

a) Competent authorities should not refuse a request for assistance on the sole ground that the request is also considered to involve fiscal matters.
b) Countries should not invoke laws that require financial institutions to maintain secrecy or confidentiality as a ground for refusing to provide co-operation.
c) Competent authorities should be able to conduct inquiries; and where possible, investigations; on behalf of foreign counterparts.

Where the ability to obtain information sought by a foreign competent authority is not within the mandate of its counterpart, countries are also encouraged to permit a prompt and constructive exchange of information with non-counterparts. Co-operation with foreign authorities other than counterparts could occur directly or indirectly. When uncertain about the appropriate avenue to follow, competent authorities should first contact their foreign counterparts for assistance.

Countries should establish controls and safeguards to ensure that information exchanged by competent authorities is used only in an authorised manner, consistent with their obligations concerning privacy and data protection.

GLOSSARY

In these Recommendations the following abbreviations and references are used:

"**Beneficial owner**" refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

"**Core Principles**" refers to the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, the Objectives and Principles for Securities Regulation issued by the International Organization of Securities Commissions, and the Insurance Supervisory Principles issued by the International Association of Insurance Supervisors.

"**Designated categories of offences**" means:

- participation in an organised criminal group and racketeering;
- terrorism, including terrorist financing;
- trafficking in human beings and migrant smuggling;
- sexual exploitation, including sexual exploitation of children;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit arms trafficking;
- illicit trafficking in stolen and other goods;
- corruption and bribery;
- fraud;
- counterfeiting currency;
- counterfeiting and piracy of products;
- environmental crime;
- murder, grievous bodily injury;
- kidnapping, illegal restraint and hostage-taking;
- robbery or theft;
- smuggling;
- extortion;
- forgery;
- piracy; and
- insider trading and market manipulation.

When deciding on the range of offences to be covered as predicate offences under each of the categories listed above, each country may decide, in accordance with its domestic law, how it will define those offences and the nature of any particular elements of those offences that make them serious offences.

"**Designated non-financial businesses and professions**" means:

a) Casinos (which also includes internet casinos).
b) Real estate agents.
c) Dealers in precious metals.
d) Dealers in precious stones.
e) Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to 'internal' professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.

f) Trust and Company Service Providers refers to all persons or businesses that are not covered elsewhere under these Recommendations, and which as a business, provide any of the following services to third parties:

- acting as a formation agent of legal persons;
- acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
- providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
- acting as (or arranging for another person to act as) a trustee of an express trust;
- acting as (or arranging for another person to act as) a nominee shareholder for another person.

"**Designated threshold**" refers to the amount set out in the Interpretative Notes.

"**Financial institutions**" means any person or entity who conducts as a business one or more of the following activities or operations for or on behalf of a customer:

1. Acceptance of deposits and other repayable funds from the public.[5]
2. Lending.[6]
3. Financial leasing.[7]
4. The transfer of money or value.[8]
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller's cheques, money orders and bankers' drafts, electronic money).
6. Financial guarantees and commitments.
7. Trading in:
   (a) money market instruments (cheques, bills, CDs, derivatives 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 other persons.
11. Otherwise investing, administering or managing funds or money on behalf of other persons.
12. Underwriting and placement of life insurance and other investment related insurance[9].
13. Money and currency changing.

When a financial activity is carried out by a person or entity on an occasional or very limited basis

[5] This also captures private banking.
[6] This includes inter alia: consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfaiting).
[7] This does not extend to financial leasing arrangements in relation to consumer products.
[8] This applies to financial activity in both the formal or informal sector e.g. alternative remittance activity. See the Interpretative Note to Special Recommendation VI. It does not apply to any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds. See the Interpretative Note to Special Recommendation VII.
[9] This applies both to insurance undertakings and to insurance intermediaries (agents and brokers).

(having regard to quantitative and absolute criteria) such that there is little risk of money laundering activity occurring, a country may decide that the application of anti-money laundering measures is not necessary, either fully or partially.

In strictly limited and justified circumstances, and based on a proven low risk of money laundering, a country may decide not to apply some or all of the Forty Recommendations to some of the financial activities stated above.

"FIU" means financial intelligence unit.

"Legal arrangements" refers to express trusts or other similar legal arrangements.

"Legal persons" refers to bodies corporate, foundations, anstalt, partnerships, or associations, or any similar bodies that can establish a permanent customer relationship with a financial institution or otherwise own property.

"Payable-through accounts" refers to correspondent accounts that are used directly by third parties to transact business on their own behalf.

"Politically Exposed Persons" (PEPs) are individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories.

"Shell bank" means a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group.

"STR" refers to suspicious transaction reports.

"Supervisors" refers to the designated competent authorities responsible for ensuring compliance by financial institutions with requirements to combat money laundering and terrorist financing.

"the FATF Recommendations" refers to these Recommendations and to the FATF Special Recommendations on Terrorist Financing.

ANNEX

INTERPRETATIVE NOTES TO THE FORTY RECOMMENDATIONS

INTERPRETATIVE NOTES

General

1. Reference in this document to "countries" should be taken to apply equally to "territories" or "jurisdictions".

2. Recommendations 5-16 and 21-22 state that financial institutions or designated non-financial businesses and professions should take certain actions. These references require countries to take measures that will oblige financial institutions or designated non-financial businesses and professions to comply with each Recommendation. The basic obligations under Recommendations 5, 10 and 13 should be set out in law or regulation, while more detailed elements in those Recommendations, as well as obligations under other Recommendations, could be required either by law or regulation or by other enforceable means issued by a competent authority.

3. Where reference is made to a financial institution being satisfied as to a matter, that institution must be able to justify its assessment to competent authorities.

4. To comply with Recommendations 12 and 16, countries do not need to issue laws or regulations that relate exclusively to lawyers, notaries, accountants and the other designated non-financial businesses and professions so long as these businesses or professions are included in laws or regulations covering the underlying activities.
5. The Interpretative Notes that apply to financial institutions are also relevant to designated nonfinancial businesses and professions, where applicable.

Recommendations 5, 12 and 16

The designated thresholds for transactions (under Recommendations 5 and 12) are as follows:

- Financial institutions (for occasional customers under Recommendation 5) - USD/EUR 15,000.
- Casinos, including internet casinos (under Recommendation 12) - USD/EUR 3000
- For dealers in precious metals and dealers in precious stones when engaged in any cash transaction (under Recommendations 12 and 16) - USD/EUR 15,000.

Financial transactions above a designated threshold include situations where the transaction is carried out in a single operation or in several operations that appear to be linked.

Recommendation 5

Customer due diligence and tipping off

1. If, during the establishment or course of the customer relationship, or when conducting occasional transactions, a financial institution suspects that transactions relate to money laundering or terrorist financing, then the institution should:
   a) Normally seek to identify and verify the identity of the customer and the beneficial owner, whether permanent or occasional, and irrespective of any exemption or any designated threshold that might otherwise apply.

b) Make a STR to the FIU in accordance with Recommendation 13.

2. Recommendation 14 prohibits financial institutions, their directors, officers and employees from disclosing the fact that an STR or related information is being reported to the FIU. A risk

exists that customers could be unintentionally tipped off when the financial institution is seeking to perform its customer due diligence (CDD) obligations in these circumstances. The customer's awareness of a possible STR or investigation could compromise future efforts to investigate the suspected money laundering or terrorist financing operation.

3. Therefore, if financial institutions form a suspicion that transactions relate to money laundering or terrorist financing, they should take into account the risk of tipping off when performing the customer due diligence process. If the institution reasonably believes that performing the CDD process will tip-off the customer or potential customer, it may choose not to pursue that process, and should file an STR. Institutions should ensure that their employees are aware of and sensitive to these issues when conducting CDD.

CDD for legal persons and arrangements

4. When performing elements (a) and (b) of the CDD process in relation to legal persons or arrangements, financial institutions should:

   a) Verify that any person purporting to act on behalf of the customer is so authorised, and identify that person.

   b) Identify the customer and verify its identity - the types of measures that would be normally needed to satisfactorily perform this function would require obtaining proof of incorporation or similar evidence of the legal status of the legal person or arrangement, as well as information concerning the customer's name, the names of trustees, legal form, address, directors, and provisions regulating the power to bind the legal person or arrangement.

   c) Identify the beneficial owners, including forming an understanding of the ownership and control structure, and take reasonable measures to verify the identity of such persons. The types of measures that would be normally needed to satisfactorily perform this function would require identifying the natural persons with a controlling interest and identifying the natural persons who comprise the mind and management of the legal person or arrangement. Where the customer or the owner of the controlling interest is a public company that is subject to regulatory disclosure requirements, it is not necessary to seek to identify and verify the identity of any shareholder of that company.

   The relevant information or data may be obtained from a public register, from the customer or from other reliable sources.

Reliance on identification and verification already performed

5. The CDD measures set out in Recommendation 5 do not imply that financial institutions have to repeatedly identify and verify the identity of each customer every time that a customer conducts a transaction. An institution is entitled to rely on the identification and verification steps that it has already undertaken unless it has doubts about the veracity of that information. Examples of situations that might lead an institution to have such doubts could be where there is a suspicion of money laundering in relation to that customer, or where there is a material change in the way that the customer's account is operated which is not consistent with the customer's business profile.

Timing of verification

6. Examples of the types of circumstances where it would be permissible for verification to be completed after the establishment of the business relationship, because it would be essential not to interrupt the normal conduct of business include:

- Non face-to-face business.
- Securities transactions. In the securities industry, companies and intermediaries may be required to perform transactions very rapidly, according to the market conditions at the time the customer is contacting them, and the performance of the transaction may be required before verification of identity is completed.
- Life insurance business. In relation to life insurance business, countries may permit the identification and verification of the beneficiary under the policy to take place after having established the business relationship with the policyholder. However, in all such cases, identification and verification should occur at or before the time of payout or the time where the beneficiary intends to exercise vested rights under the policy.

7. Financial institutions will also need to adopt risk management procedures with respect to the conditions under which a customer may utilise the business relationship prior to verification. These procedures should include a set of measures such as a limitation of the number, types and/or amount of transactions that can be performed and the monitoring of large or complex transactions being carried out outside of expected norms for that type of relationship. Financial institutions should refer to the Basel CDD paper[10] (section 2.2.6.) for specific guidance on examples of risk management measures for non-face to face business.

Requirement to identify existing customers

8. The principles set out in the Basel CDD paper concerning the identification of existing customers should serve as guidance when applying customer due diligence processes to institutions engaged in banking activity, and could apply to other financial institutions where relevant.

Simplified or reduced CDD measures

9. The general rule is that customers must be subject to the full range of CDD measures, including the requirement to identify the beneficial owner. Nevertheless there are circumstances where the risk of money laundering or terrorist financing is lower, where information on the identity of the customer and the beneficial owner of a customer is publicly available, or where adequate checks and controls exist elsewhere in national systems. In such circumstances it could be reasonable for a country to allow its financial institutions to apply simplified or reduced CDD measures when identifying and verifying the identity of the customer and the beneficial owner.

10. Examples of customers where simplified or reduced CDD measures could apply are:

- Financial institutions – where they are subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and are supervised for compliance with those controls.
- Public companies that are subject to regulatory disclosure requirements.
- Government administrations or enterprises.

11. Simplified or reduced CDD measures could also apply to the beneficial owners of pooled accounts held by designated non financial businesses or professions provided that those businesses or professions are subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and are subject to effective systems for monitoring and ensuring their compliance with those requirements. Banks should also refer to the Basel CDD paper (section 2.2.4.), which provides specific guidance concerning situations

[10] "Basel CDD paper" refers to the guidance paper on Customer Due Diligence for Banks issued by the Basel Committee on Banking Supervision in October 2001.

where an account holding institution may rely on a customer that is a professional financial intermediary to perform the customer due diligence on his or its own customers (i.e. the beneficial owners of the bank account). Where relevant, the CDD Paper could also provide guidance in relation to similar accounts held by other types of financial institutions.

12. Simplified CDD or reduced measures could also be acceptable for various types of products or transactions such as (examples only):

- Life insurance policies where the annual premium is no more than USD/EUR 1000 or a single premium of no more than USD/EUR 2500.
- Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral.
- A pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme.

13. Countries could also decide whether financial institutions could apply these simplified measures only to customers in its own jurisdiction or allow them to do for customers from any other jurisdiction that the original country is satisfied is in compliance with and has effectively implemented the FATF Recommendations.

Simplified CDD measures are not acceptable whenever there is suspicion of money laundering or terrorist financing or specific higher risk scenarios apply.

Recommendation 6

Countries are encouraged to extend the requirements of Recommendation 6 to individuals who hold prominent public functions in their own country.

Recommendation 9

This Recommendation does not apply to outsourcing or agency relationships.

This Recommendation also does not apply to relationships, accounts or transactions between financial institutions for their clients. Those relationships are addressed by Recommendations 5 and 7.

Recommendations 10 and 11

In relation to insurance business, the word "transactions" should be understood to refer to the insurance product itself, the premium payment and the benefits.

Recommendation 13

1. The reference to criminal activity in Recommendation 13 refers to:

a) all criminal acts that would constitute a predicate offence for money laundering in the jurisdiction; or

b) at a minimum to those offences that would constitute a predicate offence as required by Recommendation 1.

Countries are strongly encouraged to adopt alternative (a). All suspicious transactions, including attempted transactions, should be reported regardless of the amount of the transaction.

2. In implementing Recommendation 13, suspicious transactions should be reported by financial institutions regardless of whether they are also thought to involve tax matters. Countries should take into account that, in order to deter financial institutions from reporting a suspicious transaction, money launderers may seek to state *inter alia* that their transactions relate to tax matters.

Recommendation 14 (tipping off)

Where lawyers, notaries, other independent legal professionals and accountants acting as independent legal professionals seek to dissuade a client from engaging in illegal activity, this does not amount to tipping off.

Recommendation 15

The type and extent of measures to be taken for each of the requirements set out in the Recommendation should be appropriate having regard to the risk of money laundering and terrorist financing and the size of the business.

For financial institutions, compliance management arrangements should include the appointment of a compliance officer at the management level.

Recommendation 16

1. It is for each jurisdiction to determine the matters that would fall under legal professional privilege or professional secrecy. This would normally cover information lawyers, notaries or other independent legal professionals receive from or obtain through one of their clients: (a) in the course of ascertaining the legal position of their client, or (b) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings. Where accountants are subject to the same obligations of secrecy or privilege, then they are also not required to report suspicious transactions.

2. Countries may allow lawyers, notaries, other independent legal professionals and accountants to send their STR to their appropriate self-regulatory organisations, provided that there are appropriate forms of co-operation between these organisations and the FIU.

Recommendation 19

1. To facilitate detection and monitoring of cash transactions, without impeding in any way the freedom of capital movements, countries could consider the feasibility of subjecting all crossborder
transfers, above a given threshold, to verification, administrative monitoring, declaration or record keeping requirements.

2. If a country discovers an unusual international shipment of currency, monetary instruments, precious metals, or gems, etc., it should consider notifying, as appropriate, the Customs Service or other competent authorities of the countries from which the shipment originated and/or to which it is destined, and should co-operate with a view toward establishing the source, destination, and purpose of such shipment and toward the taking of appropriate action.

Recommendation 23

Recommendation 23 should not be read as to require the introduction of a system of regular review of licensing of controlling interests in financial institutions merely for anti-money laundering purposes, but as to stress the desirability of suitability review for controlling shareholders in financial institutions (banks and non-banks in particular) from a FATF point of view. Hence, where

shareholder suitability (or "fit and proper") tests exist, the attention of supervisors should be drawn to their relevance for anti-money laundering purposes.

Recommendation 25

When considering the feedback that should be provided, countries should have regard to the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.

Recommendation 26

Where a country has created an FIU, it should consider applying for membership in the Egmont Group. Countries should have regard to the Egmont Group Statement of Purpose, and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases. These documents set out important guidance concerning the role and functions of FIUs, and the mechanisms for exchanging information between FIU.

Recommendation 27

Countries should consider taking measures, including legislative ones, at the national level, to allow their competent authorities investigating money laundering cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. Without such measures the use of procedures such as controlled deliveries and undercover operations are precluded.

Recommendation 38

Countries should consider:

a) Establishing an asset forfeiture fund in its respective country into which all or a portion of confiscated property will be deposited for law enforcement, health, education, or other appropriate purposes.

b) Taking such measures as may be necessary to enable it to share among or between other countries confiscated property, in particular, when confiscation is directly or indirectly a result of co-ordinated law enforcement actions.

Recommendation 40

1. For the purposes of this Recommendation:

   - "Counterparts" refers to authorities that exercise similar responsibilities and functions.
   - "Competent authority" refers to all administrative and law enforcement authorities concerned with combating money laundering and terrorist financing, including the FIU and supervisors.

2. Depending on the type of competent authority involved and the nature and purpose of the cooperation, different channels can be appropriate for the exchange of information. Examples of mechanisms or channels that are used to exchange information include: bilateral or multilateral agreements or arrangements, memoranda of understanding, exchanges on the basis of reciprocity, or through appropriate international or regional organisations. However, this Recommendation is not intended to cover co-operation in relation to mutual legal assistance or extradition.

3. The reference to indirect exchange of information with foreign authorities other than counterparts covers the situation where the requested information passes from the foreign

authority through one or more domestic or foreign authorities before being received by the requesting authority. The competent authority that requests the information should always make it clear for what purpose and on whose behalf the request is made.

4. FIUs should be able to make inquiries on behalf of foreign counterparts where this could be relevant to an analysis of financial transactions. At a minimum, inquiries should include:

    - Searching its own databases, which would include information related to suspicious transaction reports.
    - Searching other databases to which it may have direct or indirect access, including law enforcement databases, public databases, administrative databases and commercially available databases.

Where permitted to do so, FIUs should also contact other competent authorities and financial institutions in order to obtain relevant information.

APPENDIX E

FATF / GAFI
Interpretative Note to
Special Recommendation III: Freezing and Confiscating Terrorist Assets

Objectives

1. FATF Special Recommendation III consists of two obligations. The first requires jurisdictions to implement measures that will freeze or, if appropriate, seize terrorist-related funds or other assets without delay in accordance with relevant United Nations resolutions. The second obligation of Special Recommendation III is to have measures in place that permit a jurisdiction to seize or confiscate terrorist funds or other assets on the basis of an order or mechanism issued by a competent authority or a court.

2. The objective of the first requirement is to freeze terrorist-related funds or other assets based on reasonable grounds, or a reasonable basis, to suspect or believe that such funds or other assets could be used to finance terrorist activity. The objective of the second requirement is to deprive terrorists of these funds or other assets if and when links have been adequately established between the funds or other assets and terrorists or terrorist activity. The intent of the first objective is preventative, while the intent of the second objective is mainly preventative and punitive. Both requirements are necessary to deprive terrorists and terrorist networks of the means to conduct future terrorist activity and maintain their infrastructure and operations.

Scope

3. Special Recommendation III is intended, with regard to its first requirement, to complement the obligations in the context of the United Nations Security Council (UNSC) resolutions relating to the prevention and suppression of the financing of terrorist acts—S/RES/1267(1999) and its successor resolutions,[11] S/RES/1373(2001) and any prospective resolutions related to the freezing, or if appropriate seizure, of terrorist assets. It should be stressed that none of the obligations in Special Recommendation III is intended to replace other measures or obligations that may already be in place for dealing with funds or other assets in the context of a criminal, civil or administrative investigation or proceeding.[12] The focus of Special Recommendation III instead is on the preventative measures that are

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11 When issued, S/RES/1267(1999) had a time limit of one year. A series of resolutions have been issued by the United Nations Security Council (UNSC) to extend and further refine provisions of S/RES/1267(1999). By successor resolutions are meant those resolutions that extend and are directly related to the original resolution S/RES/1267(1999). At the time of issue of this Interpretative Note, these resolutions included S/RES/1333(2000), S/RES/1363(2001), S/RES/1390(2002) and S/RES/1455(2003). In this Interpretative Note, the term *S/RES/1267(1999)* refers to S/RES/1267(1999) and its successor resolutions.

12 For instance, both the *UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances(1988)* and *UN Convention against Transnational Organised Crime (2000)* contain obligations regarding freezing, seizure and confiscation in the context of combating transnational crime. Those obligations exist separately and apart from obligations that are set forth in S/RES/1267(1999), S/RES/1373(2001) and Special Recommendation III.

necessary and unique in the context of stopping the flow or use of funds or other assets to terrorist groups.

4. S/RES/1267(1999) and S/RES/1373(2001) differ in the persons and entities whose funds or other assets are to be frozen, the authorities responsible for making these designations, and the effect of these designations.

5. S/RES/1267(1999) and its successor resolutions obligate jurisdictions to freeze without delay the funds or other assets owned or controlled by Al-Qaida, the Taliban, Usama bin Laden, or persons and entities associated with them as designated by the United Nations Al-Qaida and Taliban Sanctions Committee established pursuant to United Nations Security Council Resolution 1267 (the Al-Qaida and Taliban Sanctions Committee), including funds derived from funds or other assets owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds or other assets are made available, directly or indirectly, for such persons' benefit, by their nationals or by any person within their territory. The Al-Qaida and Taliban Sanctions Committee is the authority responsible for designating the persons and entities that should have their funds or other assets frozen under S/RES/1267(1999). All jurisdictions that are members of the United Nations are obligated by S/RES/1267(1999) to freeze the assets of persons and entities so designated by the Al-Qaida and Taliban Sanctions Committee.[13]

6. S/RES/1373(2001) obligates jurisdictions[14] to freeze without delay the funds or other assets of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds or other assets derived or generated from property owned or controlled, directly or indirectly, by such persons and associated persons and entities. Each individual jurisdiction has the authority to designate the persons and entities that should have their funds or other assets frozen. Additionally, to ensure that effective co-operation is developed among jurisdictions, jurisdictions should examine and give effect to, if appropriate, the actions initiated under the freezing mechanisms of other jurisdictions. When (i) a specific notification or communication is sent and (ii) the jurisdiction receiving the request is satisfied, according to applicable legal principles, that a requested designation is supported by reasonable grounds, or a reasonable basis, to suspect or believe that the proposed designee is a terrorist, one who finances terrorism or a terrorist organisation, the jurisdiction receiving the request must ensure that the funds or other assets of the designated person are frozen without delay.

Definitions

7. For the purposes of Special Recommendation III and this Interpretive Note, the following definitions apply:

a) The term *freeze* means to prohibit the transfer, conversion, disposition or movement of

[13] When the UNSC acts under Chapter VII of the UN Charter, the resolutions it issues are mandatory for all UN members.
[14] The UNSC was acting under Chapter VII of the UN Charter in issuing S/RES/1373(2001) (see previous footnote).

funds or other assets on the basis of, and for the duration of the validity of, an action initiated by a competent authority or a court under a freezing mechanism. The frozen funds or other assets remain the property of the person(s) or entity(ies) that held an interest in the specified funds or other assets at the time of the freezing and may continue to be administered by the financial institution or other arrangements designated by such person(s) or entity(ies) prior to the initiation of an action under a freezing mechanism.

b) The term *seize* means to prohibit the transfer, conversion, disposition or movement of funds or other assets on the basis of an action initiated by a competent authority or a court under a freezing mechanism. However, unlike a freezing action, a seizure is effected by a mechanism that allows the competent authority or court to take control of specified funds or other assets. The seized funds or other assets remain the property of the person(s) or entity(ies) that held an interest in the specified funds or other assets at the time of the seizure, although the competent authority or court will often take over possession, administration or management of the seized funds or other assets.

c) The term *confiscate,* which includes forfeiture where applicable, means the permanent deprivation of funds or other assets by order of a competent authority or a court. Confiscation or forfeiture takes place through a judicial or administrative procedure that transfers the ownership of specified funds or other assets to be transferred to the State. In this case, the person(s) or entity(ies) that held an interest in the specified funds or other assets at the time of the confiscation or forfeiture loses all rights, in principle, to the confiscated or forfeited funds or other assets.[15]

d) The term *funds or other assets* means financial assets, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets.

e) The term *terrorist* refers to any natural person who: (i) commits, or attempts to commit, terrorist acts[16] by any means, directly or indirectly, unlawfully and wilfully; (ii) participates

[15] Confiscation or forfeiture orders are usually linked to a criminal conviction or a court decision whereby the confiscated or forfeited property is determined to have been derived from or intended for use in a violation of the law.

16 A *terrorist act* includes an act which constitutes an offence within the scope of, and as defined in one of the following treaties: Convention for the Suppression of Unlawful Seizure of Aircraft, Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, International Convention against the Taking of Hostages, Convention on the Physical Protection of Nuclear Material, Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, International Convention for the

as an accomplice in terrorist acts or terrorist financing; (iii) organises or directs others to commit terrorist acts or terrorist financing; or (iv) contributes to the commission of terrorist acts or terrorist financing by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or terrorist financing or with the knowledge of the intention of the group to commit a terrorist act or terrorist financing.

f) The phrase *those who finance terrorism* refers to any person, group, undertaking or other entity that provides or collects, by any means, directly or indirectly, funds or other assets that may be used, in full or in part, to facilitate the commission of terrorist acts, or to any persons or entities acting on behalf of, or at the direction of such persons, groups, undertakings or other entities. This includes those who provide or collect funds or other assets with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out terrorist acts.

g) The term *terrorist organisation* refers to any legal person, group, undertaking or other entity owned or controlled directly or indirectly by a terrorist(s).

h) The term *designated persons* refers to those persons or entities designated by the Al-Qaida and Taliban Sanctions Committee pursuant to S/RES/1267(1999) or those persons or entities designated and accepted, as appropriate, by jurisdictions pursuant to S/RES/1373(2001).

i) The phrase *without delay,* for the purposes of S/RES/1267(1999), means, ideally, within a matter of hours of a designation by the Al-Qaida and Taliban Sanctions Committee. For the purposes of S/RES/1373(2001), the phrase *without delay* means upon having reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, one who finances terrorism or a terrorist organisation. The phrase *without delay*should be interpreted in the context of the need to prevent the flight or dissipation of terrorist-linked funds or other assets, and the need for global, concerted action to interdict and disrupt their flow swiftly.

Freezing without delay terrorist-related funds or other assets

8. In order to fulfil the preventive intent of Special Recommendation III, jurisdictions should establish the necessary authority and adopt the following standards and procedures to freeze the funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with both S/RES/1267(1999) and S/RES/1373(2001):

a) ***Authority to freeze, unfreeze and prohibit dealing in funds or other assets of designated persons.*** Jurisdictions should prohibit by enforceable means the transfer, conversion, disposition or movement of funds or other assets. Options for providing the authority to freeze and unfreeze terrorist funds or other assets include:

(i) empowering or designating a competent authority or a court to issue, administer and enforce freezing and unfreezing actions under relevant mechanisms, or
(ii) enacting legislation that places responsibility for freezing the funds or other assets of

Suppression of Terrorist Bombings, and the International Convention for the Suppression of the Financing of Terrorism (1999).

designated persons publicly identified by a competent authority or a court on the person or entity holding the funds or other assets and subjecting them to sanctions for non-compliance.

The authority to freeze and unfreeze funds or other assets should also extend to funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by such terrorists, those who finance terrorism, or terrorist organisations.

Whatever option is chosen there should be clearly identifiable competent authorities responsible for enforcing the measures.

The competent authorities shall ensure that their nationals or any persons and entities within their territories are prohibited from making any funds or other assets, economic resources or financial or other related services available, directly or indirectly, wholly or jointly, for the benefit of: designated persons, terrorists; those who finance terrorism; terrorist organisations; entities owned or controlled, directly or indirectly, by such persons or entities; and persons and entities acting on behalf of or at the direction of such persons or entities.

b) ***Freezing procedures.*** Jurisdictions should develop and implement procedures to freeze the funds or other assets specified in paragraph (c) below without delay and without giving prior notice to the persons or entities concerned. Persons or entities holding such funds or other assets should be required by law to freeze them and should furthermore be subject to sanctions for non-compliance with this requirement. Any delay between the official receipt of information provided in support of a designation and the actual freezing of the funds or other assets of designated persons undermines the effectiveness of designation by affording designated persons time to remove funds or other assets from identifiable accounts and places. Consequently, these procedures must ensure (i) the prompt determination whether reasonable grounds or a reasonable basis exists to initiate an action under a freezing mechanism and (ii) the subsequent freezing of funds or other assets without delay upon determination that such grounds or basis for freezing exist. Jurisdictions should develop efficient and effective systems for communicating actions taken under their freezing mechanisms to the financial sector immediately upon taking such action. As well, they should provide clear guidance, particularly financial institutions and other persons or entities that may be holding targeted funds or other assets on obligations in taking action under freezing mechanisms.

c) ***Funds or other assets to be frozen or, if appropriate, seized.*** Under Special Recommendation III, funds or other assets to be frozen include those subject to freezing under S/RES/1267(1999) and S/RES/1373(2001). Such funds or other assets would also include those wholly or jointly owned or controlled, directly or indirectly, by designated persons. In accordance with their obligations under the United Nations International Convention for the Suppression of the Financing of Terrorism (1999) (the Terrorist Financing Convention (1999)), jurisdictions should be able to freeze or, if appropriate, seize any funds or other assets that they identify, detect, and verify, in accordance with applicable legal principles, as being used by, allocated for, or being made available to terrorists, those who finance terrorists or terrorist organisations. Freezing or seizing under the Terrorist Financing Convention (1999) may be conducted by freezing or seizing in the context of a criminal investigation or proceeding. Freezing action taken under Special Recommendation III shall be without prejudice to the rights of third parties acting in good faith.

d) *De-listing and unfreezing procedures.* Jurisdictions should develop and implement publicly known procedures to consider de-listing requests upon satisfaction of certain criteria consistent with international obligations and applicable legal principles, and to unfreeze the funds or other assets of de-listed persons or entities in a timely manner. For persons and entities designated under S/RES/1267(1999), such procedures and criteria should be in accordance with procedures adopted by the Al-Qaida and Taliban Sanctions Committee under S/RES/1267(1999).

e) ***Unfreezing upon verification of identity.*** For persons or entities with the same or similar name as designated persons, who are inadvertently affected by a freezing mechanism, jurisdictions should develop and implement publicly known procedures to unfreeze the funds or other assets of such persons or entities in a timely manner upon verification that the person or entity involved is not a designated person.

f) ***Providing access to frozen funds or other assets in certain circumstances***. Where jurisdictions have determined that funds or other assets, which are otherwise subject to freezing pursuant to the obligations under S/RES/1267(1999), are necessary for basic expenses; for the payment of certain types of fees, expenses and service charges, or for extraordinary expenses,[17] jurisdictions should authorise access to such funds or other assets in accordance with the procedures set out in S/RES/1452(2002) and subject to approval of the Al-Qaida and Taliban Sanctions Committee. On the same grounds, jurisdictions may authorise access to funds or other assets, if freezing measures are applied pursuant to S/RES/1373(2001).

g) ***Remedies.*** Jurisdictions should provide for a mechanism through which a person or an entity that is the target of a freezing mechanism in the context of terrorist financing can challenge that measure with a view to having it reviewed by a competent authority or a court.

h) ***Sanctions***. Jurisdictions should adopt appropriate measures to monitor effectively the compliance with relevant legislation, rules or regulations governing freezing mechanisms by financial institutions and other persons or entities that may be holding funds or other assets as indicated in paragraph 8(c) above. Failure to comply with such legislation, rules or regulations should be subject to civil, administrative or criminal sanctions.

Seizure and Confiscation

9. Consistent with FATF Recommendation 3, jurisdictions should adopt measures similar to those set forth in Article V of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), Articles 12 to 14 of the United Nations Convention on Transnational Organised Crime (2000), and Article 8 of the Terrorist Financing Convention (1999), including legislative measures, to enable their courts or competent authorities to seize and confiscate terrorist funds or other assets.

[17] See Article 1, S/RES/1452(2002) for the specific types of expenses that are covered.

APPENDIX F

FREEZING OF TERRORIST ASSETS[18]

International Best Practices

Introduction

1. Responding to the growing prevalence of terrorist attacks around the world, the international community united in a campaign to freeze the *funds or other assets*[19] of *terrorists, those who finance terrorism, and terrorist organisations* around the world. As part of this campaign, the United Nations Security Council issued resolutions *S/RES/1267(1999)* and *S/RES/1373(2001).* These international obligations are reiterated in FATF Special Recommendation III (SR III). The Interpretative Note to SR III (Interpretative Note) explains how these international freezing obligations should be fulfilled. To further assist in this effort, the FATF has identified the following set of best practices which are based on jurisdictions' experience to date and which may serve as a benchmark for developing institutional, legal, and procedural frameworks of an effective terrorist financing freezing regime.[20] These best practices are organised along five basic themes and complement the obligations set forth in the Interpretative Note. A common element to each of these themes is the importance of sharing terrorist financing information.

Importance of an Effective Freezing Regime

2. Effective freezing regimes are critical to combating the financing of terrorism and accomplish much more than freezing the terrorist-related funds or other assets present at any particular time. Effective freezing regimes also combat terrorism by:

(i) deterring non-designated parties who might otherwise be willing to finance terrorist activity;
(ii) exposing terrorist financing "money trails" that may generate leads to previously unknown terrorist cells and financiers;
(iii) dismantling terrorist financing networks by encouraging designated persons to

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[18] The term "blocking" is a synonym of "freezing." These best practices will not address the funds or other asset seizure or funds or other asset confiscation / forfeiture authorities and procedures of a counter-terrorist financing regime, although the process of searching for such funds or other assets may be identical in cases of freezing, seizure and confiscation or forfeiture.

[19] Any term or phrase introduced in italics in this Best Practices Paper shall have the same meaning throughout as that ascribed to it in the Interpretative Note to FATF Special Recommendation III (SR III).

[20] These best practices focus on the financial sector because of the high risk of terrorist financing associated with this sector and also because of this sector's particular need for communication and guidance regarding the freezing of terrorist-related funds or other assets. However, the FATF recognizes that all persons and entities are obligated to freeze the funds or other assets of persons designated under either S/RES/1267(1999) or S/RES/1373(2001). Additionally, S/RES/1373(2001) prohibits all persons and entities from providing any financial services or any form of support to any designated person. Any references to *financial institutions* should, therefore, be understood to include other relevant persons and entities.

disassociate themselves from terrorist activity and renounce their affiliation with terrorist groups;

(iv) terminating terrorist cash flows by shutting down the pipelines used to move terroristrelated funds or other assets;

(v) forcing terrorists to use more costly and higher risk means of financing their activities, which makes them more susceptible to detection and disruption; and (vi) fostering international co-operation and compliance with obligations under S/RES/1267(1999) and S/RES/1373(2001).

3. Efforts to combat terrorist financing are greatly undermined if jurisdictions do not freeze the funds or other assets of designated persons quickly and effectively. Nevertheless, in determining the limits of or fostering widespread support for an effective counter-terrorist financing regime, jurisdictions must also respect human rights, respect the rule of law and recognise the rights of innocent third parties.

Statement of the Problem

4. The global nature of terrorist financing networks and the urgency of responding to terrorist threats require unprecedented levels of communication, co-operation and collaboration within and among governments, and between the public and private sectors. It is recognised that jurisdictions will necessarily adopt different terrorist financing freezing regimes in accordance with their differing legal traditions, constitutional requirements, systems of government and technological capabilities. However, the efficient and rapid dissemination of terrorist financing information to all those who can help identify, disrupt and dismantle terrorist financing networks must be a central focus of the international effort to freeze terrorist-related funds or other assets. Active participation and full support by the private sector is also essential to the success of any terrorist financing freezing regime. Consequently, jurisdictions should work with the private sector to ensure its ongoing co-operation in developing and implementing an effective terrorist-financing regime.

Best Practices

5. **Establishing effective regimes and competent authorities or courts.** Jurisdictions should establish the necessary legal authority and procedures, and designate accountable, competent authorities or courts responsible for: (a) freezing the funds or other assets of designated persons; (b) lifting such freezing action; and (c) providing access to frozen funds or other assets in certain circumstances. Jurisdictions may undertake the following best practices to establish a comprehensive and effective terrorist financing freezing regime:

i) Develop a designation process which authorises a competent authority or a court to freezefunds or other assets based on information creating reasonable grounds, or a reasonable basis, to suspect or believe that such funds or other assets are terrorist-related. Jurisdictions may adopt executive, administrative or judicial procedures in this regard, provided that: (a) a competent authority or a court is immediately available to determine whether reasonable

grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, terrorist organisation or associated person or entity exits;[21] (b) terrorist-related funds or other assets are frozen immediately upon a determination that such reasonable grounds, or a reasonable basis, to suspect or believe exists; and (c) freezing occurs without prior notice to the parties whose funds or other assets are being frozen. These procedures may complement existing civil and/or criminal seizure and forfeiture laws, and other available judicial procedures;

ii) Establish effective procedures to facilitate communication, co-operation and collaboration among relevant governmental agencies and entities, as appropriate, during the designation process in order to: (a) develop all available information to accurately identify designated persons (e.g. birth date, address, citizenship or passport number for individuals; locations, date and jurisdiction of incorporation, partnership or association for entities, etc.)[22], and (b) consider and co-ordinate, as appropriate, any designation with other options and actions for addressing terrorists, terrorist organisations and associated persons and entities;

iii) Develop a process for financial institutions to communicate information concerning frozen funds or other assets (name, accounts, amounts) to the competent authorities or courts in their jurisdiction. Identify, assess the impact of, and amend, as necessary and to the extent possible, existing bank secrecy provisions or data protection rules that may prohibit this communication to appropriate authorities of information concerning frozen terrorist-related funds or other assets;

iv) Identify and accommodate the concerns of the intelligence community, law enforcement, private sector and legal systems arising from circulation of sensitive information concerning frozen terrorist-related funds or other assets;

v) Develop a publicly known delisting process for considering any new arguments or evidence that may negate the basis for freezing funds or other assets[23] and develop procedures for reviewing the appropriateness of a freezing action upon presentation of any such new
information;

vi) Develop procedures to ensure that adequate prohibitions against the publication of sensitive information exist in accordance with applicable legislation;

vii) Develop procedures and designate competent authorities or courts responsible for providing access to frozen funds or other assets in accordance with S/RES/1452(2002) to mitigate, where appropriate and feasible, unintended consequences of freezing action; and

[21] A designation by the Al-Qaida and Taliban Sanctions Committee constitutes, ipso facto, reasonable grounds, or a reasonable basis, to suspect or believe that a person or entity is a terrorist, terrorist organisation or an associated person or entity.
[22] Accurate identification of a designated person is a precondition to an effective terrorist financing freezing regime.
[23] Only the Al-Qaida and Taliban Sanctions Committee can delist persons designated pursuant to S/RES/1267(1999).

viii) Consider enacting hold-harmless or public indemnity[24] laws to shield financial institutions, their personnel, government officials, and other appropriate persons from legal liability when acting in good faith according to applicable law to implement the requirements of a terrorist financing freezing regime.

6. **Facilitating communication and co-operation with foreign governments and international institutions.** To the extent legally and constitutionally possible, jurisdictions may undertake the following best practices to improve international co-operation and the effectiveness of the international campaign against terrorist financing by sharing information relating to the freezing of terrorist-related funds or other assets:

i) Develop a system for mutual, early, and rapid pre-notification of pending esignations, through diplomatic and other appropriate channels, where security concerns and applicable legal principles permit, to those jurisdictions invited to join in a designation and/or where funds or other assets of designated persons might be located, so that funds or other assets can be frozen simultaneously across jurisdictions with the objective of preventing terrorists, terrorist organisations and associated persons and entities from hiding or moving them. In this regard, consideration should be given to establishing a list of relevant contacts to ensure that freezing action is taken rapidly;[25]

ii) Develop a system for undertaking useful and appropriate consultation with other jurisdictions for the purpose of gathering, verifying, and correcting identifier information for designated persons as well as, where appropriate and where intelligence concerns and applicable laws permit, the sharing and development of information on possible terrorists and terrorist financing activity of the parties involved. In undertaking such consultation, jurisdictions should consider: (a) the greater effectiveness of freezing on the basis of accurate and complete identifying information; (b) the burden created by unsubstantiated or incomplete identifying information; (c) the security concerns associated with releasing sensitive identifier or corroborating information; and (d) the degree of danger or urgency associated with the potential designated persons. Where appropriate such information should be shared and developed before a designation is made;

iii) Prepare a packet of information for each potential designation that includes as much information as is available and appropriate to identify the designated person accurately and to set forth the basis for the potential designation in any pre-notification or communication of the designation (*see Paragraph 6.(i), above*);

[24] In contrast to hold-harmless laws, public indemnity laws allow a remedy for innocent parties that are injured by the good faith implementation of a terrorist financing freezing regime. The appropriate compensation or relief for such innocent parties is not at the expense of the persons or entities that actually implement the terrorist financing regime in good faith, but comes from a public insurance fund or similar vehicle established or made available by the applicable jurisdiction.

[25] Such a pre-notification system should be developed to compliment rather than replace the pre-notification system in place for submitting designations to the Al-Qaida and Taliban Sanctions Committee and should include designations arising from obligations under S/RES/1373(2001).

iv) Develop a process for rapidly and globally communicating new designations and the accompanying packet of information to other jurisdictions;

v) Expand coverage of the hold-harmless and public indemnity laws referred to in *Paragraph 5.(viii)* above, or otherwise implement procedures to deal with situations in which freezing does not occur simultaneously, so as to avoid conflicting legal obligations for financial institutions that operate in multiple jurisdictions;

vi) Share on a mutual and confidential basis, to the extent possible, with other jurisdictions information about the amount of funds or other assets frozen pursuant to terrorist financing freezing orders by account; and

vii) Make public and update on a regular basis the aggregate amount of funds or other assets frozen in order to signal the effectiveness of terrorist financing freezing regimes and to deter terrorist financing.

7. **Facilitating communication with the private sector.** Because terrorist-related funds or other assets overwhelmingly are held in the private sector, jurisdictions must develop efficient and effective means of communicating terrorist financing-related information with the general public, particularly financial institutions. To the extent possible and practicable, jurisdictions can adopt the following practices to develop and enhance communication with the private sector regarding the freezing of terrorist-related funds or other assets, the availability of additional information concerning existing designations, and other counter-terrorist financing guidance or instruction:

i) Integrate, organise, publish and update *without delay* the designated persons list, for example both alphabetically and by date of designation to assist financial institutions in freezing terrorist-related funds or other assets and making the list as user-friendly as possible. Create different entries for different aliases or different spellings of names. Where technologically possible provide a consolidated list in an electronic format with a clear indication of changes and additions. Consult the private sector on other details of the format of the list and coordinate the format internationally with other jurisdictions;

ii) Develop clear guidance to the private sector, particularly financial institutions, with respect to their obligations in freezing terrorist-related funds or other assets;

iii) Identify all financial institutions for use in notification and regulatory oversight and enforcement of freezing action related to terrorist financing, utilising, where appropriate and feasible, existing registration or licensing information;

iv) Implement a process for early, rapid and secure pre-notification of pending designations, where security concerns or applicable legal principles permit, to those financial institutions where funds or other assets of designated persons are known or believed to be located so that those institutions can freeze such funds or other assets immediately upon designation;

v) Implement a system for early, rapid, and uniform global communication, consistent with available technology and resources and where security concerns permit, of any designation-related information, amendments or revocations of designations. For the reasons set out in *Paragraph 6.(ii)* above, include as much information as is available and appropriate to clearly identify designated persons in any communication of a designation to the private sector;

vi) Implement a clear process for responding to inquiries concerning potential identification mismatches based on homonyms or similar sounding names;
vii) Develop appropriate regulatory authorities and procedures where applicable, and properly identify a point of contact to assist financial institutions in freezing terrorist-related funds or other assets and to address, where feasible, unforeseen or unintended consequences resulting from freezing action (such as the handling and disposition of perishable or wasting funds or other assets and authorising access to funds or other assets in accordance with S/RES/1452(2002)); and

viii) Elaborate clear guidance to the private sector with respect to any permitted transactions in administering frozen funds or other assets (e.g. bank charges, fees, interest payments, crediting on frozen accounts, etc).

8. **Ensuring adequate compliance, controls, and reporting in the private sector.** Jurisdictions may work with the private sector in developing the following practices to: (a) facilitate co-operation and compliance by the private sector in identifying and freezing funds or other assets of designated persons, and (b) prevent designated persons from conducting financial or other transactions within their territories or through their financial institutions:[26]

i) Co-operate with the private sector generally and financial institutions in particular, especially those that are independently implementing programs to prevent potential terrorist financing activity or those that have come forward with potentially incriminating information, in investigating possible financial activity by a designated person;

ii) Ensure that financial institutions develop and maintain adequate internal controls (including due diligence procedures and training programs as appropriate) to identify the existing accounts, transactions, funds or other assets of designated persons;

iii) Ensure that financial institutions immediately freeze any identified funds or other assets held or controlled by designated persons;

iv) Ensure that financial institutions have the appropriate procedures and resources to meet there obligations under SR III;

v) Ensure that financial institutions implement reasonable procedures to prevent designated persons from conducting transactions with, in or through them;

vi) Develop an effective monitoring system by a competent authority or a court with sufficient supervisory experience, authority and resources with a mandate to support the objectives set out in *Paragraphs 8.(ii), (iii) and (iv)* above;

vii) Encourage, to the extent commercially reasonable, financial institutions to search or examine past financial activity by designated persons;

[26] Many of the best practices set forth in this section reinforce obligations of jurisdictions and financial institutions under the revised FATF 40 Recommendations. As with all of the best practices set forth in this paper, these best practices should be interpreted and implemented in accordance with the revised FATF 40 Recommendations.

viii) Identify, assess compliance with, and improve as necessary client or customer identification rules used by financial institutions;
ix) Identify, assess compliance with, and improve as necessary record keeping requirements of financial institutions;

x) Adopt reasonable measures to consider beneficial owners, signatories and power of attorney with respect to accounts or transactions held by financial institutions when searching for activity by designated persons, including any ongoing business relationships; and

xi) Harmonise counter-terrorist financing internal controls within each economic sector, as appropriate, with anti-money laundering programs.

9. **Ensuring thorough follow-up investigation, co-ordination with law enforcement, intelligence and security authorities, and appropriate feedback to the private sector.** Financial information pertaining to designated persons is extremely valuable to law enforcement and other security authorities investigating terrorist financing networks. Law enforcement and prosecutorial authorities should, therefore, be given access to such information. Jurisdictions may adopt the following practices to ensure that information available from the private sector in freezing terrorist-related funds or other assets is fully exploited:

i) Develop procedures to ensure that appropriate intelligence and law enforcement bodies and authorities receive, share, and act on information gathered from the private sector's freezing of terrorist-related funds or other assets, including sharing such information internationally to the extent possible and appropriate;

ii) Develop procedures to ensure that, to the extent possible and appropriate, law enforcement authorities provide feedback to financial institutions indicating how financial intelligence is being used to support law enforcement actions; and

iii) Gather and analyse all available terrorist financing data to: (a) assess terrorist financing activity; (b) determine terrorist financing trends; (c) develop and share terrorist financing typologies, including sharing such information internationally as appropriate; (d) identify vulnerable sectors within each jurisdiction, and (e) take appropriate measures to safeguard any such vulnerable sectors.

APPENDIX G

Interpretative Note to Special Recommendation VI: Alternative Remittance

General

1. Money or value transfer systems have shown themselves vulnerable to misuse for money laundering and terrorist financing purposes. The objective of Special Recommendation VI is to increase the transparency of payment flows by ensuring that jurisdictions impose consistent anti-money laundering and counter-terrorist financing measures on all forms of money/value transfer systems, particularly those traditionally operating outside the conventional financial sector and not currently subject to the FATF Recommendations. This Recommendation and Interpretative Note underscore the need to bring all money or value transfer services, whether formal or informal, within the ambit of certain minimum legal and regulatory requirements in accordance with the relevant FATF Recommendations.

2. Special Recommendation VI consists of three core elements:

a. Jurisdictions should require licensing or registration of persons (natural or legal) that provide money/value transfer services, including through informal systems;

b. Jurisdictions should ensure that money/value transmission services, including informal systems (as described in paragraph 5 below), are subject to applicable FATF Forty Recommendations (in particular, Recommendations 10-21 and 26-29) and the Eight Special Recommendations (in particular SR VII); and

c. Jurisdictions should be able to impose sanctions on money/value transfer services, including informal systems, that operate without a license or registration and that fail to comply with relevant FATF Recommendations.

Scope and Application

3. For the purposes of this Recommendation, the following definitions are used.

4. *Money or value transfer service* refers to a financial service that accepts cash, cheques, other monetary instruments or other stores of value in one location and pays a corresponding sum in cash or other form to a beneficiary in another location by means of a communication, message, transfer or through a clearing network to which the money/value transfer service belongs. Transactions performed by such services can involve one or more intermediaries and a third party final payment.

5. A money or value transfer service may be provided by persons (natural or legal) formally through the regulated financial system or informally through non-bank financial institutions or other business entities or any other mechanism either through the regulated financial system (for example, use of bank accounts) or through a network or mechanism that operates outside the regulated system. In some jurisdictions, informal systems are frequently referred to as *alternative remittance services* or *underground (*or *parallel) banking systems*. Often these systems have ties to particular geographic regions and are therefore described

using a variety of specific terms. Some examples of these terms include *hawala, hundi, fei-chien,* and the *black market peso exchange*.[27]

6. *Licensing* means a requirement to obtain permission from a designated competent authority in order to operate a money/value transfer service legally.

7. *Registration* in this Recommendation means a requirement to register with or declare to a designated competent authority the existence of a money/value transfer service in order for the business to operate legally.

8. The obligation of licensing or registration applies to agents. At a minimum, the principal business must maintain a current list of agents which must be made available to the designated competent authority. An *agent* is any person who provides money or value transfer service under the direction of or by contract with a legally registered or licensed remitter (for example, licensees, franchisees, concessionaires).

Applicability of Special Recommendation VI

9. Special Recommendation VI should apply to all persons (natural or legal), which conduct for or on behalf of another person (natural or legal) the types of activity described in paragraphs 4 and 5 above as a primary or substantial part of their business or when such activity is undertaken on a regular or recurring basis, including as an ancillary part of a separate business enterprise.

10. Jurisdictions need not impose a separate licensing / registration system or designate another competent authority in respect to persons (natural or legal) already licensed or registered as financial institutions (as defined by the FATF Forty Recommendations) within a particular jurisdiction, which under such license or registration are permitted to perform activities indicated in paragraphs 4 and 5 above and which are already subject to the full range of applicable obligations under the FATF Forty Recommendations (in particular, Recommendations 10-21 and 26-29) and the Eight Special Recommendations (in particular SR VII).

Licensing or Registration and Compliance

11. Jurisdictions should designate an authority to grant licences and/or carry out registration and ensure that the requirement is observed. There should be an authority responsible for ensuring compliance by money/value transfer services with the FATF Recommendations (including the Eight Special Recommendations). There should also be effective systems in place for monitoring and ensuring such compliance. This interpretation of Special Recommendation VI (i.e., the need for designation of competent authorities) is consistent with FATF Recommendation 26.

[27] The inclusion of these examples does not suggest that such systems are legal in any particular jurisdiction.

Sanctions

12. Persons providing money/value transfer services without a license or registration should be subject to appropriate administrative, civil or criminal sanctions.[28] Licensed or registered money/value transfer services which fail to comply fully with the relevant measures called for in the FATF Forty Recommendations or the Eight Special Recommendations should also be subject to appropriate sanctions.

28 Jurisdictions may authorise temporary or provisional operation of money / value transfer services that are already in existence at the time of implementing this Special Recommendation to permit such services to obtain a license or to register.

APPENDIX H

Combating the Abuse of Alternative Remittance Systems

International Best Practices[29]

Introduction

1. Alternative remittance systems are financial services, traditionally operating outside the conventional financial sector, where value or funds are moved from one geographic location to another.

Special Recommendation VI: Alternative Remittance[30]

Each country should take measures to ensure that persons or legal entities, including agents, that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all the FATF Recommendations that apply to banks and non-bank financial institutions. Each country should ensure that persons or legal entities that carry out this service illegally are subject to administrative, civil or criminal sanctions.

2. While the Interpretative Note is intended to further explain Special Recommendation VI, the Best Practices Paper is intended to give additional details (including some examples), to offer jurisdictions suggestions in implementing Special Recommendation VI and to give them guidance on how to detect alternative remittance systems outside the conventional financial sector. It focuses on many practical issues, such as the identification of money/value transfer services, the procedures for licensing or registering such services and their customer due diligence procedures. This Best Practices Paper addresses the following topics:

- Definition of *money or value transfer service*
- Statement of Problem
- Principles
- Areas of Focus
  - (i) Licensing/Registration
    - a. Requirement to Register or License
    - b. Applications for Licence
    - c. Business Address
    - d. Accounts
  - (ii) Identification and Awareness Raising
    - a. Identification Strategies
    - b. Awareness Raising Campaigns
  - (iii) Anti-Money Laundering Regulations
    - a. Customer Identification
    - b. Record Keeping Requirement
    - c. Suspicious Transaction Reporting

[29] The content of this paper is taken primarily from APG's Draft Alternative Remittance Regulation Implementation Package (Oct 2002.) This Best Practices Paper is intended to draw on the work of the APG Working Group on Underground Banking and Alternative Remittance Systems guided by Mark Butler and Rachelle Boyle, into international best practices.

[30] See also the FATF Interpretative Note to Special Recommendation VI: Alternative Remittance.

(iv) Compliance Monitoring
(v) Sanctions

Definition

3. Throughout this Best Practices Paper, the following definition from the Interpretative Note to SR VI is used.

4. *Money or value transfer service* (MVT service) refers to a financial service that accepts cash, cheques, other monetary instruments or other stores of value in one location and pays a corresponding sum in cash or other form to a beneficiary in another location by means of a communication, message, transfer or through a clearing network to which the MVT service belongs. Transactions performed by such services can involve one or more intermediaries and a third party final payment.

5. A MVT service may be provided by persons (natural or legal) formally through the regulated financial system or informally through entities that operate outside the regulated system. In some jurisdictions, informal systems are frequently referred to as *alternative remittance services* or *underground* (or *parallel*) *banking systems.* Often these systems have ties to particular geographic regions and are therefore described using a variety of specific terms. Some examples of these terms include *hawala, hundi, fei-chien,* and the *black market peso exchange.*

Statement of Problem

6. As 'Know Your Customer' and other anti-money laundering strategies come into operation in the formal financial sector, money laundering activity may be displaced to other sectors. Jurisdictions have reported increased money laundering activity using the non-bank sector and non-financial businesses. Measures should therefore be taken to obviate any increased abuse of the unregulated sector. MVT services are increasingly vulnerable to abuse by money launderers and the financiers of terrorism, particularly when their operations are conducted through informal systems involving non-bank financial institutions or other business entities not subject to the applicable obligations under the FATF Recommendations.

7. In addition to their use by legitimate clients, criminals have laundered the proceeds of various criminal activities using MVT services. Primarily, unregulated MVT services permit funds to be sent anonymously, allowing the money launderer or terrorist financier to freely send funds without having to identify himself or herself. In some cases, few or no records are kept. In other cases, records may be kept, but are inaccessible to authorities. The lack of adequate records makes it extremely difficult, if not impossible, to trace the funds after the transaction has been completed.

8. From recent research, it is suspected that the principal criminal activities engaged in by those who utilise MVT services are the illicit trafficking in narcotic drugs and psychotropic substances, illicit arms trafficking, corruption, evasion of government taxes and duties, trafficking in human beings and migrant smuggling. Recent reports indicate that international terrorist groups have used MVT services to transmit funds for the purpose of funding terrorist activities. (For example, investigation of the September 11, 2001 terrorist attacks has found

that both the formal financial sector and informal MVT services were used to transfer money to the terrorists.)

Principles

9. The following principles guide the establishment of these best practices:

- In certain jurisdictions, informal MVT services provide a legitimate and efficient service. Their services are particularly relevant where access to the formal financial sector is difficult or prohibitively expensive. Informal MVT services are available outside the normal banking business hours. Furthermore, money can be sent to and from locations where the formal banking system does not operate.

- Informal MVT services are more entrenched in some regions than others for cultural and other reasons. Underground banking is a long-standing tradition in many countries and pre-dates the spread of Western banking systems in the 19th and 20th centuries. These services operate primarily to provide transfer facilities to neighbouring jurisdictions for expatriate workers repatriating funds. However, the staging posts of underground banking are no longer confined to those regions where they have their historical roots. Accordingly, informal MVT services are no longer used solely by persons from specific ethnic or cultural backgrounds.

- MVT services can take on a variety of forms which, in addition to the adoption of a risk-based approach to the problem, points to the need to take a functional, rather than a legalistic definition. Accordingly, the FATF has developed suggested practices that would best aid authorities to reduce the likelihood that MVT services will be misused or exploited by money launderers and the financiers of terrorism.

- Government oversight should be flexible, effective, and proportional to the risk of abuse. Mechanisms that minimise the compliance burden, without creating loopholes for money launderers and terrorist financiers and without being so burdensome that it in effect causes MVT services to go "underground" making them even harder to detect should be given due consideration.

- It is acknowledged that in some jurisdictions informal MVT services have been banned. Special Recommendation VI does not seek legitimisation of informal MVT services in those jurisdictions. The identification and awareness raising issues noted may however be of use for competent authorities involved in identifying informal MVT services and for sanctioning those who operate illegally.

Areas of Focus

10. Analysis of the investigations and law-enforcement activities of various jurisdictions indicate several ways in which informal MVT services have been abused by terrorists and launderers and suggests areas in which preventive measures should be considered.

(i) Licensing/Registration

11. A core element of Special Recommendation VI is that jurisdictions should require licensing or registration of persons (natural or legal) that provide informal MVT services.

The FATF defines these terms in its interpretative note to Special Recommendation VI. A key element of both registration and licensing is the requirement that the relevant regulatory body is aware of the existence of the business. The key difference between the two is that licensing implies that the regulatory body has inspected and sanctioned the particular operator to conduct such a business whereas registration means that the operator has been entered into the regulator's list of operators.

a. Requirement to Register or License

- At a minimum, jurisdictions should ensure that MVT services are required to register with a designated competent authority such as a Financial Intelligence Unit (FIU) or financial sector regulatory body. Registration of MVT services is likely to be a relatively cost effective approach when compared to the significant resources required for licensing.

- The obligation of licensing or registration applies to agents. At a minimum, the principal business must maintain a current list of agents which must be made available to the designated competent authority. An agent is any person who provides MVT service under the direction of or by contract with a legally registered or licensed MVT service (for example, licensees, franchisees, concessionaires.

b. Applications for Licence

  - In determining whether an application for licensing can be accepted by the regulatory authority, it is clear that some form of scrutiny of the application and the operator needs to be conducted. This is in line with FATF Recommendation 29[31] which states that regulators should introduce *"the necessary legal or regulatory measures to guard against control or acquisition of a significant participation in financial institutions by criminals or their confederates."*

- Authorities should conduct background checks on the operators, owners, directors and shareholders of MVT services. When considering the suitability of a potential operator, the authorities should conduct a criminal record check on the principal persons having control over the operations of the MVT service, as well as consult appropriate law enforcement databases, including suspicious or unusual reporting filings. Consideration should be given to defining the type of criminal record which would make the applicant ineligible to operate a licensed MVT service.

c. Business Address

  - MVT services should be required to submit details of the addresses from which they operate and to notify the authorities upon any change of address or cessation of business. Where possible, this information may be made available to both the public so they may check which MVT service is properly licensed or registered before using their services, and to investigative / regulatory authorities during the course of their work. This also has value for financial institutions with which the MVT services maintain accounts as they are able to identify which MVT services are licensed / registered and thus are

[31] All references to the FATF 40 Recommendations refer to the 1996 version of the FATF 40 Recommendations.

more able to identify illegal operators and to report to the FIU or appropriate competent authority accordingly.

d. Accounts

- In processing cash and in the settlement of transactions, MVT services use bank accounts. Some operators run a number of businesses, of which MVT service is one, and use business accounts to conduct or conceal the remittances of funds on behalf of their clients thereby masking the true origin of the commingled funds and accounts.

- MVT services should maintain the name and address of any depository institution with which the operator maintains a transaction account for the purpose of the MVT service business. These accounts must be capable of being identified and should be held in the name of the registered/licensed entity so that the accounts and the register or list of licensed entities can be easily cross-referenced.

- Traditional financial institutions should be encouraged to develop more detailed understanding as to how MVT services utilise bank accounts to conduct their operations, particularly when accounts are used in the settlement process.

(ii) Identification and Awareness Raising

12. Some informal MVT services are not known to regulatory and enforcement agencies, which makes them attractive to the financiers of terrorism. Identification of these MVT services will make it less attractive for criminal and terrorist groups to use them to facilitate and hide the financing of their activities.

13. For the majority of jurisdictions, proactive identification of informal MVT services is an integral element of establishing and maintaining an effective registration / licensing regime. Once informal MVT services have been located, compliance programs can be instituted under which the agents are approached, their details are recorded and they are provided information as to their obligations. Once regulatory regimes are in place, ongoing compliance work will include strategies to identify those MVT services not yet known to regulatory authorities. Jurisdictions may apply a range of strategies to uncover MVT services, using a number of approaches concurrently. Jurisdictions are encouraged to foster close co-ordination within the relevant authorities for the purposes of developing inter-agency strategies and using available resources to identify MVT services that may be operating illegally. Below is a list of suggested best practices for identifying MVT services and raising public awareness about their activities. As best practices, it is recognized that some of these suggestions may not be appropriate for every jurisdiction and that each jurisdiction must develop strategies best suited to its individual system.

a. Identification Strategies

14. Best practices in the area of identification strategies include:

- Examining the full range of media to detect advertising conducted by informal MVT services and informing operators of their registration/licensing obligations. This includes national, local and community newspapers, radio and the Internet; giving particular attention to the printed media in various communities; and monitoring activities in certain neighbourhoods or areas where informal MVT services may be operating.

- During investigations, information about informal MVT services may be uncovered which should be passed on to the competent authorities. Best practices include encouraging investigators to pay particular attention to ledgers of business that may be associated with informal MVT services; encouraging enforcement agencies to look for patterns of activity that might indicate involvement of informal MVT services; and, where possible, encouraging enforcement agencies to consider using undercover techniques or other specific investigative techniques to detect MVT services that may be operating illegally.

- Consulting with the operators of registered / licensed MVT services for potential leads on MVT services that are unregistered or unlicensed.

- Being aware that informal MVT services are often utilised where there is bulk currency moved internationally, particularly when couriers are involved. Paying particular attention to the origin and owners of any such currency. Couriers could provide insights for the identification and potential prosecution of illegal operators with whom the couriers are associated, especially when potential violations by couriers are linked back to the source of the informal MVT service operation.

- Paying particular attention to domestic suspicious transaction or unusual activity reporting, as well as to domestic and international large value cash reporting, to identify possible links to informal MVT services.

    - Assisting banks and other financial institutions in developing an understanding of what activities/indicators are suggestive of informal MVT service operations and using this to identify them. Many informal MVT services maintain bank accounts and conduct transactions in the formal financial sector as part of other business operations. Giving banks the authority to cross-check particular accounts against a register of these operators and notify the relevant regulatory authority as appropriate.
- Once informal MVT services are identified international exchange of information and intelligence on these entities between the relevant bodies can be facilitated. Consideration could be given to sharing domestic registers with international counterparts. This strategy would also assist jurisdictions to identify local operators not previously known.

b. Awareness Raising Campaigns

15. Best practices in the area of awareness raising campaigns include:

- Making informal MVT services aware of their obligations to license or register, as well as any other obligations with which they may have to comply. Ensuring that the competent authorities responsible for overseeing and/or registering or licensing informal MVT services know how to detect those services that have not registered or been licensed. Finally, ensuring that law enforcement is aware of the compliance requirements for MVT services in addition to the methods by which those services are used for illicit purposes.

- Using education and compliance programs, including visits to businesses which may be operating informal MVT services to advise them of licensing or registration and reporting obligations, as opportunities to seek information about others in their industry. Using these outreach efforts by law enforcement and regulatory agencies to enhance their

understanding about the operations, record-keeping functions and customer bases of informal MVT services. Extending outreach campaigns to businesses typically servicing informal MVT services (such as shipping services, courier services and trading companies). Placing in trade journals, newspapers or other publications of general distribution notices of the need for informal MVT services to register or license and file reports.

- Ensuring that the full range of training, awareness opportunities and other forms of education are provided to investigators with information about MVT services, their obligations under the regulatory regime and ways in which their services can be used by money launderers and terrorist financiers. This information can be provided through training courses, presentations at seminars and conferences, articles in policing journals and other publications.

- Issuing various financial sector publications of guidelines to encourage licensing or registration and reporting and also general material to ensure financial institutions currently subject to suspicious transaction reporting requirements develop an understanding of MVT services. (Also see section on suspicious transaction reporting on page 9.) Informing potential customers about the risks of utilising illegal MVT services and their role in financing of terrorism and money laundering.

- Requiring entities to display their registration/license to customers once they are registered/licensed. Legitimate clients will likely have a higher degree of confidence in using registered/licensed operators and may therefore seek out those operators displaying such documentation.

    - Making a list of all licensed or registered persons that provide MVT services publicly available.

(iii) Anti-Money Laundering Regulations

16. The second element of Special Recommendation VI is that jurisdictions should ensure MVT services are subject to FATF Recommendations 10-21 and 26-29 and also to the Eight Special Recommendations.

17. There is key information that both regulatory and enforcement bodies need access to if they are to conduct effective investigations of money laundering and terrorist financing involving MVT services. Essentially, agencies need the information about the customers, the transactions themselves, any suspicious transactions, the MVT service's location and the accounts used. The MVT service must also have further records on hand available to regulatory and enforcement bodies as needed.

18. It is considered that to be effective in addressing the problem of MVT services, regulations should not be overly restrictive. Regulation must allow for those who abuse these systems to be found and stopped, but it should not be so burdensome that it in effect causes the systems to go "underground", making it even harder to uncover money laundering and terrorist financing through alternative remittance.

a. Customer Identification

19. The principle of Know Your Customer ('KYC') has been the backbone of anti-money laundering and counter terrorist financing measures which have been introduced to financial service providers in recent years, and this should also be the case for the MVT service sector. Customer identification requirements in the formal financial sector have had a deterrent effect, causing a shift in money laundering activities to other sectors. FATF Recommendations 10-13 concern customer identification and record keeping.

- FATF's Recommendation 10 is considered to be the minimum effective level which MVT services should be required to fulfil. The current recommendation sets out that for persons, the institution should "*identify, on the basis of an official or other reliable identifying document*" the client. The documents commonly acknowledged and accepted for identification purposes are identity card, passport, drivers' license or social security card. It is important for the credibility of the system that failure to produce an acceptable form of identification will mean that a client will be rejected, the transaction will not be conducted and, under specific circumstances a suspicious transaction report will be made.

- Proof of identity should be required when establishing a business relationship with the MVT service whether the relationship is a short term i.e. a single transaction, or a long term one. Transactions via phone, fax or Internet should only be conducted after customer identification complying with FATF Recommendation 10 has occurred (i.e., a business relationship has already been established). If the client's identification has not been previously established, then the transaction should not be processed.[32]

b. Record Keeping Requirement

20. Investigative agencies need to be able to retrace transactions and identify persons effecting the transactions (i.e. the audit trail) if they are to successfully investigate money laundering and terrorist financing. The requirement for MVT services to maintain records is essential for effective regulation of the field, but it is this area in which the balance between the regulator's needs and the burden on the operator most clearly needs to be struck.

- Jurisdictions should consider FATF's Special Recommendation VII on Wire Transfers[33] when developing guidance in this area. This recommendation specifically deals with funds transfers, including those made through MVT services. It should be noted that Special Recommendation VI covers the transmission of "value" as well as money.

- MVT services should comply with FATF Recommendation 12 to maintain, for at least five years, all necessary records on transactions both domestic and international. Jurisdictions should consider setting some minimum requirements for the form in which the records should be kept. Because records associated with MVT transfer services may often be coded and/or difficult to access, jurisdictions should also establish minimum standards for ensuring that they are intelligible and retrievable.

[32] This should also be read in conjunction with Recommendation 6 of the revised 40 Recommendations.

[33] Text of SRVII: Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message through the payment chain. Countries should take measures to ensure that financial institutions, including money remitters, conduct enhanced scrutiny of and monitor for suspicious activity funds transfers which do not contain complete originator information (name, address and account number).

c. Suspicious Transaction Reporting

21. To maintain consistency with the obligations imposed on other financial institutions, jurisdictions should introduce transaction reporting in line with their current reporting requirements for financial institutions.

- Jurisdictions may consider issuing specific guidance as to what may constitute a suspicious transaction to the MVT service industry. Some currently used indicators of suspicious financial activity, such as those found in the FATF's Guidance for Financial Institutions in Detecting Terrorist Financing, are likely to be relevant for money/value transfer service activity. However, particular activities and indicators that are unique to this sector should be further developed.

- The second half of FATF's Special Recommendation VII on Wire Transfers should also be taken into account when developing guidance in this area. For example, operators that receive funds/value should ensure that the necessary originator information is included. The lack of complete originator information may be considered as a factor in assessing whether a transaction is suspicious and, as appropriate, whether it is thus required to be reported to the Financial Intelligence Unit or other competent authorities. If this information is not included, the operator should report suspicious activity to the local FIU or other competent authority if appropriate.

(iv) Compliance Monitoring

22. Regulatory authorities need to monitor the sector with a view to identifying illegal operators and use of these facilities by criminal and terrorist groups. Jurisdictions are encouraged to consider the following options:

- Competent authorities should also be entitled to check on unregistered entities that are suspected to be involved in MVT services. There should be an effective process for using this authority.

- Granting regulatory agencies or supervisory authorities the authority to check the operations of a MVT service and make unexpected visits to operators to allow for the checking of the register's details and the inspection of records. Record keeping practices should be given particular attention.

- Establishing a process of identifying and classifying operators which are considered to be of high risk. In this context, "high risk" means those operators which are considered to be of high risk of being used to carry out money laundering or terrorist financing activities. Jurisdictions are encouraged to give such high risk entities extra attention from supervising authorities.

(v) Sanctions

23. In designing legislation to address this problem, one of the aspects to be considered concerns the sanctions which are available to redress non-compliance. If a MVT service operator is found to be non-compliant with the relevant requirements of the legislation the competent authorities would be expected to sanction the operator. Ideally, jurisdictions

should set up a system to employ civil, criminal or administrative sanctions depending on the severity of the offence. For instance, in some cases a warning may initially suffice. However, if a MVT service continues to be in non-compliance, it should receive stronger measures. There should be particularly strong penalties for MVT services and their operators that knowingly act against the law, for example by not registering.

24. To monitor the continued suitability of an individual to conduct a MVT service, jurisdictions are encouraged to put systems into place which would bring any conviction of an operator, shareholder or director following licensing or registration, to the attention of the appropriate authorities. Consideration should be given to defining the type of criminal record which would make the applicant ineligible to be a MVT service provider.

APPENDIX I

Interpretative Note to Special Recommendation VII: Wire Transfers[34]

Objective

1. Special Recommendation VII (SR VII) was developed with the objective of preventing terrorists and other criminals from having unfettered access to wire transfers for moving their funds and for detecting such misuse when it occurs. Specifically, it aims to ensure that basic information on the originator of wire transfers is immediately available (1) to appropriate law enforcement and/or prosecutorial authorities to assist them in detecting, investigating, prosecuting terrorists or other criminals and tracing the assets of terrorists or other criminals, (2) to financial intelligence units for analysing suspicious or unusual activity and disseminating it as necessary, and (3) to beneficiary financial institutions to facilitate the identification and reporting of suspicious transactions. It is not the intention of the FATF to impose rigid standards or to mandate a single operating process that would negatively affect the payment system.

Definitions

2. For the purposes of this interpretative note, the following definitions apply.

a. The terms *wire transfer* and *funds transfer* refer to any transaction carried out on behalf of an originator person (both natural and legal) through a financial institution by electronic means with a view to making an amount of money available to a beneficiary person at another financial institution. The originator and the beneficiary may be the same person.

b. *Cross-border transfer* means any wire transfer where the originator and beneficiary institutions are located in different jurisdictions. This term also refers to any chain of wire transfers that has at least one cross-border element.

c. *Domestic transfer* means any wire transfer where the originator and beneficiary institutions are located in the same jurisdiction. This term therefore refers to any chain of wire transfers that takes place entirely within the borders of a single jurisdiction, even though the system used to effect the wire transfer may be located in another jurisdiction.

d. The term financial institution is as defined by the FATF Forty Recommendations. The term does not apply to any persons or entities that provide financial institutions solely with message or other support systems for transmitting funds[35].

[34] It is recognised that jurisdictions will need time to make relevant legislative or regulatory changes and to allow financial institutions to make necessary adaptations to their systems and procedures. This period should not be longer than two years after the adoption of this Interpretative Note.

[35] However, these systems do have a role in providing the necessary means for the financial institutions to fulfil their obligations under SR VII and, in particular, in preserving the integrity of the information transmitted with a wire transfer.

e. The originator is the account holder, or where there is no account, the person (natural or legal) that places the order with the financial institution to perform the wire transfer.

Scope

3. SR VII applies, under the conditions set out below, to cross-border and domestic transfers between financial institutions.

Cross-border wire transfers

4. Cross-border wire transfers should be accompanied by accurate and meaningful originator information.[36]

5. Information accompanying cross-border wire transfers must always contain the name of the originator and where an account exists, the number of that account. In the absence of an account, a unique reference number must be included.

6. Information accompanying the wire transfer should also contain the address of the originator. However, jurisdictions may permit financial institutions to substitute the address with a national identity number, customer identification number, or date and place of birth.

7. Cross-border wire transfers that are contained within batch transfers, except for those sent by money remitters, will be treated as domestic wire transfers. In such cases, the ordering institutions must retain the information necessary to identify all originators and make it available on request to the authorities and to the beneficiary financial institution. Financial institutions should ensure that non-routine transactions are not batched where this would increase the risk of money laundering or terrorist financing.

Domestic wire transfers

8. Information accompanying domestic wire transfers must also include originator information as indicated for cross-border wire transfers, unless full originator information can be made available to the beneficiary financial institution and appropriate authorities by other means. In this latter case, financial institutions need only include the account number or a unique identifier provided that this number or identifier will permit the transaction to be traced back to the originator.

9. The information must be made available by the ordering financial institution within three business days of receiving the request either from the beneficiary financial institution or

36 Jurisdictions may have a *de minimis* threshold (no higher than USD 3,000) for a one-year period from publication of this Interpretative Note. At the end of this period, the FATF will undertake a review of this issue to determine whether the use of a *de minimis* threshold is acceptable. Notwithstanding any thresholds, accurate and meaningful originator information must be retained and made available by the ordering financing institution as set forth in paragraph 9.

from appropriate authorities. Law enforcement authorities should be able to compel immediate production of such information.

Exemptions from SR VII

10. SR VII is not intended to cover the following types of payments:

    a. Any transfer that flows from a transaction carried out using a credit or debit card so long as the credit or debit card number accompanies all transfers flowing from the transaction. However, when credit or debit cards are used as a payment system to effect a money transfer, they are covered by SR VII, and the necessary information should be included in the message.

    b. Financial institution-to-financial institution transfers and settlements where both the originator person and the beneficiary person are financial institutions acting on their own behalf.

Role of ordering, intermediary and beneficiary financial institutions

Ordering financial institution

11. The ordering financial institution must ensure that qualifying wire transfers contain complete originator information. The ordering financial institution must also verify this information for accuracy and maintain this information in accordance with the standards set out in the FATF Forty Recommendations.

Intermediary financial institution

12. For both cross-border and domestic wire transfers, financial institutions processing an intermediary element of such chains of wire transfers must ensure that all originator information that accompanies a wire transfer is retained with the transfer.

13. Where technical limitations prevent the full originator information accompanying a cross-border wire transfer from remaining with a related domestic wire transfer (during the necessary time to adapt payment systems), a record must be kept for five years by the receiving intermediary financial institution of all the information received from the ordering financial institution.

Beneficiary financial institution

14. Beneficiary financial institutions should have effective risk-based procedures in place to identify wire transfers lacking complete originator information. The lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transactions are suspicious and, as appropriate, whether they are thus required to be reported to the financial intelligence unit or other competent authorities. In some cases, the beneficiary financial institution should consider restricting or even terminating its business relationship with financial institutions that fail to meet SRVII standards.

Enforcement mechanisms for financial institutions that do not comply with wire transfer rules and regulations

15. Jurisdictions should adopt appropriate measures to monitor effectively the compliance of financial institutions with rules and regulations governing wire transfers. Financial institutions that fail to comply with such rules and regulations should be subject to civil, administrative or criminal sanctions.

APPENDIX J

COMBATING THE ABUSE OF NON-PROFIT ORGANISATIONS

International Best Practices

Introduction and definition

1. The misuse of non-profit organisations for the financing of terrorism is coming to be recognised as a crucial weak point in the global struggle to stop such funding at its source. This issue has captured the attention of the Financial Action Task Force (FATF), the G7, and the United Nations, as well as national authorities in many regions. Within the FATF, this has rightly become the priority focus of work to implement Special Recommendation VIII (Non-profit organisations).

2. Non-profit organisations can take on a variety of forms, depending on the jurisdiction and legal system. Within FATF members, law and practice recognise associations, foundations, fund-raising committees, community service organisations, corporations of public interest, limited companies, Public Benevolent Institutions, all as legitimate forms of non-profit organisation, just to name a few.

3. This variety of legal forms, as well as the adoption of a risk-based approach to the problem, militates in favour of a functional, rather than a legalistic definition. Accordingly, the FATF has developed suggested practices that would best aid authorities to protect non-profit organisations that engage in raising or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works" from being misused or exploited by the financiers of terrorism.

Statement of the Problem

4. Unfortunately, numerous instances have come to light in which the mechanism of charitable fundraising – *i.e.*, the collection of resources from donors and its redistribution for charitable purposes – has been used to provide a cover for the financing of terror. In certain cases, the organisation itself was a mere sham that existed simply to funnel money to terrorists. However, often the abuse of non-profit organisations occurred without the knowledge of donors, or even of members of the management and staff of the organisation itself, due to malfeasance by employees and/or managers diverting funding on their own. Besides financial support, some non-profit organisations have also provided cover and logistical support for the movement of terrorists and illicit arms. Some examples of these kinds of activities were presented in the 2001-2002 FATF Report on Money Laundering Typologies[37]; others are presented in the annex to this paper.

Principles

5. The following principles guide the establishment of these best practices:

- The charitable sector is a vital component of the world economy and of many national economies and social systems that complements the activity of the governmental and

[37] **Published 1 February 2002 and available at http://www.fatf-gafi.org/FATDocs_en.htm#Trends.**

business sectors in supplying a broad spectrum of public services and improving quality of life. We wish to safeguard and maintain the practice of charitable giving and the strong and diversified community of institutions through which it operates.

- Oversight of non-profit organisations is a co-operative undertaking among government, the charitable community, persons who support charity, and those whom it serves. Robust oversight mechanisms and a degree of institutional tension between non-profit organisations and government entities charged with their oversight do not preclude shared goals and complementary functions – both seek to promote transparency and accountability and, more broadly, common social welfare and security goals.

- Government oversight should be flexible, effective, and proportional to the risk of abuse. Mechanisms that reduce the compliance burden without creating loopholes for terrorist financiers should be given due consideration. Small organisations that do not raise significant amounts of money from public sources, and locally based associations or organisations whose primary function is to redistribute resources among members may not necessarily require enhanced government oversight.

- Different jurisdictions approach the regulation of non-profit organisations from different constitutional, legal, regulatory, and institutional frameworks, and any international standards or range of models must allow for such differences, while adhering to the goals of establishing transparency and accountability in the ways in which non-profit organisations collect and transmit funds. It is understood as well that jurisdictions may be restricted in their ability to regulate religious activity.

- Jurisdictions may differ on the scope of purposes and activities that are within the definition of "charity," but all should agree that it does not include activities that directly or indirectly support terrorism, including actions that could serve to induce or compensate for participation in terrorist acts.

- The non-profit sector in many jurisdictions has representational, self-regulatory, watchdog, and accreditation organisations that can and should play a role in the protection of the sector against abuse, in the context of a public-private partnership. Measures to strengthen self-regulation should be encouraged as a significant method of decreasing the risk of misuse by terrorist groups.

Areas of focus

6. Preliminary analysis of the investigations, blocking actions, and law-enforcement activities of various jurisdictions indicate several ways in which non-profit organisations have been misused by terrorists and suggests areas in which preventive measures should be considered.

(i) Financial transparency

7. Non-profit organisations collect hundreds of billions of dollars annually from donors and distribute those monies – after paying for their own administrative costs – to beneficiaries. Transparency is in the interest of the donors, organisations, and authorities. However, the sheer volume of transactions conducted by non-profit organisations combined with the desire not to unduly burden legitimate organisations generally underscore the

importance of risk and size-based proportionality in setting the appropriate level of rules and oversight in this area.

a. Financial accounting

- Non-profit organisations should maintain and be able to present full program budgets that account for all programme expenses. These budgets should indicate the identity of recipients and how the money is to be used. The administrative budget should also be protected from diversion through similar oversight, reporting, and safeguards.

- Independent auditing is a widely recognised method of ensuring that that accounts of an organisation accurately reflect the reality of its finances and should be considered a best practice. Many major non-profit organisations undergo audits to retain donor confidence, and regulatory authorities in some jurisdictions require them for non-profit organisations. Where practical, such audits should be conducted to ensure that such organisations are not being abused by terrorist groups. It should be noted that such financial auditing is not a guarantee that program funds are actually reaching the intended beneficiaries.

b. Bank accounts:

- It is considered a best practice for non-profit organisations that handle funds to maintain registered bank accounts, keep its funds in them, and utilise formal or registered financial channels for transferring funds, especially overseas. Where feasible, therefore, non-profit organisations that handle large amounts of money should use formal financial systems to conduct their financial transactions. Adoption of this best practice would bring the accounts of non-profit organisations, by and large, within the formal banking system and under the relevant controls or regulations of that system.

(ii) Programmatic verification

8. The need to verify adequately the activities of a non-profit organisation is critical. In several instances, programmes that were reported to the home office were not being implemented as represented. The funds were in fact being diverted to terrorist organisations. Non-profit organisations should be in a position to know and to verify that funds have been spent as advertised and planned.

a. Solicitations

9. Solicitations for donations should accurately and transparently tell donors the purpose(s) for which donations are being collected. The non-profit organisation should then ensure that such funds are used for the purpose stated.

b. Oversight

10. To help ensure that funds are reaching the intended beneficiary, non-profit organisations should ask following general questions:

- Have projects actually been carried out?
- Are the beneficiaries real?
- Have the intended beneficiaries received the funds that were sent for them?

- Are all funds, assets, and premises accounted for?

c. Field examinations

11. In several instances, financial accounting and auditing might be insufficient protection against the abuse of non-profit organisations. Direct field audits of programmes may be, in some instances, the only method for detecting misdirection of funds. Examination of field operations is clearly a superior mechanism for discovering malfeasance of all kinds, including diversion of funds to terrorists. Given considerations of risk-based proportionality, across-the-board examination of all programmes would not be required. However, non-profit organisations should track programme accomplishments as well as finances. Where warranted, examinations to verify reports should be conducted.

d. Foreign operations

12. When the home office of the non-profit organisation is in one country and the beneficent operations take place in another, the competent authorities of both jurisdictions should strive to exchange information and co-ordinate oversight or investigative work, in accordance with their comparative advantages. Where possible, a non-profit organisation should take appropriate measures to account for funds and services delivered in locations other than in its home jurisdiction.

(iii) Administration

13. Non-profit organisations should be able to document their administrative, managerial, and policy control over their operations. The role of the Board of Directors, or its equivalent, is key.

14. Much has been written about the responsibilities of Boards of Directors in the corporate world and recent years have seen an increased focus and scrutiny of the important role of the Directors in the healthy and ethical functioning of the corporation. Directors of non-profit organisations, or those with equivalent responsibility for the direction and control of an organisation's management, likewise have a responsibility to act with due diligence and a concern that the organisation operates ethically. The directors or those exercising ultimate control over a non-profit organisation need to know who is acting in the organisation's name – in particular, responsible parties such as office directors, plenipotentiaries, those with signing authority and fiduciaries. Directors should exercise care, taking proactive verification measures whenever feasible, to ensure their partner organisations and those to which they provide funding, services, or material support, are not being penetrated or manipulated by terrorists.

15. Directors should act with diligence and probity in carrying out their duties. Lack of knowledge or passive involvement in the organisation's affairs does not absolve a director – or one who controls the activities or budget of a non-profit organisation – of responsibility. To this end, directors have responsibilities to:

- The organisation and its members to ensure the financial health of the organisation and that it focuses on its stated mandate.
- Those with whom the organisation interacts, like donors, clients, suppliers.
- All levels of government that in any way regulate the organisation.

16. These responsibilities take on new meaning in light of the potential abuse of non-for-profit organisations for terrorist financing. If a non-profit organisation has a board of directors, the board of directors should:

- Be able to identify positively each board and executive member;
- Meet on a regular basis, keep records of the decisions taken at these meetings and through these meetings;
- Formalise the manner in which elections to the board are conducted as well as the manner in which a director can be removed;
- Ensure that there is an annual independent review of the finances and accounts of the organisation;
- Ensure that there are appropriate financial controls over program spending, including programs undertaken through agreements with other organisations;
- Ensure an appropriate balance between spending on direct programme delivery and administration;
- Ensure that procedures are put in place to prevent the use of the organisation's facilities or assets to support or condone terrorist activities.

Oversight bodies

17. Various bodies in different jurisdictions interact with the charitable community. In general, preventing misuse of non-profit organisations or fundraising organisations by terrorists has not been a historical focus of their work. Rather, the thrust of oversight, regulation, and accreditation to date has been maintaining donor confidence through combating waste and fraud, as well as ensuring that government tax relief benefits, where applicable, go to appropriate organisations. While much of this oversight focus is fairly easily transferable to the fight against terrorist finance, this will also require a broadening of focus.

18. There is not a single correct approach to ensuring appropriate transparency within non-profit organisations, and different jurisdictions use different methods to achieve this end. In some, independent charity commissions have an oversight role, in other jurisdictions government ministries are directly involved, just to take two examples. Tax authorities play a role in some jurisdictions, but not in others. Other authorities that have roles to play in the fight against terrorist finance include law enforcement agencies and bank regulators. Far from all the bodies are governmental – private sector watchdog or accreditation organisations play an important role in many jurisdictions.

(i) Government Law Enforcement and Security officials

19. Non-profit organisations funding terrorism are operating illegally, just like any other illicit financier; therefore, much of the fight against the abuse of non-profit organisations will continue to rely heavily on law enforcement and security officials. Non-profit organisations are not exempt from the criminal laws that apply to individuals or business enterprises.

- Law enforcement and security officials should continue to play a key role in the combat against the abuse of non-profit organisations by terrorist groups, including by continuing their ongoing activities with regard to non-profit organisations.

(ii) Specialised Government Regulatory Bodies

20. A brief overview of the pattern of specialised government regulation of non-profit organisations shows a great variety of practice. In England and Wales, such regulation is housed in a special Charities Commission. In the United States, any specialised government regulation occurs at the sub-national (state) level. GCC member countries oversee non-profit organisations with a variety of regulatory bodies, including government ministerial and intergovernmental agencies.

- In all cases, there should be interagency outreach and discussion within governments on the issue of terrorist financing – especially between those agencies that have traditionally dealt with terrorism and regulatory bodies that may not be aware of the terrorist financing risk to non-profit organisations. Specifically, terrorist financing experts should work with non-profit organisation oversight authorities to raise awareness of the problem, and they should alert these authorities to the specific characteristics of terrorist financing.

(iii) Government Bank, Tax, and Financial Regulatory Authorities

21. While bank regulators are not usually engaged in the oversight of non-profit organisations, the earlier discussion of the importance of requiring charitable fund-raising and transfer of funds to go through formal or registered channels underscores the benefit of enlisting the established powers of the bank regulatory system – suspicious activity reporting, know-your-customer (KYC) rules, etc – in the fight against terrorist abuse or exploitation of non-profit organisations.

22. In those jurisdictions that provide tax benefits to charities, tax authorities have a high level of interaction with the charitable community. This expertise is of special importance to the fight against terrorist finance, since it tends to focus on the financial workings of charities.

- Jurisdictions which collect financial information on charities for the purposes of tax deductions should encourage the sharing of such information with government bodies involved in the combating of terrorism (including FIUs) to the maximum extent possible. Though such tax-related information may be sensitive, authorities should ensure that information relevant to the misuse of non-profit organisations by terrorist groups or supporters is shared as appropriate.

(iv) Private Sector Watchdog Organisations

23. In the countries and jurisdictions where they exist, the private sector watchdog or accreditation organisations are a unique resource that should be a focal point of international efforts to combat the abuse of non-profit organisations by terrorists. Not only do they contain observers knowledgeable of fundraising organisations, they are also very directly interested in preserving the legitimacy and reputation of the non-profit organisations. More than any other class of participants, they have long been engaged in the development and promulgation of "best practices" for these organisations in a wide array of functions.

24. Jurisdictions should make every effort to reach out and engage such watchdog and accreditation organisations in their attempt to put best practices into place for combating the misuse of non-profit organisations. Such engagement could include a dialogue on how to improve such practices.

Sanctions

25. Countries should use existing laws and regulations or establish any such new laws or regulations to establish effective and proportionate administrative, civil, or criminal penalties for those who misuse charities for terrorist financing.

TYPOLOGIES OF TERRORIST MISUSE OF NON-PROFIT ORGANISATIONS

Annex

Example 1: Non-profit front organisation

1. In 1996, a number of individuals known to belong to the religious extremist groups established in the south-east of an FATF country (Country A) convinced wealthy foreign nationals, living for unspecified reasons in Country A, to finance the construction of a place of worship. These wealthy individuals were suspected of assisting in the concealment of part of the activities of a terrorist group. It was later established that "S", a businessman in the building sector, had bought the building intended to house the place of worship and had renovated it using funds from one of his companies. He then transferred the ownership of this building, for a large profit, to Group Y belonging to the wealthy foreigners mentioned above.

2. This place of worship intended for the local community in fact also served as a place to lodge clandestine "travellers" from extremist circles and collect funds. For example, soon after the work was completed, it was noticed that the place of worship was receiving large donations (millions of dollars) from other wealthy foreign businessmen. Moreover, a Group Y worker was said to have convinced his employers that a "foundation" would be more suitable for collecting and using large funds without attracting the attention of local authorities. A foundation was thus reportedly established for this purpose.

3. It is also believed that part of "S's" activities in heading a multipurpose international financial network (for which investments allegedly stood at USD 53 million for Country A in 1999 alone) was to provide support to a terrorist network. "S" had made a number of trips to Afghanistan and the United States. Amongst his assets were several companies registered in Country C and elsewhere. One of these companies, located in the capital of Country A, was allegedly a platform for collecting funds. "S" also purchased several buildings in the south of Country A with the potential collusion of a notary and a financial institution.

4. When the authorities of Country A blocked a property transaction on the basis of the foreign investment regulations, the financial institution's director stepped in to support his client's transaction and the notary presented a purchase document for the building thus ensuring that the relevant authorisation was delivered. The funds held by the bank were then transferred to another account in a bank in an NCCT jurisdiction to conceal their origin when they were used in Country A.

5. Even though a formal link has not as yet been established between the more or less legal activities of the parties in Country A and abroad and the financing of terrorist activities carried out under the authority a specific terrorist network, the investigators suspect that at least part of the proceeds from these activities have been used for this purpose.

Example 2: Fraudulent solicitation of donations

6. One non-profit organisation solicited donations from local charities in a donor region, in addition to fund raising efforts conducted at its headquarters in a beneficiary region. This non-profit organisation falsely asserted that the funds collected were destined for orphans and widows. In fact, the finance chief of this organisation served as the head of organised fundraising for Usama bin Laden. Rather than providing support for orphans and widows, funds collected by the non-profit organisation were turned over to al-Qaida operatives.

Example 3: Branch offices defraud headquarters

7. The office director for a non-profit organisation in a beneficiary region defrauded donors from a donor region to fund terrorism. In order to obtain additional funds from the headquarters, the branch office padded the number of orphans it claimed to care for by providing names of orphans that did not exist or who had died. Funds then sent for the purpose of caring for the non-existent or dead orphans were instead diverted to al-Qaida terrorists.

8. In addition, the branch office in a beneficiary region of another non-profit organisation based in a donor region provided a means of funnelling money to a known local terrorist organisation by disguising funds as intended to be used for orphanage projects or the construction of schools and houses of worship. The office also employed members of the terrorist organisations and facilitated their travel

Example 4: Aid worker's Misuse of Position

9. An employee working for an aid organisation in a war-ravaged region used his employment to support the ongoing activities of a known terrorist organisation from another region. While working for the aid organisation as a monitor for work funded in that region, the employee secretly made contact with weapons smugglers in the region. He used his position as cover as he brokered the purchase and export of weapons to the terrorist organisation.

APPENDIX K

Statement of the Senior Officials Group
of the
Black Market Peso Exchange System
Multilateral Working Group

We, Under Secretary Jimmy Gurulé (Enforcement) of the United States Department of the Treasury; Nilo J.J. Swaen, Minister of Finance of the Ministry of Finance of Aruba; Santiago Rojas Arroyo, Director General of the National Tax and Customs Directorate of Colombia; José Miguel Alemán, Minister of Foreign Relations of the Republic of Panama; Dr. Mildred Camero C., President of the National Commission Against the Illicit use of Drugs of the Bolivarian Republic of Venezuela, the Senior Officials Group, met today to review the progress achieved by the Black Market Peso Exchange System Multilateral Working Group.

1. We reaffirm that money laundering, through which criminals seek to disguise the illicit nature of their proceeds by introducing them into the stream of legitimate commerce, facilitates the criminal activities described in the laws of each of our jurisdictions.

2. We acknowledge that money laundering taints commerce and our financial institutions, erodes public trust in their integrity, is global in reach, and can adversely affect trade flows and ultimately disturb financial stability.

3. We affirm that money laundering, including the Black Market Peso Exchange System, or money laundering that makes use of trade, like the crime and corruption upon which it is based, is an issue of national security.

4. We pledge to continue national and international cooperation in our efforts to combat money laundering because we have a vital interest in maintaining the integrity of commerce and of our financial system.

5. We affirm the importance of the collection and exchange of trade-related data to facilitate the growth of legitimate trade in the region and to enhance the collection of and reduce the burden of collecting government revenue.

6. We acknowledge also the importance of training the private sector about the risks and harmful effects of money laundering and other criminal activities.

7. We encourage the widest possible dissemination of the conclusions and recommendations of the Experts Working Group and their timely acceptance by governments in order to prevent the displacement of money laundering activities to jurisdictions that do not address trade-based money laundering as well as to prevent unfair trade competition.

8. We recognize that governments may need to consider amending national laws or issuing new regulations in order to achieve the objectives of these recommendations.

9. We have reviewed the laudable work of the Experts Working Group, and support the conclusions and recommendations that it reached in the attached Experts Working Group Report. We intend for this Experts Working Group to convene in July 2003 to review progress in implementing the recommendations set forth in the Experts Working Group Report and to report on results achieved in combating trade-based money laundering.

BLACK MARKET PESO EXCHANGE SYSTEM
MULTILATERAL EXPERTS WORKING GROUP REPORT
March 14, 2002

Methodology:

1. In researching trade-based money laundering* throughout the region, the Black Market Peso Exchange System Multilateral Working Group ("Multilateral Working Group") and its Experts Working Group ("Experts Working Group") took into account, and some of the participating government agencies assisted in developing, the conclusions and recommendations of the Free Trade Zone Typology conducted by the Caribbean Financial Action Task Force (CFATF).

2. The Experts Working Group convened on four occasions, meeting with subject matter experts from relevant agencies of the governments of Aruba, Colombia, Panama, Venezuela, and the United States, as well as Free Trade Zone administrators and merchants operating in Free Trade Zones, to:

   - Examine and develop a better understanding of trade-based money laundering and its effects;
   - Discuss ways to improve international cooperation;
   - Examine documents concerning import/export transactions and related controls;
   - Critically examine and evaluate the legislation in each jurisdiction that may affect the progress of the initiatives proposed by the Experts Working Group; and
   - Gain insight into the general operations of certain Free Trade Zones within these jurisdictions.

Conclusions:

3. The Experts Working Group concluded that:

* When used in this document, the term "trade-based money laundering" includes money laundering accomplished through trade and predicated on narcotics trafficking, terrorism, and other crimes.

a. Trade-based money-laundering occurring in the region, which facilitates narcotics trafficking, terrorism, and other crimes, poses a serious threat to the financial systems and economic stability of the region;

b. More financial and personnel resources should be assigned to the development of a concerted and coordinated attack on trade-based money laundering;

c. Non-existent or incompatible trade data reporting systems make the effective tracking and monitoring of imports, exports, and transshipments difficult;

d. The absence of adequate registration and regulation of merchants engaged in international commerce, and the lack of screening procedures for those merchants operating from special customs and/or tax areas, such as Free Trade Zones, can contribute to the proliferation of trade-based money laundering; and

e. The scope and magnitude of trade-based money laundering could be reduced by the development and implementation of education and outreach programs.

Recommendations:

Taking into consideration the studies and topics addressed in earlier meetings, the Experts Working Group recommends that, where appropriate, Governments take the following steps, subject to the availability of funds and applicable laws and regulations:

IN THE SHORT TERM (within six months)

1. Conduct Public Outreach Programs for manufacturers, other persons engaged in international commerce, as well as Free Trade Zone Operators and Merchants designed to:

- Educate them on the methods used to conduct trade-based money laundering;

- Provide them on a continuing basis with information regarding trends and patterns of trade-based money laundering and related suspicious or unusual transactions;

- Engage them in a government-private enterprise coalition to combat trade-based money laundering;

- Encourage them to develop and implement their anti-money laundering programs and procedures effectively, including enhanced customer identification systems;

- Engage them in the development and implementation of a "Code of Ethics" for Free Trade Zones and related areas aimed at preventing money laundering and other illegal activities that would be supported by all governments whose agencies participate in the Multilateral Working Group;

- Educate them on legal requirements for the conduct of legitimate international commerce;

- Inform them through government publications in printed media as well as on the internet through web-sites explaining the risks of involvement in a money laundering operation and providing relevant laws, procedures, controls, and legal practices, as well as "best practice" guidelines for cross-border transactions. Such information should emphasize the requirements related to payment of applicable duties and taxes, including import and export licenses, where applicable, as well as outline all authorized payment procedures for each government whose agencies participate in the Multilateral Working Group; and

- Inform them, in particular, through these same publications and the appropriate web-sites, about legally prescribed payment procedures.

2. Adequately screen, register and regulate merchants engaged in international trade, including Free Trade Zone Operators, in order to ensure that they do not contribute to the proliferation of trade-based money laundering;

3. Require money changers and exchange offices to report to their supervisory agencies information on cash transactions, suspicious or unusual transactions, and suspicious or unusual international transfers;

4. Improve communication, coordination, and cooperation among the various law enforcement, regulatory, and supervisory agencies, to include customs, tax, and bank regulatory agencies;

5. Publicize the administrative and criminal penalties applicable to pertinent violations;

6. Submit at the next meetings of the FATF and its regional groups this Experts Working Group Report, with a view to publicizing the valuable efforts the Multilateral Working Group has made thus far and inquire as to the viability of building on these efforts in the recommendations of those bodies.

IN THE LONG TERM (within two years)

7. Improve the collection, quality, and international exchange of trade data for the purpose of developing a regional Numerically Integrated Profiling System (NIPS) to help promote legitimate regional trade by developing a more accurate picture of trade flows and focus law enforcement and regulatory resources to better identify and combat criminal activity;
8. Conduct economic, social, political, and/or legal studies of the problem of trade-based money laundering, focusing on issues such as the international exchange of information, the control of borders, the regulation of persons engaged in international commerce, and the regulation of free trade zones and other zones of international commerce and, based on the results of such studies, propose solutions to address major problems;

9. Develop and implement the money laundering prevention guidelines for the CFATF Member Governments, merchants, and Free Trade Zone authorities, as a general framework

for effectively detecting, preventing, investigating, and prosecuting trade-based money laundering cases;

10. Consider bilateral or multilateral agreements or arrangements to fill existing gaps with regard to the exchange of evidence and information and facilitate the investigation and prosecution of those responsible for perpetrating the crime of money laundering;

11. Extend the crime of illegal enrichment, where it exists and where it might be necessary and useful, to cover acts by both public officials and private individuals, and provide for accomplice liability.

12. Establish the obligation to declare monetary instruments upon entering and exiting the jurisdiction and create penalties for failure to comply.

13. Provide adequate funds, training, personnel, and systems necessary for the effective detection, prevention, and prosecution of money laundering cases. Identify experts in each jurisdiction for the investigation and prosecution of trade-based money laundering cases and focus the training to be offered nationally and internationally accordingly;

14. Make efforts to allocate a certain amount of each government's national budget to money-laundering prevention projects and consider offering international anti-money laundering assistance to jurisdictions that require it;

15. Continue efforts to inform banking and non-banking financial institutions and merchants of activities, trends, and methods in money laundering and suspicious transactions, and, resources permitting, offer necessary training;

16. Consider conducting on-site assessments in order to follow up on the implementation of the recommendations of the Experts Working Group;

17. Establish, where necessary, trade data reporting systems to make possible the effective tracking and monitoring of imports, exports, and transshipments;

18. Encourage the establishment of a regional program for the exchange of information on shipping departures. This information system should operate on line and in real time and include information on the shipper, type of cargo, destination, and means of transport;

19. Encourage the development and implementation of an electronic customs filing and reporting system with universally compatible data fields that can be used to track the flow of goods being imported, exported, or transshipped from, to, or through each jurisdiction's customs territory and free trade zones;

20. License, regulate, and monitor entities and individuals acting as customs brokers, and persons operating bonded warehouses to promote compliance with applicable rules and regulations. Non-compliance should be sanctioned and, in appropriate cases, such sanctions should be put on public record and/or lead to a revocation of license;

21. Consider the establishment of a training facility in Ciudad del Saber, Republic of Panama, for the purpose of providing training and disseminating information to benefit governments that wish to join forces in the fight against money laundering;

22. Chart all free trade zones and special customs areas in their jurisdictions and make this information publicly available;

23. Evaluate their jurisdictions' anti-money laundering legislative frameworks and their effectiveness in combating trade-based money laundering;

24. Regulate for the purpose of preventing money laundering the activities of currency exchange dealers and their agents, and financial institutions, and provide severe penalties for those facilitating trade-based money laundering;

25. Develop and implement a system to identify, and make available to Free Trade Zones Authorities, the names of Free Trade Zones Merchants and Users whose operational permits have been terminated as a result of money laundering activity;

26. Identify money laundering techniques used by illegal money changers; and

27. Seek international cooperation to strengthen border security and checks to curb trade- based money laundering.

APPENDIX L

Grupo de Acción Financiera de Sudamérica
Grupo de Açao Financeira da América do Sul

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REPORT TO THE XVIII PLENARY MEETING OF FATF CARIBBEAN

On behalf of the Chairman of GAFISUD, Dr. Leonardo Costa, Prosecretary of the Presidency of Uruguay, we extend our sincerest apologies for our inability to attend your Plenary meeting due to the coinciding dates set for your meeting and a mutual evaluation visit of Argentina on behalf of a joint team of FATF-GAFISUD, to which both the Chairman and the Executive Director of the Group attended.

We hereby wish to express our recognition and best wishes in your activities which will surely reap repeated benefits for the member nations and jurisdictions of FATF Caribbean.

Relations between the CFATF and GAFISUD

Since the creation of GAFISUD, collaboration with the CFATF has been a natural and intense process. It is sufficient to recall the two joint typology exercises carried out in 2002 and 2003, the exchange of experiences and documents between the Secretariats of the two groups and the common agreement with respect to translation services into the Spanish language. Within the same line of cooperation, the Secretariat and 12 GAFISUD experts participated in the Seminar on the investigation and creation of FIUs, which took place in the Dominican Republic for CFATF Spanish speaking countries which took place in November 2002 and which was financed by Spain.

In the near future, it is our desire to closely follow the cooperation schemes established. To this end, we would like to invite all the members of the CFATF to attend our VIII Plenary Meeting scheduled for December 18 and 19 in Buenos Aires, and to the FORUM on goals for the supervisor in the prevention of crime, which will take place during the days prior to the Plenary (December 15-17, 2003).

On this issue, we would like to explore the various forms of cooperation and integration of efforts with the CFATF for the year 2004 in terms of:

- exchange of examiners in mutual evaluation teams
- carrying out of regional typology exercises
- summary of studies and other works of interest for our Financial Intelligence Units.

GAFISUD ACTIVITIES

Impulse and political commitment

- 2000, December

  Signing of the Memorandum of Understanding
  Adoption of the 40 Recommendations and the evaluation programme.

- 2001, December

  Signing of the Headquarters Agreement between Argentina and GAFISUD
  Establishment of the Executive Secretariat in Buenos Aires
  Action Plan against the Financing of Terrorism
  Modification of the Memorandum for the incorporation of the 8 Special Recommendations.

- 2003, July

  Approval of the FATF 40 Revised Recommendations
  Approval of the Interpretative Notes and Best Practices of the Special Recommendations against Terrorist Financing

Mutual Evaluation Programme

Regional self-assessment report (40 Rec. FATF) in 2001 and 2002
Regional self-assessment report (8 RE of TF) in December 2002

The First Round of Mutual Evaluations (January 2002 – July 2003)

The Second Round of Mutual Evaluations will begin in June 2004, utilizing the new Methodology and the Revised 40 Recommendations as contrasting standards.

In 2002, GAFISUD participated in the pilot programme on the use of the new methodology through the conversion of the traditional evaluation report of Bolivia to the format of the new methodology. The Report on the Observance of Codes and Standards prepared by GAFISUD has been incorporated by the IMF in the FSAP of Bolivia. This conversion process will at present be conducted as well in the reports of Ecuador, Chile and Paraguay.

Working groups and horizontal training

Creation of standards and its evaluation

The programme of mutual evaluations entails one day of training through 3 training workshops for examiners (1 financed by Spain and 2 co-financed by the Interamerican Development Bank and GAFISUD Donor Funds) on anti money laundering standards and its assessment in 2001, 2002 and 2003.

The activities realized by GAFISUD with the financial and technical cooperation of countries and international observer organizations, should also be noted

Investigations on money laundering for FIUs, law enforcement and district attorneys.

- Seminar (October 2002) for FIUs, financed by the National Dug Plan of Spain (PND)
- Conference (November 2002) for district attorneys and law enforcement, financed by the PND
- Seminar (November 2003) for FIUs and law enforcement financed by the PND.

Coordination of Strategies and Cooperation for Regulators, Offices of District Attorneys and FIUs.

- Seminar (September 2002) financed by FIRST and organized by GAFISUD with the technical assistance of IMF and the World Bank.
- Meeting (November 2003) of group study of district attorneys for the preparation of a guide on legal cooperation in money laundering matters.

Interaction with the financial services industry

I FORUM (December 2002) of GAFISUD with the financial sector with representatives from FELABAN and representative entities of the insurance and stock exchange sectors.

Fernando Rosado
Executive Director of GAFISUD

APPENDIX M

CARIBBEAN FINANCIAL ACTION TAKS FORCE

Plenary Meeting – October 2003

Report of the Offshore Group of Banking Supervisors (OGBS)

The OGBS, as an observer organization, will be represented at the Plenary Meting of CFATF by Mrs. Delia Cardenas from Panama. The Chairman of OGBS, Colin Powell, is unable to attend through other commitments and sends his apologies, and best wishes to CFATF for a successful Plenary. The following is a short report on the current work of OGBS.

Plenary Meeting – July 2003

1. OGBS held its 2003 Plenary Meeting in Mauritius on July 21st – 23rd. The meeting was attended by the President and the Executive Secretary of the FATF, and the International Monetary Fund and the Basel Committee on Banking Supervision were also represented.
2. The meeting focused on a number of international issues including the revised FATF Forty Recommendations on Money Laundering, the FATF Eight Special Recommendations on Combating the Financing of Terrorism, and the Basel Committee's paper on Customer Due Diligence for Banks. The meeting also discussed members' experience of the OFC/FSAP Assessment Programme carried out by the IMF using the Methodology agreed by the IMF and the FATF, and the response to the OGBS Statement of Best Practice on Trust and Company Service Providers.
3. The meeting welcomed the FATF's Revised Forty Recommendations while noting the differences between the Recommendations and the Basel Committee paper on Customer Due Diligence for Banks arising from the different scope of the two standards. The meeting concurred with the view that has been expressed by the Basel Committee that there is nothing within the Revised Forty Recommendations that calls for a change in the Basel Committee's paper which will remain the appropriate guidance on the essential elements of know your customer standards for the prudential regulations of banks, and for the management by banks of the reputational, operational, legal and concentration risks that can arise from a failure to conduct adequate customer due diligence.
4. The meeting also agreed that members should convey to the relevant Minister in their respective jurisdictions the proposal that a ministerial written commitment should be given to the revised FATF Recommendations which would update the ministerial

commitment given to the previous FATF Recommendations when in 1997 OGBS reached agreement with the FATF concerning the role of OGBS in carrying out FATF style mutual evaluations. At the time of writing this report Ministerial letters have been submitted by the following OGBS members, Bahrain, Bermuda, Jersey, Mauritius and Vanuatu.

5. The possibility of differences of interpretation arising from the different wording of the revised FATF Recommendations and that of the Basel paper on Customer Due Diligence for Banks were considered by the Basel Committee Working Group on Cross-Border Banking Supervision, which is co-chaired by the Deputy Secretary General of the Basel Committee and the Chairman of OGBS, at a meeting in Guernsey on September 8th. The Working Group agreed that, while there were no real differences of substance, it would be helpful to banking supervisors if an advisory note was to be prepared clarifying certain aspects of the CDD paper in light of the revised FATF Recommendations, it is hoped to circulate this advisory note shortly.

FATF Eight Special Recommendations on Combating the Financing of Terrorism

6. At their Plenary meeting OGBS members discussed their experience in implementing the Eight Special Recommendations and in particular Recommendation VII. They also discussed a letter received from the UN Counter-Terrorism Committee dated 4th April, 2003 seeking support from organizations such as OGBS in achieving the Committee's objectives.

7. OGBS members agreed that the UN should be informed of OGBS's support for its initiatives, and it was agreed that the UN Counter-Terrorism Committee should receive a synopsis of the points made in the summary statements produced by OGBS members for the Plenary meeting which refer to the action that members have taken in responding to the FATF's Eight Special Recommendations and the UN Counter-Terrorism Committee's initiatives. This synopsis was sent to the UN Counter-Terrorism Committee in August.

8. OGBS has also participated in the joint UN Security Council Counter-Terrorism Committee, Inter-American Committee Against Terrorism (CICTE) and Organization of American States (OAS) meeting held in Washington on October 7th, 2003.

IMF Assessments

9. OGBS members have cooperated fully with the IMF Assessments undertaken either as a full FSAP or through the OFC programme initiated in response to the request of the Financial Stability Forum for assistance from the IMF in undertaking assessments of the Offshore Financial Centres that were included in the Forum's report on such centres published in 2000. OGBS members are generally of the view that the IMF Assessment Programme has been a helpful exercise but there is continuing concern that the IMF reports, when published, are not being responded to sufficiently positively by international organizations such as the Financial Stability Forum. Members consider that where IMF reports show that jurisdictions are largely compliant with the FATF Recommendations, and meet the IMF/FATF Methodology criteria generally, this should be recognized appropriately by the relevant international organizations.

10. In considering the formulation of a revised Methodology for use in assessing compliance with the Revised Forty Recommendations, the OGBS at its Plenary meeting discussed and agreed the importance of consistency in the interpretation of the Methodology when assessments are undertaken, and the importance of transparency in the publication of the assessment results and their interpretation.

11. The extent to which OGBS members have been reviewed by the IMF places them in an excellent position to contribute to the review of the experience in the application of the existing Methodology, which review the IMF and the FATF are undertaking as part of the work on the drafting of the revised Methodology. OGBS is participating actively in the FATF Working Group that is addressing the issue.

Trust and Company Service providers

12. The OGBS Working Group, which produced the Statement of Best Practice on Trust and Company Services Providers, is currently engaged on further work on enhancing cross-border cooperation between such Providers.

Corruption

13. OGBS has participated in the work of the Ad Hoc Committee for the Negotiation of the UN Convention Against Corruption.

Chairman
Offshore Group of Banking Supervisors

7th October 2003

APPENDIX N

GLOBAL PROGRAMME AGAINST MONEY LAUNDERING

CFATF
Plenary meeting, Antigua & Barbuda
October 2003

The action and mandate established by the 1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (to which 166 States are parties) were strengthened in 1998 by the UNGASS Political Declaration and Action Plan against Money Laundering, the implementation of which was assessed during the ministerial segment of the Commission on Narcotic Drugs to be held in Vienna 16-17 April 2003.

The Convention against Transnational Organized Crime (TOC), which entered into force on 29 September 2003, strengthens this expansion of money laundering predicate offences to include all serious crime. The TOC gives legal force to a number of issues addressed in the 1998 Political Declaration. By ratifying the Convention, Member States make a commitment to adopting a series of crime-control measures, including the criminalization of participation in an organized criminal group, money laundering, corruption and obstruction of justice, extradition, mutual legal assistance, administrative and regulatory measures, law enforcement controls, as well as victim protection. States that have not yet ratified this pivotal universal instrument are strongly encouraged to do so.

After two years of negotiations the Ad Hoc Committee for the Negotiation of a Convention against Corruption finalized the drafting of an instrument to prevent, deter and detect all criminal acts and other offences related specifically to corruption. The text recognizes that the problem of corruption goes beyond crime. Highlights of the Convention include measures on prevention and criminalization. The instrument makes offences not only bribery and embezzlement of public funds, but also trading in influence and the concealment and laundering of the proceeds of corruption. Several articles are devoted to measures to combat money laundering resulting from corruption, which are in line with the relevant articles of the TOC Convention. States are also encouraged to use as guideline the relevant initiatives of regional, interregional and multilateral organizations against money laundering.

The draft convention encompasses a whole section on the recovery of those funds derived from acts of corruption, including the laundering of funds and returning of such stolen funds. UNODC will be involved in delivery the necessary assistance and advice in this area.

To promote and review implementation, a Conference of State Parties is established.

The Convention will be submitted to the General Assembly, which is expected to adopt it and open it for signature by Member States in Mérida, Mexico, from 9-11 December 2003. The Convention will enter into force when it has been ratified by 30 countries.

Highlights for the past months:

Creating practitioner tools

Model Legislation

Based on the existing model legislation on money laundering for Common Law Systems elaborated by the UNODC Legal Advisory Section, GPML conducted an Expert Working Group in May 2003 to prepare model legislative provisions on countering the financing of terrorism, and seizure and confiscation of terrorist assets. The objective is to assist States in implementing laws to bring them into compliance with current international standards, including the 1999 Convention, relevant Security Council Resolutions and the FATF Eight Special Recommendations. The model "*UN Bill on Money Laundering, Proceeds of Crime and Terrorist Financing 2003*"is now available for use by Member States and can be found at the address: www.imolin.org.

A version for civil law systems is planned as a follow-up, in partnership with UNODC's Global Programme against Terrorism.

In August GPML provided law enforcement advice and assistance to Guatemala in August on a major breaking case involving laundering of the proceeds of a public pension fund fraud.

UNODC conducted an expert group meeting on best practices in civil forfeiture, which will enable the Office to provide acute assistance and advice in that matter.

Computer-Based Training

GPML launched with the UNODC Regional Field Office in Bangkok its first set of AML Computer-Based Training (CBT) modules. This prototype training CD-ROM- an introductory course on money laundering- is designed to develop financial investigations expertise in law enforcement personnel.

The output will be a comprehensive, ongoing computer-based interactive anti-money laundering training programme, with delivery in the Pacific Region and Southern and Eastern Africa initiated before the end of 2003, and additional regions in 2004, working closely with our mentors in the designated region. The current prototype is an awareness-raising introduction for officials with a fairly basic skills level. However the Programme is aware of the need for advanced courses for countries which already received basic training including CFATF Member States.

It is anticipated that this will be done jointly, not just with donors, but also with partner organizations who will contribute, or work with us on developing, the substantive content.

Mock Trials

UNODC in partnership with OAS CICAD launched last year its Mock Trial on Money Laundering initiative. The objective is to equip criminal justice operations with the know how and working tools necessary to crack complex money laundering cases.

Guided by proven practitioners, it allows them to measure their case-management and court-room skills against international best practices, including model accusation and model sentence.

At the beginning of April, the Legal Advisory Section together with OAS-CICAD completed a four-day-long Mock Trial in El Salvador.

Honduras has also expressed an interest in receiving this type of assistance in November.

Building institutional capacity

GPML's FIU Mentor for the Eastern Caribbean Region completed his assistance in the development of effective national FIUs in Dominica, Grenada, Saint Kitts and Nevis and Saint Vincent and the Grenadines in August 2003. Saint Lucia was included in the Mentor's Terms of Reference in the last half of his one year posting.

Through advice in the development of national anti-money laundering strategies, the assisted jurisdictions underlined that the FIU Mentor made a meaningful contribution towards their removal from the NCCT list.

With the assistance of the Mentor, national FIUs have developed strategic plans and implemented standard operating procedures relating to receipt and analysis of suspicious transactions reports. The assistance also encompasses drafting of materials promoting the action of the FIU and increasing awareness of reporting requirements for financial institutions and other reporting institutions.

Possible follow up on the mentorship to assess the progress of FIUs against their respective commitments is being currently explored for next year subject to funding and work plan priorities.

The GPML Prosecution Mentor posted in Antigua & Barbuda within the Office of National Drug and Anti-Money Laundering Control Policy (ONDCP) also completed his tenure in October 2003. The Mentor contributed to the drafting of amendments to the Money Laundering Prevention Act (MLPA), passed in December 2002, and to ONDCP Act.

The extension of the Mentor's assignment from the original six months to the completed two years enabled him to pursue a more in-depth assistance and full reform programme.

The former GPML mentor to Barbados is now based in Canada with the Canadian FIU FINTRAC and has been extended for another year. He gave support to the development of the administrative, analytical and international cooperation capacity of FIU. He is also available for mentorship advice and training to developing countries.

GPML mentor to the ESAAMLG Secretariat has also been extended for another year. Under his guidance, the Group successfully completed its two first mutual evaluations, which were presented and approved during the Ministerial meeting last August.

Training in financial investigations and intelligence-gathering

In cooperation with the World Bank, GPML is providing assistance to the Egmont Training Working Group with regard to a proposed regional training workshop for FIU staff in the Caribbean

mid next year. The Government of Antigua&Barbuda has expressed its willingness to host the event.

GPML will also host the initial international strategic analysis workshop for Egmont members to promote the development of strategic techniques and intelligence flows amongst FIUs. This forum will enable strategic analysts to identify topics of common interest and to draw best practices. The meeting will be held in Vienna 3 and 4 November 2004.

Research and Analysis

The main concern of GPML when delivering technical assistance is to ensure coordination with other international organizations active in the field of AML/CFT to optimize use of available resources.

GPML still administers on behalf of eight international organizations the International Money Laundering Information Network (IMoLIN), a practical tool in daily use by government officials, law enforcement and lawyers (http://www.imolin.org).

Most of the analysis of countries that have money laundering provisions have been included in the database, which contains over 140 questionnaires. A substantive review of the template questionnaire was completed in order to reflect new anti-money laundering norms and standards and approved during a meeting of the IMoLIN Advisory Group held during the FATF Plenary in October 2002.

The new templates will be inputted in a thoroughly modified and user-friendly website to make the new product available by the beginning of next year.