

**CFATF - VIII**

# **CARIBBEAN FINANCIAL ACTION TASK FORCE**



## **ANNUAL REPORT**

**2001 - 2002**

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## **EXECUTIVE SUMMARY**

The 2001-2002 period of the Caribbean Financial Action Task Force (CFATF) began on a very optimistic note in the warm and friendly Dominican Republic where Mr. Bonaparte Gautreaux Piñeyro assumed the CFATF Chairmanship on behalf of his country. The opening ceremony of Ministerial Meeting VII was honoured with the presence of His Excellency, The President of the Dominican Republic, Ing. Hipolito Mejia who, whilst welcoming delegates to his country, emphasised the firm commitment of the Government and people of the Dominican Republic to combat all types of criminal activity and to adhere to the principles of the CFATF.

In keeping with established tradition and the strong bonds of friendship and support that exists between the CFATF and the Financial Action Task Force, Mrs. Clarie Lo, FATF President was also an honoured guest at Ministerial Meeting VII.

Yet, during the period under review, there was considerable grief and sadness, arising out of the tragic events of September 11<sup>th</sup> 2001 in the United States of America, the passing away of Senator Dario Gomez, President of the Legislative Commission on Drug Control of the Dominican Republic and the burial of Queen Elizabeth, The Queen Mother, United Kingdom.

The period under review was one of tremendous accomplishment for the CFATF as new and challenging waters were navigated under the resolute direction of Chairman Bonaparte Gautreaux Piñeyro.

Chairman Gautreaux, in keeping with the CFATF policy of inclusion, resisted calls to the contrary and strongly advocated the continuation of every effort to re-engage Nicaraguan authorities, despite that Member's prolonged absence and apparent lack of interest in CFATF affairs. The result was a resounding success and a warm welcome to Nicaragua on its readmission to our family.

In similar positive fashion, the Chairman encouraged increased outreach efforts to Honduras, Guatemala and Guyana which resulted in the admission of these countries to CFATF membership in October 2002, bringing CFATF Membership to twenty-nine.

It must also be remembered that it was at the start of Chairman Gautreaux' term in Santo Domingo, Dominican Republic that the Republic of Haiti, its neighbour signed the CFATF Memorandum of Understanding and became our twenty sixth member.

Positive responses by the Membership to the calls of the current and former Chairmen for the timely submission of annual contributions to the Secretariat has resulted in continuing stability in the financial affairs of the organisation. With this, has come an ongoing willingness by those Members who have the capacity, to assume a greater share of the financial responsibilities for initiatives that fall outside the annual budget.

The financial support and friendship of the Group of Cooperating and Supporting Nations continue to be warmly applauded and encouraged, as is the support that comes from CFATF Observer Organisations.

A critical component of the remit to monitor compliance with the current anti money laundering benchmarks is the Mutual Evaluation Programme. Having completed the First Round of Evaluations as mandated by Ministers, the organisation moved into the Second Round in July 2001 and six Mutual Evaluation Reports were presented to and adopted by Ministers in October 2002.

With a view to securing ongoing improvements in the operation of the Programme, the hosting of a series of annual workshops for the training of Mutual Evaluation Examiners was endorsed by Ministers, with the first being set for the first quarter of 2003.

In order to compliment the Mutual Evaluation Programme and enhance the organisation's monitoring capacity, Ministers heard a report on the preparation of the first compilation of Country Reports on the anti money laundering and combating the financing of terrorism infrastructure of each CFATF Member. These Reports will be updated and published annually and provides further testimony of the CFATF's commitment to full transparency, sharing of information and cooperation with its international partners.

In the aftermath of the events of September 11<sup>th</sup> 2001, in the United States of America, the CFATF family of Nations issued a strong declaration at the close of the Santo Domingo Ministerial Meeting in October 2001, in support of efforts by the international community to deny terrorist organizations the use of the international financial system.

CFATF Ministers agreed in October 2002 that the CFATF mandate should be extended to include terrorist financing, that the CFATF should endorse the FATF 8 Special Recommendations on Terrorist Financing and that the CFATF should participate in the global FATF Self Assessment Exercise against the FATF 8 Special Recommendations on Terrorist Financing.

CFATF Members participated fully in the FATF global Self Assessment Exercise against the FATF 8 Special Recommendations on Terrorist Financing.

On April 11-12, 2002, the CFATF and the Financial Action Task Force of South America, (GAFISUD) organized in Tobago Trinidad & Tobago, WI a joint two day Typology Exercise on Terrorist Financing- Creating a Defensive Framework in the Americas.

During this exercise, the first of its kind in the hemisphere, 27 Presenters from 13 different countries and 6 International Organizations shared a wealth of knowledge with 133 participants from 32 CFATF & GAFISUD countries and 13 International Organizations.

Strong and robust anti money laundering systems, both nationally and regionally are critical if the emphatic commitment by the Santo Domingo Council of Ministers to be solid partners with the international community in the battle against terrorist financing, is to be honoured in full.

With this in mind, Member governments have continued to enhance their defensive mechanisms so as to be in step with international standards. The regional commitment to this forward thinking process is irreversible and is firmly demonstrated through presentations by all CFATF Members to each and every Plenary and Council of Ministers Meeting on the steps that are being taken to implement the recommendations of the Examiners in their respective Mutual Evaluation

Reports and to generally strengthen their national anti money laundering and combating the financing of terrorism infrastructure.

One of the principal functions of the CFATF Secretariat is to identify the training and technical assistance needs of Members and to facilitate the provision thereof. As far back as 1994 it was recognized that there was no single organization that coordinated donor assistance in all countries and territories of the region. This frequently led to over-lapping of efforts and even at this stage the problem remains unresolved.

There is recognition that the future requires a planned, structured approach to the provision of assistance in country based on a National Technical Assistance Training Plan, working with the National Anti Money Laundering Committees in the respective countries.

Consensus is growing in international anti money laundering and combating the financing of terrorism circles that the solution lies in strengthening the FATF Style Regional Bodies and the utilization of the framework that is on offer at these organizations to coordinate effectively the deployment of Technical Assistance and Training in their respective region. Indeed participants at an IMF/WORLD BANK sponsored initiative for the establishment of a global mechanism for the coordination of technical assistance and training agreed with this approach.

This is in step with a decision taken at the CFATF April 2002 Plenary Meeting, where the principal donors operating in the region, recognized and welcomed as valid, a proposal which sought inter alia, to facilitate the ability of the CFATF to act as a mechanism through which technical assistance and training for the region could be best coordinated and effectively delivered.

The social, economic and political stability of the Caribbean Basin Region require that there be no deviation from the path that we have and continue to travel in terms of reforming and strengthening the regional anti money laundering and terrorist financing infrastructure in order to be in step with international requirements. This process is irreversible and will continue.

Yes, indeed there are attendant difficulties. The significant anti money laundering legislation that have been instituted in the Caribbean Basin Region has resulted in the virtual collapse of the offshore sector in one jurisdiction where the culture of compliance, at times going beyond what is required internationally and the fear of criminal prosecution is harming economic activity.

Further, the opening of accounts with international financial institutions by some long established regional institutions has been denied and in some jurisdictions the economic situation is indeed cause for concern.

The debate as to which avenues will allow long-term sustainable economic development for the Caribbean Basin Region as a whole is now firmly on the regional agenda.

The incoming Chairman in his Work Programme for 2002-2003 has indicated that in keeping with the Memorandum of Understanding he intends to explore every available avenue from which financial assistance could be provided to those Members where it is urgently needed immediately and also in the future.

What is rewarding however, is the knowledge that participation in this global dialogue by the Caribbean Basin Region could be undertaken with a measure of confidence, which springs from the certain knowledge that our anti money laundering and combating the financing of terrorism framework is in step with international requirements and that effective implementation of the legislative regimes is well under way.

At this crucial juncture in its continued development the CFATF remains extremely proud of the close, constructive and harmonious relations that it has with our Group of Cooperating and Supporting Nations, and the strong partnerships with all our Caribbean Basin Institutions and International Observer Organisations.

## **CFATF OVERVIEW**

The Caribbean Financial Action Task Force (CFATF) is an organisation of twenty- nine states of the Caribbean Basin Region and Bermuda, which have agreed to implement common countermeasures to address the problem of criminal money laundering. It was established as the result of meetings convened in Aruba in June 1990 and Jamaica in November 1992.

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

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

The main objective of the Caribbean Financial Action Task Force is to achieve effective implementation of and compliance with the FATF 40 Recommendations and the 19 CFATF Recommendations to prevent and control money laundering as well as the FATF 8 Special Recommendations on Terrorist Financing. 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 & Barbuda, Anguilla, Aruba, The Bahamas, Barbados, Belize, Bermuda, The British Virgin Islands, The Cayman Islands, Costa Rica, Dominica, Dominican Republic, 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 Netherlands, France, The United Kingdom, and the United States of America (the "Cooperating and Supporting Nations"), meeting together

in San José, Costa Rica 9 – 10 October, 1996, considered the work of the Caribbean Financial Action Task Force (the “CFATF”) since 1990, the benefits of effective implementation of mechanisms to prevent and control money laundering; and the need for expertise and training, and cooperation among Nations to assure such implementation in the Caribbean region.

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

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

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

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

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

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

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

Based on the initiative of Aruba, the CFATF in October 2000 conducted Part I of a Typology Exercise into the money laundering possibilities in the Free Trade Zones. Part II was undertaken during March 2001. The goal of this particular initiative is the development of a Model Free Zone Compliance Programme and a Code of Conduct. As a first step the Exercise led to the formulation of Money Laundering Prevention Guidelines for CFATF Member Governments, Free Trade Zone Authorities and Merchants. Annex A.

In furtherance of its mandate to identify and act as a clearing house for facilitating training and technical assistance needs of members, the Secretariat works closely with regional Mini-Dublin Groups, the diplomatic representatives of countries with interest in the region, in particular Canada, France, Japan, the Netherlands, the United Kingdom, and the United States, and, finally, international organisations. Included among these international organisations are: OAS/CICAD, CARICOM, CARIFORUM, the Caribbean Customs Law Enforcement Council (CCLEC), the Caribbean Development Bank (CDB), 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 Organisation (WCO).

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

The CFATF Secretariat is hosted by the Government of Trinidad and Tobago. The CFATF Chairman for 2001-2002 was Mr. Bonaparte Gautreaux Piñero, Chairman of the National Drug Council of the Dominican Republic. The Chairman for 2002-2003 is Honourable Alfred Sears, Attorney General and Minister of Education, The Bahamas.

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, is the Deputy Director. A Lawyer, specialising in International Economic Law 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.

## **CONDOLENCES**

Outgoing Chairman Roland Wever at Plenary XIV, in recalling the passing away of then Chairman Edgar Vos, Minister of Justice and Public Works of Aruba, on January 6<sup>th</sup> 2001, expressed on behalf of Aruba and the CFATF family, an understanding of the pain and grief of the Government and people of the United States of America in light of the considerable loss of life and suffering as a result of the tragic events of the September 11<sup>th</sup> 2001. In step with these sentiments, the CFATF family of nations declared its intention to stand resolutely with the United States of America and the international community in the fight against terrorism.

More was to come. On learning of his untimely passing, Plenary XV in Tobago expressed sadness and endorsed the conveying of condolences to the Government of the Dominican Republic and the family of Senator Dario Gomez, President of the Legislative Commission on Drug Control, who was deeply involved in the efforts of the Government to construct a robust

anti money laundering framework. Sympathies were also extended to Mr. Damian Santos, Head of Delegation of the Dominican Republic to the CFATF, who had worked closely with the Senator.

In support of colleagues from the United Kingdom, Plenary XV observed one minute silence as a mark of respect and the paying of condolences on the passing of Queen Elizabeth, The Queen Mother whose funeral service was taking place in London on the opening day of the April 2002 Tobago Plenary Meeting.

## **CFATF MEMBERSHIP & OBSERVER STATUS**

The Republic of Haiti having been granted Observer Status to the CFATF during Council Meeting VI thereafter enacted laws and regulations on money laundering issues, which showed their full commitment to CFATF goals. Accordingly, Plenary XIV recommended to the Council of Ministers that Haiti be granted full Membership.

During Council VII in Santo Domingo, Dominican Republic, Honourable Louis Gary Lissade, Minister of Justice and Public Security of Haiti, outlined the progress made by his country in terms of the fight against drug trafficking and money laundering and reaffirmed Haiti's clear involvement in and commitment to CFATF affairs. Ministers endorsed the recommendations of the Plenary and along with the COSUNs warmly welcomed Haiti as the newest CFATF member.

Honourable Louis Gary Lissade, signed the CFATF Memorandum of Understanding and as a clear sign of its commitment and future intentions, Haiti provided the Secretariat with a cheque representing their 2002 annual contribution.

### **Nicaragua**

Nicaragua's membership was automatically suspended at Plenary XIII, in March 2001 in Trinidad & Tobago because of their failure to actively participate in CFATF affairs and the non-payment of outstanding arrears. As instructed by the Council of Ministers, a strong letter was sent to the Honourable Norman Caldera Cardenal, Minister of Foreign Affairs of the Republic of Nicaragua, outlining the need for a decisive answer on Nicaragua's membership, active participation in the CFATF, the need to urgently undertake a Mutual Evaluation and to pay their outstanding arrears.

In seeking to re-engage Nicaraguan authorities, the CFATF family is indebted to Mrs. Delia Cardenas, Superintendent of Banks in Panama, Lic. Roger Carvajal Bonilla, Deputy Minister of the Presidency, and Lic. Christian Soto Garcia both of Costa Rica, and Deputy Director Hyman Bouchereau, all of whom participated in a high level CFATF delegation to Nicaraguan authorities. Our thanks are also in order for the efforts of the British and Spanish Embassies in Managua on our behalf.

These interventions proved very beneficial and as a result, a delegation from Nicaragua attended Plenary XV, outlined the efforts that were underway in order to improve their anti money laundering infrastructure, confirmed their intention to actively participate in CFATF meetings, promised to make good their annual contribution for 2002 and make arrangements for the

liquidation of the arrears and finally to arrange with the Secretariat, firm dates for the conduct of their Mutual Evaluation.

Panama, Mexico, Spain, Costa Rica, United States, United Kingdom and Venezuela welcomed Nicaragua back to the CFATF family and supported the recommendation that their suspension from membership should be lifted, providing that the annual contribution for 2002 is met and firm dates for the Mutual Evaluation are scheduled. Support was offered to Nicaragua for the implementation of the required changes in their anti money laundering infrastructure.

The Mutual Evaluation of Nicaragua has been scheduled for August 2004 and its annual contribution and outstanding arrears were submitted to the Secretariat on September 30<sup>th</sup> 2002.

### **Guatemala**

Through the good offices of the Superintendent of Banks in Panama, a delegation from Guatemala attended the Santo Domingo Plenary and Council of Ministers Meetings, where a report was presented on efforts being carried out to construct an anti money-laundering framework based on international standards. Positive indications on seeking membership in the CFATF were also outlined.

In keeping with those sentiments, Mr. Douglas O Borja Vielman, Superintendent of Banks in Guatemala with authority from the Government of the Republic of Guatemala, formally submitted an application for membership in a letter dated February 21<sup>st</sup>, 2002 which indicated the steps being taken by the Republic of Guatemala not only in relation to money laundering but also with regard to the important area of terrorist financing. A further presentation was made to Plenary XV in support of the application.

Panama, Costa Rica, Venezuela and the United States speaking for the COSUN Group welcomed the application and called for a recommendation to the Council of Ministers that Guatemala be admitted to Membership. The Plenary agreed and Ministers supported the recommendation and warmly welcomed Guatemala to the CFATF family in October 2002.

### **Guyana**

Outreach efforts by the Secretariat to ascertain the intension of Guyana persisted and were ably assisted by Brian Reynolds Caribbean Anti Money laundering Programme (CALP) and Desiree Cherebin Caribbean Region Technical Assistance Centre (CARTAC), who during missions to that country made representations on behalf of the CFATF.

On December 12th, 2001, the Secretariat received a letter from the Acting Governor of the Central Bank of Guyana seeking information on the CFATF and the requirements for Membership. In response, full details were provided by return on December 14th, 2001.

In addition, during early January, through the good offices and kindness of Dr. Gloria Richards Johnson of the Caricom Secretariat who completed the arrangements, the Executive Director met with the Attorney General and Director of Public Prosecutions of Guyana to outline the nature of, steps to, and benefits to be accrued as a result of CFATF Membership.

On March 27<sup>th</sup> 2002, the Honourable Sieunarine Kowlessar, Minister of Finance, Guyana wrote to the Secretariat seeking Membership in the CFATF for his country. This was supported by a letter from the Acting Governor of the Central Bank, which outlined the steps being taken by Guyana to strengthen its anti money laundering regime and the commitment of Guyana to support the goals of the CFATF.

Guyana was not represented at Plenary XV but nevertheless the application was considered and supported by Antigua and Barbuda, St. Kitts and Nevis, Grenada, Jamaica, United Kingdom, Haiti and Suriname. Plenary agreed to recommend the admission of Guyana to membership, which was supported by the Council of Ministers in the Bahamas in October 2002, and a warm welcome extended.

### **Honduras**

Deputy Director Hyman Bouchereau, utilising his contacts within the Latin American Superintendents of Banks network embarked on outreach efforts to Honduras to ascertain whether there was any interest in that country becoming a CFATF member.

The Secretariat was very pleased to receive a letter dated March 27<sup>th</sup> 2002 from the Chairman of the National Banking and Insurance Commission outlining the strong commitment of the Government of Honduras to continue the steps that Honduras is taking towards strengthening its anti money laundering and terrorist financing infrastructure. The letter also requested favourable consideration of their application for membership in the CFATF.

Licda. Belia Martinez Sosa, Head of the Financial Information Unit attended Plenary XV and made a presentation which reinforced the commitment of the Government of Honduras to construct strong anti money laundering and anti terrorist financing defences and put forward again the application for membership.

Plenary XV considered the application which was supported by Panama, Cayman Islands and the United States on behalf of the Group of Cooperating and Supporting Nations and recommended that it be put forward favourably to the Council of Ministers. The Council in October 2002 readily endorsed this recommendation and welcomed Honduras into the CFATF family of nations.

### **LATIN AMERICAN FEDERATION OF BANKS/OBSERVER STATUS**

By letter dated March 15<sup>th</sup> 2002, the Latin American Federation of Banks wrote to Chairman Gautreaux seeking to be granted Observer Status at the CFATF. In response an invitation was extended to the Federation to attend Plenary XV in order to make a brief presentation outlining the nature of the organisation's work in support of their application.

Despite the failure of the Federation to send a representative, Plenary XV discussed the application and it was decided that a recommendation to grant Observer Status would not be put to the Ministers. There was concern that the Federation was a private sector organisation and whilst the Memorandum of Understanding does not specifically preclude such organisations from being granted Observer Status, attendance at CFATF Meetings have come only from

public sector representatives. This position is reflected at the FATF as well as the other FATF style regional bodies.

An alternative approach was agreed which entailed creating avenues whereby a dialogue with the private sector could be initiated and which would see private sector organisations attending events such as Typology Exercises and fora with representatives of financial institutions.

Exploration of this approach will be undertaken in conjunction with the work to reform the CFATF Memorandum Of Understanding for which a Working Group comprising Antigua and Barbuda, Bahamas, Barbados, Dominican Republic, Panama and Venezuela was formed. The Group was tasked to report within sixty days from the end of Plenary XV.

Thus far only two Members of the Working Group, Dominican Republic and Panama have made submissions to the Secretariat. Council VIII mandated the continuation of this project with a report to be made to Plenary XVII in March 2003.

### **COMPOSITION OF THE CFATF STEERING GROUP**

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

- 1.) comprise the Chairman, the Chairman-elect, the CFATF Executive and Deputy Directors, 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 XIV recommended and the Council of Ministers agreed that the Steering Group for the 2001 – 2002 period should consist of the Chair (Dominican Republic), the Deputy Chair (Bahamas), Panama, Jamaica and Bermuda (for another year), the Executive Director and Deputy Director, the then outgoing Chairman Mr. Roland Wever representing Aruba so as to

allow for the benefit of his experience and continuity, and a representative of the COSUNs (USA).

Ministers endorsed the recommendations of Plenary XVI that the Steering Group for the 2002-2003 period should comprise the Chair-The Bahamas, the Deputy Chair- Antigua and Barbuda, the Outgoing Chair- Dominican Republic, Venezuela, British Virgin Islands, Republic of Haiti and COSUN representative Spain, along with the Executive Director and the Deputy Director.

Ministers also endorsed the recommendation that the Steering Group has the authority to call upon all past Chairs to share their expertise and experiences in the conduct of all aspects of the organization's affairs.

### **CFATF DEPUTY DIRECTOR**

At the Santo Domingo Ministerial, the Executive Director outlined the process by which the Deputy Director Designate, Mr. Antonio Hyman Bouchereau was seconded to the Secretariat by the Government of Panama and reiterated that in addition to his academic qualifications, professional experience and knowledge of CFATF affairs, his presence would be of great benefit to the operations of the Secretariat and would reinforce the positive spirit of brotherhood within the CFATF Membership.

Dra. Delia Cárdenas, Superintendent of the Bank of Panama, thereafter underlined the commitment of the Government of Panama to CFATF affairs through the secondment of Mr. Hyman to the Secretariat for a three-year period.

Mr. Hyman Bouchereau was congratulated by the Chairman and warmly welcomed by the Membership.

The Government of France was thanked for its generous contribution to CFATF affairs through the secondment of outgoing Deputy Director, Mr. Pierre Lapaque for a three-year period. Members also thanked Mr. Lapaque for his work in the organization. Ministers agreed to the request from the Government of France for an extension of the term of Mr. Lapaque's secondment until the end of August 2002 in the capacity of Special Advisor starting January 1<sup>st</sup>, 2002.

During his term as Special Advisor, Mr. Lapaque provided the benefit of his considerable experience and expertise to the general operations of the Secretariat and the functioning of the Steering Group. During May 2002, Mr. Lapaque attended an Anti Money Laundering Seminar for Central America and the Dominican Republic organised by Spain in Guatemala and visited the Dominican Republic to assess the operation of that Member's Financial Intelligence Unit at the invitation of Chairman Bonaparte Gautreaux Piñeyro.

Mr. Lapaque was also pivotal to the successful organisation and execution of the joint CFATF/GAFISUD Typology Exercise on the Financing of Terrorism-Creating a Defensive Framework in the Americas. At the end of that Exercise, the Executive Director on behalf of Chairman Bonaparte Gautreaux Piñeyro and the CFATF family, thanked the Government of France and Mr. Lapaque for the valuable contributions that were made to the development of the

CFATF as a successful, forward thinking and dynamic FATF style regional organisation and wished Mr. Lapaque well in his new assignment at the OAS/CICAD.

## **BUDGET & FUNDING**

Positive responses by the Membership to the calls of the current and former Chairmen for the timely submission of annual contributions to the Secretariat has resulted in continuing stability in the financial affairs of the organisation. With this, has come an ongoing willingness by those Members who have the capacity, to assume a greater share of the financial responsibilities for initiatives that fall outside the annual budget.

Aruba, The Bahamas and the Cayman Islands contributed US\$2,500, US\$7,500 and US\$5,000 respectively to the Mutual Evaluation Examiners Training Workshops which are carded for the first quarter of 2003. Additionally, the Government of Panama generously agreed to meet all the attendant costs of the secondment of Mr. Anthony Hyman Bouchereau, a senior official from the Superintendency of Banks of Panama to the CFATF Secretariat as Deputy Director for a three-year period.

However, the financial support and friendship of the Group of Cooperating and Supporting Nations continues to be warmly applauded and encouraged, as is the support that comes from CFATF Observer Organisations.

The funding arrangements required for the period 2001-2002 followed the pattern of previous years. Provisions had been made for increase in staff salaries, travel and general office operations and the annual contribution for the 2001-2002 period was initially set at US\$ 9376.28. However, the Executive Director indicated that, given the age and the state, of the car of the Secretariat there was a strong need for change.

The Plenary agreed to recommend to the Ministers that each Member should contribute an additional US\$623.72 for the year 2002 only to assist with the purchase of the car, with the residue coming out of the contingency fund created as a result of strict and ongoing monthly monitoring of expenses. The Member contribution for 2001-2002 stood at US\$10,000.

Vis-à-vis the COSUNs' contributions, the Kingdom of the Netherlands applauded the good work that was being done and the progress made within the CFATF and indicated that they will contribute 30.000 Euros for the years 2001 & 2002, and also Euros 10.000 towards the Typology Exercise on the Free Trade Zones.

France indicated that their contribution for 2001-2002 would be 30.000 Euros and 13.000 Euros for the Mutual Evaluation Training Seminar, which took place in Caracas during May 2001.

The United States of America endorsed the comments of the Netherlands and confirmed their strong commitment to the organization. The United States contribution for the 2001-2002 period was US\$30,000 along with US\$20,000 towards the Caracas Mutual Evaluation Examiners' Training Workshop. US\$15,000 was contributed for the Typology on Terrorism Financing that took place in March 2002.

The United Kingdom's contribution for 2001-2002 period was US\$17,000 along with US\$10,000 towards the Typology Exercise on Terrorist Financing.

Mexico's and Spain's contribution for the 2001-2002 period was US\$15,000.

Canada confirmed a contribution of US\$30,000 for the 2001-2002 year in addition to the US\$40,000 provided each year over 3 years for the salary of the Legal Advisor to the Secretariat. Note was also made of their contribution of CAN\$25,000 towards the Caracas Mutual Evaluation Examiners' Seminar.

## **FINANCIAL REPORTS 2001**

The Auditor's Statement and Financial Report regarding the operations of the Secretariat for the year ending December 31<sup>st</sup>, 2001 as prepared by PricewaterhouseCoopers, were considered by Plenary who recommended its approval the Council of Ministers VII, which was granted. The Auditor's Statement and Financial reports are attached at Annex B.

## **ONGOING STRENGTHENING OF THE REGIONAL ANTI MONEY LAUNDERING INFRASTRUCTURE**

### **THE MUTUAL EVALUATION PROGRAMME**

By virtue of the principles enshrined in the Kingston Declaration, CFATF Member States have agreed to effectively implement the 40 FATF and the 19 CFATF Recommendations, the Kingston Declaration, The Organisation of American States Model Regulations and the Plan of Action of the Summit of the Americas where applicable.

The Mutual Evaluation Programme is a crucial aspect of the work of the CFATF and is one of the principal mechanisms by which the regional anti money laundering framework is monitored in order to ensure that each Member state fulfils the obligations undertaken. Through this monitoring mechanism the wider membership is kept informed as to what is happening on the ground in each Member Country that has signed the Memorandum of Understanding.

The Mutual Evaluation process entails a mission to each of the Member Countries by a Team of Experts, one each in the field of Law, Finance and Law Enforcement and led by the Executive Director or Deputy Director of the Secretariat. Through a range of interviews with officials in both the private and public sectors, the Team attempts to glean a precise picture of the Country's anti money laundering framework at the time of the Mutual Evaluation Mission.

The Programme presents a valuable opportunity for every Member country as it seeks to give due recognition where the standard benchmarks are met, but with a view to securing improvements where deficiencies are identified, provide appropriate recommendations for rectification. Indeed the CFATF experience has demonstrated that Members, by virtue of the Mutual Evaluation Report have been able to implement improvements in their regulations through the recommendations of the Examiners.

The First Round of Mutual Evaluations which sought to ascertain whether countries had in place legislation which complied with the international anti money laundering benchmarks, commenced in January 1995 with the Mutual Evaluation of the Cayman Islands and ended in October 2001 when the Mutual Evaluation Reports on Anguilla, Belize and Suriname were adopted at the Santo Domingo Council of Ministers Meeting.

The benchmarks for this Second Round, which commenced in July 2001, as mandated by Ministers, are the 40 FATF 1996 Recommendations, the 19 CFATF 1999 Recommendations and the 25-point FATF Non Cooperative Countries or Territories Criteria. The focus here is to ensure that the legislative framework is being effectively implemented.

Thus far Missions have been undertaken to Panama July 2001; the Dominican Republic, September 2001; Barbados, November 2001; Costa Rica, December 2001; the Cayman Islands January 2002; Trinidad and Tobago March 2002; Bahamas June 2002, Turks and Caicos Islands August 2002 and Antigua and Barbuda September 2002.

No Mutual Evaluation Reports were discussed at Plenary XV and delegates took the opportunity to briefly discuss the overall operations of the Mutual Evaluation Programme.

Given the importance of the Mutual Evaluation Process Plenary noted the need for the Examiners, to be provided with the relevant materials in good time by the Secretariat before the Mission. The jurisdiction nominating the Examiner, should allow the official sufficient time, perhaps one and a half months before the Mission, which should be specifically dedicated to reading the relevant materials in order to get a clear picture on the situation in the Country to be examined and one month after, to ensure that the Reports are completed with strict adherence to the Mutual Evaluation Procedures.

Additionally, in light of the fact that there were various delays in the submission of their Reports to the Team Leader by some of the Examiners which resulted in three Reports not being discussed at the Tobago Plenary, it was recommended that the Prime Contact for the Examined Country should be kept fully informed of any delays in the preparation of its Mutual Evaluation Report and attempts by the Secretariat to resolve the difficulties.

It was also noted that the candidates should be guided on the need to approach the interview process in the Examined Country in a manner which is not adversarial and that there should be greater sensitivity in the crafting of the Reports, which should always strive to achieve factual accuracy.

But for Barbados, the Turks and Caicos Islands and Antigua and Barbuda, the Mutual Evaluation Reports of all other six Members listed above were discussed at Plenary XVI and adopted by Council of Ministers VIII held in the Bahamas during October 14-18 2002. Summaries of these Mutual Evaluation Reports are attached at Annex C. It is expected that the Mutual Evaluation reports of Barbados, the Turks and Caicos Islands and Antigua and Barbuda will be presented and discussed at Plenary XVII in Panama during March 2003.

The Secretariat wishes to express profound gratitude to Mr. Roland Wever, Chairman of the Financial Action Task Force of Aruba and International Liaison Officer at the Cabinet of the Minister Plenipotentiary of Aruba in The Hague, who led the Missions to Panama and the

Dominican Republic on behalf of the Secretariat because of his knowledge of the Mutual Evaluation process and his fluency in Spanish.

Mr. Wever willingly undertook these duties during that time when he also performed the day to day functions of CFATF Chairman as the representative of the Honourable Pedro E. Croes, Minister of Justice and Public Works of Aruba who on behalf of his country, held the formal position as Chairman during the 2000-2001 period.

The Secretariat also wishes to express its gratitude to Mr. John Lawrence, Director Financial Services, Anguilla and Regulator of the Offshore Financial Sector, Montserrat who on account of his fluency in Spanish and his familiarity with the Mutual Evaluation Process led the Mission to Costa Rica. Mr Lawrence also took part in the Mutual Evaluation of Trinidad and Tobago as Financial Examiner.

## **MUTUAL EVALUATION EXAMINERS TRAINING WORKSHOP**

As part of its ongoing drive to improve the efficiency of the Mutual Evaluation Programme the Secretariat proposed that a deepening of the training of the Mutual Evaluation Examiners should occur annually so as to take account of, and respond in a timely fashion to, the ever changing international anti money laundering and now anti terrorist financing agenda.

The proposal entailed separate workshops, one each for the group of Legal, the group of Financial and finally, the group of Law Enforcement Examiners. The April 2002 Tobago Plenary endorsed this Project and requested that the Secretariat bear in mind the observations of Members and COSUNs that the contents of the workshops should be sufficiently technical, with a clear methodology for assessing compliance with the benchmarks.

The Plenary also advised Members to nominate technical level candidates rather than high management persons and to give a commitment that the candidates would be available when necessary and be given adequate time to properly undertake Mutual Evaluation Missions.

Consideration was given to July/August for holding the first of these workshops with Port of Spain being the tentative venue. Members or Cosuns wishing to host any of the workshops or nominate speakers were invited to submit details to the Secretariat.

As part of the preparation, Members and COSUNs were also invited to review the CFATF Checklist Questionnaire on the Twenty Five Point FATF NCCT Criteria with a view to improvement and forward any comments to the Secretariat. Canada suggested that FATF should be formally requested to comment on the Questionnaire since it grew out of an FATF exercise.

Both the United States and Canada commended the Secretariat for proposing this ambitious work programme for the benefit of all Members and applauded the CFATF as a whole on the progress that is being made in moving forward the regional anti money laundering agenda.

The United States with support from other COSUNs found the proposal for the annual training workshops impressive and pledged to seek the necessary funding to support this important initiative. This view was supported by Canada who also pledged to assist where possible.

Funds for these workshops which is in the vicinity of US\$69,000 is not provided for in the annual expenditure of the organisation and so it was the task of the Secretariat to explore funding avenues with Members, our COSUN allies and relevant regional or international organisations.

Thus far the Secretariat has received contributions from Aruba of US\$2,500, from the Bahamas US\$7,500, from the Cayman Islands US\$5,000, the United Kingdom US\$16,000 and from the United States US\$25,000 and will be vigorously pursuing additional funds with a view to conducting the workshops during the first quarter of 2003.

## **COUNTRY REPORTS**

Underpinning this commitment to full transparency which should lend further confidence to our international partners, is the decision taken by CFATF Ministers in October 2001, that on an annual basis, Country Reports on the anti money laundering and terrorist financing infrastructure of each CFATF member State would be published.

These Reports, which formed part of the Chairman's Work Programme for the 2001-2002 period, will be complementary to the Mutual Evaluation Reports, updated annually and would be available for general publication after being approved by Ministers. Ministers at the Nassau, Bahamas Ministerial Meeting, heard a report on the preparation of the First Compilation of these Country Reports.

The CFATF family of nations will like to acknowledge and thank the Inter American Development Bank for its generous contribution of US\$13,500. for the engagement of local consultants to assist with the completion of these Reports. Our thanks must also be extended to the Commonwealth Secretariat, the Government of Canada and the Government of the Netherlands Antilles for the Team Of Legal, Finance and Law Enforcement Experts, currently housed by the Secretariat whose efforts were pivotal to the successful completion of this ambitious initiative.

The Draft Country Reports have been a very useful addition to the tools with which the Mutual Evaluation Examiners approach the task of the Mutual Evaluation of a CFATF Member and has had a significant impact on the expedition with which the First Draft of the Mutual Evaluation Report is prepared for submission to the Examined Members after the Mission.

The Secretariat advocated that the contents of the Country Reports and the fact that the information therein is updated on an annual basis could replace the need for Member States to complete both the Self Assessment Questionnaire which should be forwarded to the Secretariat on an annual basis and the Mutual Evaluation Survey Form which is required at the onset of a Mutual Evaluation Mission. Plenary XVI and Ministerial VIII respectively, recommended and adopted this position.

In order to ensure that these Country Reports are viewed as authoritative documents on the anti money laundering and combating the financing of terrorism infrastructure of all CFATF Member States, the Secretariat intends to ensure that the annual updating process is informed by the results of the FATF initiative for the review of the Forty Recommendations.

Further, in order to ensure that the Country Reports can be utilised with confidence by international organisations such as the International Monetary Fund and the World Bank for their purposes, the annual updating process will also take into account the current IMF/WORLD BANK/FATF project for the creation of a comprehensive assessment methodology based on the FATF 40 Recommendations and the FATF 8 Special Recommendations on Terrorist Financing.

## **FINANCIAL INTELLIGENCE UNIT – OECS SUB REGION**

The need for the establishment of a Financial Intelligence Unit for the Organisation of Eastern Caribbean States sub-region was seen as a vital facet of the regional defensive structure. This, as well as a national Financial Intelligence Unit in each Member jurisdiction, was considered vital for the construction of a sound regional anti money laundering infrastructure.

Former CFATF Chairman Robert A. Mathavious, Director of Financial Services, British Virgin Islands accordingly initiated discussions with representatives from the United Nations Global Programme Against Money Laundering and the Caribbean Development Bank around July 2001, to explore the feasibility of such an entity.

To this end, 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. It was emphasized that the proposed regional Financial Intelligence Unit should not be seen as a replacement for national Financial Intelligence Units that are essential to each country's anti money laundering framework.

The fact that some OECS Members had yet to establish a national Financial Intelligence Unit raised concerns about their ability to assist with the funding arrangements for the sub regional Financial Intelligence Unit.

The consultative period for this project is still ongoing and the Secretariat will continue to monitor developments on behalf of the CFATF family of nations.

## **PANAMA'S PROGRAMME FOR TRANSPARENCY AND INTEGRITY IN THE FINANCIAL SYSTEM**

Coming out of the FATF NCCT process, Panama is strong in its belief that it is necessary to implement more rigid measures to protect the financial system against money laundering activities. In this regard Panama developed a Plan for the Enhancement of the Transparency and Integrity of the Panamanian Financial System, which is being financed by a loan from the Inter American Development Bank and administered by the Superintendent of Banks for the benefit of the financial sector. At the Tobago Plenary Licda Isabel Fernandez introduced a presentation on this initiative, which was delivered by Lic. Amauri Castillo.

## **COMBATTING THE FINANCING OF TERRORISM**

In the aftermath of the events of September 11<sup>th</sup> 2001, in the United States of America, the CFATF family of Nations issued a strong declaration at the close of the Santo Domingo Ministerial Meeting in October 2001, in support of efforts by the international community to deny terrorist organizations the use of the international financial system.

The then outgoing Chairman Roland Wever who welcomed the delegates to the Dominican Republic recalled the passing of then Chairman Vos on January 6<sup>th</sup> 2001, and expressed on behalf of Aruba and the CFATF family an understanding of the pain and grief of the United States arising out of the considerable loss of life and suffering as a result of the September 11<sup>th</sup> tragedy.

The CFATF family of Nations expressed their profound shock and horror at the tragic events of September 11<sup>th</sup>, 2001 and a minute silence was observed in honour of those who perished. A firm commitment was given by the CFATF family of nations to support the stance of President George W. Bush to destroy terrorist's organizations and their financing and to stand with the United States of America and the international community in the fight against terrorism.

The delegation from the United States of America expressed their deep thanks for the support coming from the region and indicated that they were pleased that the CFATF had decided to arrange a Typology Exercise on Terrorism Financing during early 2002.

During October 2001, the FATF held an Extraordinary Plenary Meeting in Washington, which led to the FATF 8 Special Recommendations on Terrorist Financing and a global Self Assessment Exercise on these Special Recommendations. The Executive Director represented the CFATF at this Meeting.

On February 1<sup>st</sup>, 2002, the FATF organized a Forum on Terrorist Financing, which was held in Hong Kong, China. Some eight representatives from Bahamas, British Virgin Islands, Cayman Islands, Panama and St. Kitts and Nevis attended the Forum and made presentations on the steps that their jurisdictions were taking in support of the global anti terrorist financing campaign. In keeping with the spirit of the commitment given by the Ministers at the Santo Domingo Ministerial, the Executive Director, on behalf of Chairman Gautreaux, reiterated the seriousness with which the Region viewed its obligations to combat terrorist financing and our intention to cooperate fully with the FATF, the United Nations and other international partners on this front.

Plenary XV April 9-10 2002 was the first opportunity where Members could have collectively considered both the FATF 8 Special Recommendations on Terrorist Financing and the attendant global Self-Assessment Exercise. Presentations were made on behalf of the CFATF Membership vis-à-vis the enactment of anti terrorist financing legislation in keeping with the Special Recommendations and completion of the FATF Self Assessment Questionnaire.

After careful consideration of the issues, Plenary XV agreed to recommend to Ministers for their consideration and approval, the following:

1. That the CFATF mandate should be extended to include terrorism and terrorist financing;
2. That the CFATF should endorse the FATF 8 Special Recommendations on Terrorist Financing;
3. That the CFATF should participate in the global FATF Self Assessment Exercise against the FATF Special Recommendations on Terrorist Financing;
4. That the remit of the Secretariat to facilitate the provision of technical assistance and training to Member States should be extended to include terrorist financing.
5. That Ministers consider for endorsement the points outlined in 1-4 above, and give their consent should they so deem, in writing, rather than await the October 2002 Ministerial which was held in the Bahamas.

On April 11-12, 2002, the CFATF and the Financial Action Task Force of South America, (GAFISUD) organized in Tobago Trinidad & Tobago, WI a joint two day Typology Exercise on Terrorist Financing entitled- Creating a Defensive Framework in the Americas.

During this exercise, the first of its kind in the hemisphere, 27 Presenters from 13 different countries and 6 International Organizations shared a wealth of knowledge with 133 participants from 32 CFATF & GAFISUD countries and 13 International Organizations.

During the opening ceremony, the CFATF Chairman, Mr. Bonaparte Gautreaux-Piñeyro, President of the National Drugs Council of the Dominican Republic underlined the importance of the exercise and indicated the pleasure and commitment of the CFATF family of nations to continue such joint exercises with GAFISUD in the future.

Dr. Claudio Herrera from Peru, representative of the GAFISUD Chairman, expressed his pleasure at being part to this important exercise and the need to strengthen the relations between both Organisations.

Nan Donnells, representative of the US Treasury Department and D. Rafael Jover, Spanish Ambassador to Jamaica delivered respectively a Special Message from the President of the United States of America and from the European Union in which they indicated the need to improve the fight against terrorism and its financing and expressed the full support for such CFATF & GAFISUD exercises.

The CFATF Chairman then read a letter from the Junior Minister for Economy of Spain, indicating his pleasure at seeing such an exercise being organized and his country's commitment to improving the fight against terrorism and terrorist financing.

Finally, representatives of the Donor Countries for this exercise namely the United Kingdom, Canada and the United States of America spoke of their country's commitment to support the CFATF on this sensitive issue.

During the first session (morning of April 11) the threat posed to the Caribbean and Latin America by Terrorism and Terrorist financing was outlined.

Presenters from the USA, Trinidad & Tobago, Peru, Canada, INTERPOL and Colombia shared with delegates their experiences on the risks inherent to terrorism and the areas where

governments are currently taking action. It was stated that a new set of rules and laws had been designed in which all countries worldwide should participate.

The regional reality on terrorism was also presented and the situation of Trinidad and Tobago thoroughly studied. The specificity of the South American situation was also studied and the linkage between terrorism and drug trafficking exposed.

Presenters explored with delegates some case studies in terrorist financing, focusing mainly on the different routes used by terrorists to move their money around the world. Numerous situations were discussed, including cash transportation, the use of alternative remittance systems, wire transfers, credit cards, businesses and charity organizations.

Furthermore, through a general outline, delegates learned about the techniques used and the enormous work done by the FBI to trace the money that the terrorists used to perpetrate their attack on the USA on September 11<sup>th</sup>.

During the second session (afternoon of April 11<sup>th</sup>), work on the Economic Citizenship Programmes that exist within the region and their potential misuse by criminals/terrorists groups was covered.

Presentations explored the history/rationale of these programmes; the financial reasons which led some jurisdictions in the Caribbean to embark on them; the advantages for the countries and the applicants; the nature of the existing Economic Citizenship Programmes and the different types of citizenship that were granted.

Presenters from Dominica, Grenada, St Kitts & Nevis and St Vincent and the Grenadines spoke about their national programmes, the reasons for their development and the safeguards put in place to avoid/minimize misuse by criminals/terrorists.

The associated risks were studied and a set of Recommendations proposed to minimize the risks inherent in such programmes. These Recommendations focussed on the improvement of due diligence process on the financial and personal background of the applicant and on the need to establish residence in the country that grants the citizenship.

The need for common international standards was put forward and the creation of an effective mechanism for the exchange of information with respect to beneficiaries of passports was advocated.

After the presentation of some case studies on the issue the USA and Canada indicated their concerns about these programmes but took note that most of the programmes had been suspended or stopped,

On the morning of April 12<sup>th</sup>, during the third session, presentations focused on the existing defensive measures against terrorist financing.

Through the presentation of the 1999 UN Convention for the Suppression of Terrorist Financing, the United Nations Security Council Resolutions on that specific issue and the FATF 8 Special Recommendations on Terrorist Financing, participants were presented with the new state of play

in this arena and the new rules/obligations designed by the world community to tackle the problem.

Thereafter standard anti-terrorist financing legislation was presented to the participants with the international requirements on the definition of terrorist offences, terrorist property, forfeiture, seizure of assets, freezing or restraint orders, disclosure of information, information sharing, etc... including a list of proscribed organizations with their strength and country/region of origin.

After the presentation of regional/hemispheric Plans of Action to fight terrorist financing by GAFISUD, CFATF & OAS/ CICTE, Member States (Brazil, St Kitts & Nevis, Haiti, the Bahamas and Barbados) outlined the steps taken by their individual countries in this area.

After an outline of the current state of play in the Caribbean, members were updated on the measures taken by countries/organizations throughout the world to fight terrorist financing. EUROPOL and INTERPOL presented their initiatives (creation of specific structures) and plans of action in this area. Countries such as the UK, France, Canada and Spain presented the efforts made in terms of national/international collaboration to combat this global threat.

Then, emphasis was put on the need for guidance and training for financial institutions, which are involved in the fight against money laundering and terrorist financing.

Finally, before the concluding remarks, the UK, Canada and the USA stressed their commitment to provide bilateral/multilateral technical assistance to members (English/Spanish/Dutch speaking) through CALP/OAS-CICAD, once an assessment of their needs is completed.

During the concluding remarks, Ms. Adrienne Nelson de Senna, Chair of the FATF Ad Hoc Group for the Americas, indicated her pleasure in participating in such an interesting Typology Exercise and the FATF's support for the continuation of this process.

The CFATF Chairman closed the exercise by congratulating all the presenters for the tremendous work done and the experiences they shared with the delegates. He also thanked the GAFISUD Secretariat for its efforts in the preparation of the exercise as well as the representative of the GAFISUD Chairman and the Chair of the FATF Ad Hoc Group for the Americas for their presence and involvement.

The Member States of the CFATF and GAFISUD, wish to publicly express profound gratitude to the governments of Canada, Department of Foreign Affairs and International Trade, the United Kingdom and the United States of America for their kind and generous support towards the success of this first of its kind hemispheric exercise. Donations to the order of Can\$25,000, US\$10,000. and US\$15,000 were made respectively.

## **TECHNICAL ASSISTANCE AND TRAINING**

One of the principal functions of the CFATF Secretariat is to identify the training and technical assistance needs of Members and to facilitate the provision thereof.

During late 1994, the CFATF Secretariat chaired a meeting of representatives of the major donors in the region and international organizations, including OAS-CICAD, UWI, CARICOM

Bank Supervisors Group, United Nations Drug Control Programme (UNDCP) and the European Union. The outcome was the Regional Strategy for Countering Narcotic Money Laundering in the Caribbean Region.

By early 1996, the CFATF Secretariat with funding provided by UNDCP conducted research for and drafted a proposal for a regional training and technical assistance programme.

In step with this was the Regional Meeting on Drug Control Cooperation in the Caribbean, held in Barbados during May 15-17 1996, which led to the drafting of the Barbados Plan of Action and which confirmed an international consensus for a regional approach to law enforcement training and assistance. The lack of co-ordination, the attendant problems and the need for a regional approach was universally acknowledged.

Accordingly, in February 1997, the proposal drafted by the CFATF for UNDCP was developed into the UNDCP Project Idea. Following further study by a Team of European Commission and United States consultants, the UNDCP Project Idea was developed into a regional training and technical assistance proposal consisting of approximately US\$7.5M. This was presented and distributed to CFATF Members at Ministerial Meeting III in Barbados in October 1997, which concluded that the CFATF should be the implementing institution.

The Santo Domingo December 8-9 1997 Second Regional Meeting on Drug Control Co-operation and Co-ordination in the Caribbean conducted a review of the progress made in the Implementation of the Barbados Plan of Action, resulting in the Santo Domingo Declaration Against Drugs, December 9<sup>th</sup> 1997.

This document contained the decision to implement the regional money-laundering programme through the CFATF in association with the European Commission, the United States and other Cooperating and Supporting Nations and noted that the location of the Programme was to be determined by the CFATF Ministerial Council by March 1<sup>st</sup> 1998. On behalf of Ministers, the CFATF Steering Group decided that the Programme would be housed at the CFATF Secretariat.

Thus was born the five year Caribbean Anti Money Laundering Programme for the English-speaking Members of the CFATF along, Aruba, the Republic of Haiti, the Netherlands Antilles and Suriname.

## **THE CARIBBEAN ANTI MONEY LAUNDERING PROGRAMME**

The Programme, which became operational during March 1999, continues to demonstrate its value as one of the important aids towards strengthening the regional anti money laundering infrastructure by making good the deficiencies as identified in the CFATF Mutual Evaluation Reports and the FATF NCCT Initiative.

The strategy adopted for the last year has been, whenever possible, to support countries attempting to raise their standards to match more advanced countries within the region in respect of anti-money laundering issues. Particular attention has been directed towards the Eastern Caribbean, having regard to those countries which are still on the FATF NCCT list.

Another focus for concentrated effort in the Eastern Caribbean has been to assist in the implementation of National Financial Intelligence Units. In particular, efforts have been made to give standard training, and use of forms in suspicious activity, unusual business transactions and mandatory financial reporting. This common practice allows financial investigators to exchange information with colleagues from other countries knowing that they are conferring about identical formats of data.

This standardisation is also seen as a solid format for annual returns, and preparation for a sub-regional Financial Intelligence Unit, should the feasibility study by the United Nations Global Money Laundering Programme become a reality.

At the CFATF Plenary in October 2001, the Consulting Company, KPMG, began reviewing the operations of the Programme to date. Having interviewed a wide variety of country representatives from various disciplines during this meeting, the Consultants conducted further investigations in a number of countries, and within the CFATF Secretariat in Trinidad.

The final Report was pleasing to read, with the Consultants complimenting the Programme for significant achievement in a comparatively short period of time. Furthermore, the interviews conducted indicated that the quality of the Programme's delivery was high. Indeed, a number of interviewees commented favourably on both the speed of response by the Programme to requests, and the willingness of the Programme to answer queries and respond to problems.

The timing of the review closely followed the tragic events of September 11, 2001 in the United States of America and consequently, much thought was given to 'Terrorist Funding', its close association with money laundering and its impact on the region and the Caribbean Anti-Money Laundering Programme (CALP).

## **TRAINING FOR SPANISH SPEAKING MEMBERS**

Consistent efforts have been made over the years, to arrange the provision of holistic anti money laundering training initiatives covering fields of legal/judicial, finance and law enforcement for CFATF Spanish-speaking Members. This has proven somewhat difficult to attain. However fortunately, with the assistance of the Inter American Development Bank, a programme for the employees of banking institutions and the Superintendency of Banks in Costa Rica, the Dominican Republic, Panama and Venezuela, initially set to for May 2002 would commence during the first quarter of 2003.

A training initiative by the Royal Canadian Mounted Police for judges, prosecutors and law enforcement officers, was conducted in Caracas, Venezuela during February 2002. The Secretariat is currently exploring with the Royal Canadian Mounted Police the possibility of a similar training initiative being arranged for the other Spanish-speaking Members.

At the Tobago April 2002 Plenary, led by Antigua and Barbuda and supported by Barbados, Jamaica, Panama and Venezuela, there was a consensus for the views that the way forward should ensure that all CFATF Members should benefit from the training activity of the Caribbean Anti Money Laundering Programme and that our international partners should continue the funding arrangements for training across the Caribbean Basin Region beyond 2004.

In recognition of the changing needs of the region and the growing concern of the Spanish speaking Members that training initiatives covering the whole range of anti money laundering requirements should be available, the United States at the Tobago Plenary gave a commitment to seek out funding for the development of detailed training for CFATF Spanish speaking Members, and welcomed the involvement of the international financial organizations operating in the Region.

## **OTHER TECHNICAL ASSISTANCE AND TRAINING OPPORTUNITIES**

In addition to the above there are a host of bi-lateral training initiatives between members and the major donor countries, which in the main are run through the local Embassies and High Commissions.

Further the United Nations Drugs Control Programme in Barbados in conjunction with the Caribbean Development Bank, as well as the UN Vienna Office Of Drug Control and Crime Prevention continue to undertake training activity in the region.

Of recent vintage is the Caribbean Region Technical Assistance Centre, CARTAC which provides training for the strengthening of financial sector supervision and regulation.

Operational details are being worked out for the Canadian 18.5 million Caribbean Responsive Assistance Fund, which will look to Financial Sector Stabilization and general anti money laundering efforts.

The Eastern Caribbean Central Bank has an ongoing programme for the training of regulators and for general public education and awareness in the Organization of Eastern Caribbean States Area.

With the advent of the various listings from the Organisation for Economic Cooperation and Development, Financial Action Task Force and the Financial Stability Forum over the past three years, indications of preparedness to provide technical assistance and training to secure compliance with international standards have been made.

In the wake of September 11<sup>th</sup> and the global fight against terrorist financing the FATF and the United Nations are sources of potential technical assistance in this important area.

Looming large in most if not all of the foregoing initiatives is the fact that they are all driven by the demands of the individual Member countries. One difficulty with this approach is that jurisdictions will call upon several programmes to provide assistance in one area in the hope that if an application should fail from one source, the likelihood of success from the other applications may be higher.

Ipsa facto, when two or more programmes agree to assist to satisfy the same need the duplication of assistance inevitably leads to wastage.

## **COORDINATION OF TECHNICAL ASSISTANCE AND TRAINING**

As outlined above, as far back as 1994 it was recognized that there was no single organization, which coordinated donor assistance in all countries and territories of the region and that this frequently led to the over-lapping of efforts.

At this stage the problem remains unresolved and there is growing consensus in international anti money laundering and combating the financing of terrorism circles that the solution lies in the utilization of the framework that is on offer at the FATF style regional organizations like the CFATF

At the CFATF April 2002 Plenary Meeting, the principal donors operating in the region, recognized and welcomed as valid, a proposal which sought inter alia, to facilitate the ability of the CFATF to act as a mechanism through which anti money laundering and anti terrorist financing, technical assistance and training for the region could be best coordinated and effectively delivered.

Accordingly, the proposal for the reorganisation of the Secretariat will be discussed at the March 2004 Plenary which should lead to a handover of the training remit for CFATF Members from the Caribbean Anti Money Laundering Programme to the CFATF during the period March 2004 to December 2004.

It was also recognized that the effective coordination of the deployment of Technical Assistance and Training would be a considerable undertaking and that there would be a need to strengthen the FATF style regional organizations through, among other things the provision of additional staff.

There is also the recognition that the future requires a planned, structured approach to the provision of assistance in Country, based on a National Technical Assistance Training Plan, working with the National Anti Money Laundering Committees in the respective countries.

Indeed participants at an IMF/WORLD BANK sponsored initiative for the establishment of a global mechanism for the coordination of technical assistance and training agreed with this approach.

At this juncture, most if not all CFATF Members have or are far advanced along the path to establishing the legislative framework which complies with the current international benchmarks for anti money laundering and combating the financing of terrorism.

The focus now and for the future is to ensure that all CFATF Members are effectively implementing the new arrangements. The ability to effectively co-ordinate current technical assistance and training resources by channeling them to those areas within the country where they are urgently required would strengthen national capacity and among other things, facilitate de-listing in cases where countries are now on adverse lists drawn up by international organizations on anti money laundering issues.

In the CFATF region the first compilation of Country Reports which review the anti money laundering and a terrorist financing infrastructure as assessed against the current international benchmarks are being prepared by a Team of Experts, provided by the Commonwealth Secretariat, Government of Canada, Government of the Netherlands Antilles and the Inter-American Development Bank. Ministers at the October 2002 Bahamas Ministerial Meeting heard a report on the preparation of these Country Reports.

A regional meeting of all Donor countries, donor organizations and current training programmes operating in the region was arranged on the margins of the October Bahamas Plenary. Consideration was given to creation of a matrix of each country's technical assistance and training needs, a timetable in which the identified deficiencies could be rectified, the resources that will be required and the manner in which the burden for each country would be shared. A network of donor contact points to monitor and report on the operations of the new coordination arrangements was discussed.

One of the first and important steps in the realization of the stated goal is the appointment of Coordinator Technical Assistance and Training at the CFATF Secretariat and the necessary funding is being sought from a regional institution.

## **REGIONAL COMMITMENT TO THE NEW REGIMES**

Strong and robust anti money laundering systems, both nationally and regionally are critical if the emphatic commitment by the Santo Domingo Council of Ministers to be solid partners with the international community in the battle against terrorist financing, is to be honoured in full.

With this in mind, Member governments have continued to enhance their defensive mechanisms so as to be in step with international standards. The regional commitment to this forward thinking process is irreversible and is firmly demonstrated through presentations by all CFATF Members to each and every Plenary and Council of Ministers Meeting on the steps that are being taken to implement the recommendations of the Examiners in their respective Mutual Evaluation Reports and also to generally strengthen their national anti money laundering and combating the financing of terrorism infrastructure.

It is very rewarding that these efforts are being recognised, applauded and continuous movement forward encouraged by the policies of our international partners.

Represented at all CFATF Plenary and Ministerial Meetings are delegations from FATF Members Canada, France, Mexico, Netherlands, Spain, the United States of America, and the United Kingdom, who comprise the CFATF Group Of Cooperating and Supporting Nations.

The Executive Secretary of the FATF Secretariat also attends most if not all CFATF Meetings and the FATF President, schedule allowing, attends the annual Ministerial Meetings. At the Tobago Plenary, the Chair of the FATF Ad Hoc Group for the Americas was present.

The CFATF is of the view that this considerable FATF presence along with the attendance of other regional and international organisations at CFATF Meetings, offer a solid platform on which frank and effective dialogue as well as mutually beneficial collaboration in the fight against money laundering and the combating of terrorist financing could successfully continue.

The international partners of the Caribbean Basin Region should have full confidence that the measures that have been put in place will not be reversed. The framework for collaboration and monitoring are readily available and the business of safeguarding the international financial architecture from the predations of trans-national organised criminals could be pursued in an atmosphere that is conducive to mutual progress and mutual security.

## **ECONOMIC IMPACT OF ANTI MONEY LAUNDERING LEGISLATIVE REFORM**

The significant anti money laundering legislation that have been instituted in the Caribbean Basin Region has resulted in the virtual collapse of the offshore sector in one jurisdiction where the culture of compliance, at times going beyond what is required internationally and the fear of criminal prosecution are harming economic activity.

Further the opening of accounts with international financial institutions by some regional institutions has been denied. In some jurisdictions the economic situation is indeed cause for concern and the debate as to which avenues will allow long-term sustainable economic development for the region as a whole is now firmly on the regional agenda.

The incoming Chairman in his Work Programme for 2002-2003 has indicated that in keeping with the Memorandum of Understanding he intends to explore every available avenue from which financial assistance could be provided to those Members where it is urgently needed immediately and also in the future.

This latter dialogue cannot be undertaken in an atmosphere where compliance with international standards is absent. It is clear that there is a firm and positive commitment by all CFATF Members to continue along the path of strengthening the regional anti money laundering and combating the financing of terrorism infrastructure.

Accordingly, participation in this global dialogue by the Caribbean Basin Region could be undertaken with a measure of confidence, which springs from the certain knowledge that our anti money laundering and combating the financing of terrorism framework is in step with international requirements and that effective implementation of the legislative provisions is well under way.

The social, economic and political stability of the Caribbean Basin Region require that there be no deviation from the path that we have and continue to travel in terms of reforming and strengthening the regional anti money laundering and terrorist financing infrastructure. This process will continue.

## **EXTERNAL RELATIONS**

At this crucial juncture in its continued development the CFATF remains extremely proud of the close constructive and harmonious relations that it has with our Group of Cooperating Nations, and the strong partnerships with all our Caribbean Basin Institutions and International Observer Organisations.

## **CARICOM**

The attendance of representatives from CARICOM is always welcomed at CFATF Meetings and at the Tobago Plenary, Dr. Gloria Richards-Johnson spoke of the longstanding areas of collaboration between the CFATF and CARICOM and the attendance of Executive Directors at meetings of the Caricom Legal Affairs Committee and the Regional Task Force on Crime and Security.

Delegates were informed of a recent meeting between the Executive Director and the Caricom Deputy Secretary General and the Assistant Secretary General with a view to securing even closer ties between both organisations, with work for the immediate future centering around a region-wide public education and awareness raising campaign, as well as a public relations campaign, on anti money laundering and anti terrorist financing issues.

Note was made of the Assembly of Caribbean Community Parliamentarians where issues of critical importance to the region were discussed among which was the good work being accomplished by the CFATF and the need that this should be given greater public recognition.

Interest was expressed in the recommendations that will come out of the Working Group formed to consider the revision of the CFATF Memorandum of Understanding in that Caricom's Legal Affairs Committee will consider them as well as the Summary Records of CFATF Plenary and Ministerial Meetings to see how Caricom could assist in encouraging implementation.

## **CARIBBEAN REGION TECHNICAL ASSISTANCE CENTRE**

The April 2002 Tobago CFATF Plenary was the first occasion that a representative from the Caribbean Region Technical Assistance Center (CARTAC) attended a CFATF Plenary Meeting. Mrs. Desiree Cherebin outlined the steps that led to the creation of CARTAC, whose mandate covered twenty jurisdictions of the English-speaking Caribbean, Dominican Republic, Haiti and Suriname, and whose work is driven by requests from the beneficiary nations. The Organisation's work covered anti money laundering and terrorist financing legislation procedures with particular focus on strengthening the core areas of financial sector supervision and regulation.

On the anti terrorist front, CARTAC had undertaken a study for Barbados on the implications of implementing United Nations Security Council Resolution 1373 and confirmation was given that Barbados would be willing to share the results of the study with fellow CFATF Members.

Note was made of CARTAC's collaboration with the CFATF, CALP and other donor countries and international organisations with ongoing work in the Organisation of Eastern Caribbean States area with the conduct of training courses and attachments on anti money laundering procedures.

Rachael Grasham, on behalf of the Government of Canada, noted that country's pleasure at seeing CARTAC involved in CFATF meetings and encouraged increased co-ordination between CARTAC, the CFATF and CALP.

## **FINANCIAL ACTION TASK FORCE**

In keeping with the tradition Mrs. Clarie Lo, President of the FATF, addressed the Santo Domingo Council of Ministers Meeting on the work of the FATF, commented on the close links that exist between the FATF and CFATF and the need for strong collaboration to tackle the global problems of money laundering and Terrorism Financing. Mrs. Lo spoke about the comprehensive review of FATF's Forty Recommendations that is being carried out by the FATF and noted that the FATF's Mutual Evaluation Programme had provided valuable considerations for updating, clarifying and refining the benchmarks.

Mrs. Lo further indicated that the FATF desired that the review process entail the widest possible participation, including all the FATF-style organizations, international organizations and the private sector. She confirmed that three Working Groups had been set up to examine the following areas of Customer identification and suspicious transaction reporting; Misuse of Corporate Vehicles and the Role of non-financial businesses and professionals.

Taking up the invitation extended by the FATF to the FATF style regional organisations to actively participate in this important initiative, CFATF Members Bahamas, British Virgin Islands, Cayman Islands, Jamaica, Panama along with the Executive Director, took part in meetings, which were held in Paris, Washington, Hong Kong and Rome. Delegations comprised, Richard Ellis, Robert Mathavious, Debbie Drummond, Audrey Anderson, and Delia Cardenas respectively.

The result of this global collaborative exercise was a Draft Public Consultation Document on the review of the Forty Recommendations, which compiles the proposals, which were considered in the Working Groups for possible additions or changes to the Recommendations, to the Interpretative Notes or for additional guidance.

The Draft Public Consultation Document was circulated to the Prime Contacts of all CFATF Members for onward distribution to all interested parties within the private sector and a deadline of August 31<sup>st</sup> 2002 for responses to be forwarded to the FATF Secretariat.

## **FATF NON-COOPERATIVE COUNTRIES OR TERRITORIES INITIATIVE**

Another ongoing project is the FATF Non Cooperative Countries or Territories Initiative (NCCT). During the April Tobago CFATF Plenary, the FATF Executive Secretary Patrick Moulette, outlined the progress that was being made on a global basis and recognised the movement forward that was being made by the CFATF Member countries that were still on the FATF NCCT.

Daniel Glaser, the Chair of the Review Group of the Americas who could not attend the Tobago Plenary, sent his apologies. Speaking on his behalf Nan Donnells, Head of the United States Delegation, expressed pleasure at the progress that was being made by all jurisdictions throughout the Caribbean Basin Region and not only those on the FATF NCCT List.

The Plenary was also advised that after a review of Costa Rica's anti money laundering infrastructure, the FATF decided that Cost Rica was not to be placed on their NCCT List. It was encouraging to note that Dominica and St. Kitts and Nevis, after being asked to submit

Implementation Plans, were preparing for an on site visit by the Review Group for the Americas during late May. These did take place and the findings were discussed at the June FATF Paris Plenary, which resulted in St. Kitts and Nevis being de-listed. Dominica was de-listed by the FATF in October 2002.

The outstanding CFATF jurisdictions that remain on the FATF NCCT list are Grenada, Guatemala and St. Vincent and the Grenadines. Both Grenada and St. Vincent and the Grenadines were invited to submit Implementation Plans for consideration by the FATF and both have done so. An on site visit by the FATF is scheduled for December 2002. The Secretariat will continue to work closely with these Members in their preparations for further dialogue with the FATF Review Group for the Americas.

It is important to note that the goal of the Review Group is to work towards the de-listing of these listed jurisdictions as soon as possible and countries are being encouraged to remain engaged in the process, participating in the Face to Face meetings and continuing the valuable dialogue as the initiative moves forward.

The climate that currently exists within the FATF Review Group for the Americas as the Non Cooperative Countries or Territories Initiative moves forward is very instructive as to the progress that can be achieved within this framework. The dialogue, both bilaterally and multi-laterally is harmonious and constructive; the countries under review seek out and are receptive to advice given by the reviewers; and technical assistance with drafting of legislation is readily provided.

## **COOPERATION IN THE AMERICAS**

The FATF Ad Hoc Group of the Americas is a forum where FATF Members meet with the Secretariat of the FATF Style regional bodies the Financial Action Task Force of South America (GAFISUD) and the CFATF to discuss issues relating to money laundering and terrorist financing.

The current Chair, Ms Adrienne de Senna Nelson of Brazil has been very instrumental in the establishment of a close working relationship between GAFISUD and the CFATF. Her efforts have been rewarded with among other things, the joint Terrorist Financing Typology between GAFISUD and the CFATF.

Making her first ever report to a CFATF Plenary, Chairperson de Senna Nelson expressed her pleasure and honour to be present at the Tobago meeting and underlined the view that the joint working arrangements between CFATF and GAFISUD were important to the hemispheric struggle against money laundering and terrorist financing.

CFATF expertise and experiences, she noted would be of assistance to GAFISUD with whom it shared common interests in seeking to ensure compliance with anti money laundering standards. Both regional groups had set out Action Plans to combat the financing of terrorism and to support the international community in this important endeavour.

Chairperson de Senna Nelson was very pleased with the joint CFATF/GAFISUD Typology Exercise on Terrorist Financing and was encouraged that the FATF Ad Hoc Group on the Americas was indeed accomplishing its mandate by participating in these activities.

Also at the Tobago Plenary was Dr. Claudio Herrera, who brought greetings from the President of GAFISUD whom he was representing. Commenting on the work of GAFISUD, Dr. Herrera advised of the signing of the MOU by Members on December 20<sup>th</sup>, 2001 and the progress of the First Round of Mutual Evaluations.

The importance of collaboration with the CFATF was impressed upon the delegates because international co-operation was vital to effectively combat the threat of money laundering activity to economic and social stability. Mutual objectives and geographical proximity dictated that there should be continuous participation in and support for each other's activities. In this regard, the long-standing co-operation and prompt responses to enquiries by both Secretariats go far to ensure that exercises like the joint terrorist typology exercise would continue in the future.

Whilst endorsing the observations of Dr. Herrera, Fernando Rosado, Executive Secretary of GAFISUD expressed his gratitude for all the help and support that was extended by the CFATF Secretariat even before the birth of GAFISUD through the CFATF sharing its official documents which assisted with establishing the founding documents for GAFISUD.

Executive Secretary Rosado noted that both Secretariats were in regular conversation with each other, sharing ideas and exploring the preparation of joint plans for the future. This ongoing collaboration was spontaneous and beneficial to both organization, as well as the hemispheric anti money laundering and terrorist financing efforts as was clearly demonstrated by the joint CFATF/GAFISUD Terrorist Financing Typology Exercise.

The presence of CFATF Deputy Chairman Carl Bethel, Attorney General of Bahamas at the Chile Plenary of GAFISUD and the involvement of Pierre Lapaque at the GAFISUD Mutual Evaluation Examiners Training Workshop were welcomed, as would be the attendance of the Executive Director to GAFISUD Meetings in the future. Subsequent to the Tobago Plenary, the Deputy Director attended the May 2002 GAFISUD Plenary in Buenos Aires, Argentina.

## **INTER AMERICAN DEVELOPMENT BANK**

Both the CFATF and the Inter American Development Bank continue to have a long, close and fruitful relationship. During the 2002-2002 period the Bank agreed to provide assistance for a training programme for the employees of banking institutions and the Superintendence of Banks in Costa Rica, the Dominican Republic, Panama and Venezuela. Arrangements are in hand to commence delivery of this important programme in the first quarter of 2003.

At the Tobago Plenary, William Robinson, the IADB representative in Trinidad and Tobago advised that no specific new programmes were available for announcement. Importantly however, he confirmed the Bank's intention to continue working with the CFATF and to provide ongoing support to individual countries through their Multilateral Investment Fund Programme.

## **UNITED NATIONS DRUG CONTROL PROGRAMME**

The bulk of the work of the United Nations in the region centred on the feasibility study for the establishment of a Financial Intelligence Unit for the Organisation of Eastern Caribbean States Sub Region whose progress is reported on above under the heading Ongoing Strengthening of the Regional Anti Money Laundering Infrastructure.

## **WORLD BANK**

At the April 2002 Tobago Plenary, World Bank representative John Sullivan outlined some of the initiatives that the Bank would be undertaking over the next few years. In keeping with its main objective of poverty reduction, the Bank considers good governance, judicial and legal reform and adequate financial sector supervision and regulation important priorities of economic development. There was recognition of the need to effectively address anti money laundering and terrorist financing issues and accordingly the Bank had expanded its financial sector diagnostic work in this direction.

Mr. Sullivan advised that the Bank would continue to help countries to address structural and institutional weaknesses that may militate against market integrity and potential for financial abuse.

Note was made of the several steps that had been taken in the anti money laundering struggle such as the joint anti money laundering methodology for an effective anti money laundering regime including terrorist financing arrangements and compliance with international standards for inclusion in the Financial Sector Assessment Programme.

Secondly, the unified assessment methodology on the FATF 40 Recommendations and the FATF 8 Special Recommendations being worked on jointly by the World Bank, the IMF and the FATF. Thirdly, intensified technical assistance to strengthen the anti money laundering and terrorist financing needs based on recommendations identified in the Financial Sector Assessment Programme and the general coordination of such assistance so as to avoid duplication of efforts.

Finally, the Global Dialogue Series to bring together government officials responsible for the formulation of policy on anti money laundering and terrorist financing issues to discuss the attendant risks to financial market integrity and the effective tools to address these concerns. Note was made of the CFATF Executive Director's involvement in this initiative.

## ANNEX A

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

### **Background**

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

implementation of these Guidelines, to ensure the creation of common and compatible databases to collect and report data relating to international commerce.

9. Equally important, CFATF Members further undertake to ensure that this data is made available to competent authorities in other countries in accordance with applicable law, subject to strict safeguards to ensure proper use of information, to detect and prosecute crime and related proceedings.
10. Finally, CFATF Members are cognizant of the fact that the economic potential of a Free Trade Zone is of great importance to their respective economies. Simultaneously, they acknowledge that this economic potential is threatened by criminal misuse of Free Trade Zones.
11. Accordingly, in devising these Guidelines, CFATF Members have endeavored to achieve a balance between protecting and promoting the economic potential of Free Trade Zones, while at the same time providing effective preventative measures and all the tools required in order to effectively combat crime in them.

## **Methodology**

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

## **CONCLUSIONS AND RECOMMENDATIONS**

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

1. Devise, enact, and effectively implement a comprehensive legislative regime affecting Free Trade Zones. The legislative regime must clearly and unequivocally define the term "Free Trade Zone" and must govern all areas of its operations. Areas of Free Trade Zone operations to be governed include, but are not limited to: the granting and revocation of licenses to operate a business therein; record keeping and reporting requirements for these businesses; and, establishing and defining the oversight and supervisory authority, functions, responsibilities, and powers of the Free Trade Zone Authority. Where necessary, such a legislative regime should meet the following requirements:
  - (a) The Free Trade Zone Authority, if necessary, should be physically present and operate in the Free Trade Zone. The appropriate National authorities should, at minimum, oversee and supervise all operations in the Free Trade Zone and enforce sanction violations of all applicable laws and regulations.
  - (b) Businesses operating in Free Trade Zones must comply with all applicable laws and regulations and must establish an anti-money laundering compliance program which includes an independent review and internal audits. It is strongly recommended that businesses designate a compliance officer who shall be responsible for monitoring and ensuring implementation of the compliance program.
  - (c) Businesses operating in Free Trade Zones should be required to identify their clients and to keep the record of each transaction and to report suspicious activities to the competent authorities.
  - (d) Free Trade Zone Businesses should be required to report suspicious transactions to the competent authority in the form and manner that the authority directs. Additionally, it may be required that all businesses operating in Free Trade Zones should report to the competent authority all transactions in cash or negotiable bearer instruments exceeding US\$ 10,000.00 or its equivalent in other currency, or postal or other money orders, travelers checks and third party checks.
  - (e) Governments should discourage businesses operating in Free Trade Zones from accepting cash payments, or payments in money orders or third party checks, travelers checks, wire transfers, or other means from parties that are not directly related, as either the seller or buyer, to the underlying transaction. These businesses should, at a minimum, record such transactions and, when determined as suspicious report such transactions to the competent authorities.
2. Require competent Authorities to make available to regulated businesses current copies of all applicable laws, administrative resolutions, regulations, advisories and directives regarding: the conduct of business in the Free Trade Zone; compliance with all applicable legal requirements; and, advisories regarding suspicious activity and recommended countermeasures.
3. Require competent Authorities to designate, as part of their core operation, a specialized unit responsible for all matters dealing with the prevention of money laundering and to carry out ongoing related training for businesses operating in the Free Trade Zone. This unit should, at a minimum, produce an instruction manual detailing the powers vested in the Authority, the obligations of businesses operating in the Free Trade Zone, and the internal anti-money laundering mechanisms, including all

reporting and record keeping requirements, which must be maintained by these businesses.

4. Devise and implement all necessary measures to establish and promote coordination between the administrative and all other authorities involved in the prevention, investigation, and prosecution of money laundering activities.
5. Take affirmative measures to ensure uniformity in data collection practices affecting international commerce and enact measures to ensure that the data collected related to international commerce is available to other governments in accordance with applicable law.

## **INTERPRETATIVE NOTES**

### **1. Definition of a Free Trade Zone**

A Free Trade Zone<sup>1</sup> may be defined as:

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

Such areas could include, among others:

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

### **2. Admission of Businesses to Operate in Free Trade Zones**

- (a) A legislative regime regulating Free Trade Zones (FTZ) must, among other things, govern the granting and revocation of licenses to operate a business therein. Because these guidelines are intended to help governments to ensure transparency and integrity

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<sup>1</sup> **Such organisations could be defined under various names, such as:** Free Zones, Freeport Zones, (Port) Free Trade Zones, Foreign Trade Zones, Duty Free Trade Zones, Commercial Free Trade Zones, Export Processing Zones, Logistic Zones, Trade Development Zones, Industrial Zones/Parks/Areas, Hi-Tech Industry Parks, Hi-Tech and Neo-Tech Industrial Development Zones, Investment Zones, Bonded Zones, Special Economic Zones, Economic Development Zones, Economic and Technological Development Zones, Resource Economic Development Zones and Border Economic Cooperation Zones.

in legitimate international trade and thereby protect it against criminal misuse, it is important to identify the parties to any given transaction.

- (b) It is equally important to fully and clearly identify the parties who control and operate businesses within a Free Trade Zone regime and to ensure that these are bound by all applicable laws and can be reached by competent authorities.
- (c) Accordingly, Governments should ensure that businesses are registered and incorporated in accordance with applicable laws.
- (d) These laws should require that Articles of Incorporation be filed upon registration and that the identity of all corporate officers and owners be fully disclosed. The identity of shareholders should be made accessible as determined by the applicable laws.
- (e) Further, any changes made to all of the foregoing information must be reported to the competent authorities and should be verified and updated periodically (minimum once every three years) to reflect any changes in ownership, location or other matters.

### **3. Free Trade Zone Businesses Operating as an Agent.**

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

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

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

result in the imposition of a civil or administrative fine shall be clearly defined by the competent Authority.

*Port of Spain, March 29<sup>th</sup>, 2001*

## **ANNEX B**

### **Caribbean Financial Action Task Force**

**Financial Statements**

**31 December 2001**

**(Expressed in United States Dollars)**

**Caribbean Financial Action Task Force**

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## **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, 2001 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, 2001 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.  
19 September, 2002

# Caribbean Financial Action Task Force

## Balance Sheet

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		31st December	
	Note	2001 US\$	2000 US\$
<b>Current Assets</b>			
Cash		248,508	266,719
Contributions outstanding		52,418	32,932
Prepaid expenses		1,800	2,096
VAT recoverable		3,289	8,186
Due from Caribbean Anti-Money Laundering Programme		<u>221</u>	<u>226</u>
		<u>306,236</u>	<u>310,159</u>
<b>Current Liabilities</b>			
Accounts payable and accrued expenses		<u>11,707</u>	<u>79,436</u>
<b>Net Current Assets</b>		294,529	230,723
<b>Fixed Assets</b>	4	<u>61,097</u>	<u>48,760</u>
		<u>355,626</u>	<u>279,483</u>
<b>Representing</b>			
<b>Accumulated Fund</b>		<u>355,626</u>	<u>279,483</u>
		<u>355,626</u>	<u>279,483</u>

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	
		2001 US\$	2000 US\$
<b>Income</b>			
Contributions - donor countries	5	543,910	468,051
- International Finance Conference		18,349	24,711
- Free Trade Zone Typology		--	2,988
Loss on Exchange		(5,999)	(1,021)
Interest received		11,244	13,124
Other income		<u>13,169</u>	<u>15,028</u>
		<u>580,673</u>	<u>522,881</u>
<b>Expenditure</b>			
Advertising		467	2,929
Audit fee		4,688	2,816
Conference expenses		14,602	31,583
Courier service		777	536
Depreciation		8,387	7,225
Insurance		505	582
Insurance - workmen's compensation		73	180
Interest and bank charges		926	327
Loss on disposal of fixed assets		1,668	-
Motor vehicle expenses		1,943	1,198
Miscellaneous expenses		752	181
National insurance		1,502	1,118
Newspapers and periodicals		840	1,871
Overseas travel		105,608	77,273
Pension contributions		--	3,086
Postage and stamps		184	56
Printing and stationery		6,632	8,351
Professional services		54,907	44,168
Rentals		772	192
Repairs and maintenance		2,254	2,614
Security		--	39
Staff welfare		48	158
Subscription		365	1,010
Telephone and faxes		12,813	8,446
Travelling and subsistence		700	536
Wages and salaries		<u>283,117</u>	<u>253,854</u>
		<u>504,530</u>	<u>450,329</u>
<b>Surplus For The Year</b>		<u>76,143</u>	<u>72,552</u>

## Caribbean Financial Action Task Force

### Accumulated Fund

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	Year Ended 31st December	
	2001	2000
	US\$	US\$
Note		
<b>Accumulated Fund</b>		
- Beginning of year	279,483	242,079
Reversal of contributions re: Guatemala and Guyana	--	(36,345)
Translation adjustment	--	1,197
Surplus	<u>76,143</u>	<u>72,552</u>
- end of year	<u>355,626</u>	<u>279,483</u>

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

## Caribbean Financial Action Task Force

### Cash Flow Statement

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	Year Ended 31st December	
	2001 US\$	2000 US\$
<b>Operating Activities</b>		
Surplus for the year	76,143	36,207
Adjustments to reconcile surplus to net cash from operating activities:		
Depreciation	8,387	7,225
Loss on disposal of fixed assets	1,668	--
Translation adjustment	--	1,197
Net change in operating assets and liabilities	<u>(82,017)</u>	<u>111,613</u>
Net cash inflow from operating activities	<u>4,181</u>	<u>156,242</u>
<b>Investing Activities</b>		
Purchase of fixed assets	(24,666)	(6,997)
Sale of fixed assets	<u>2,274</u>	<u>--</u>
Net cash outflow from investing activities	<u>(22,392)</u>	<u>(6,997)</u>
<b>Net Cash (Outflow)/Inflow For Year</b>	(18,211)	149,245
<b>Cash and Cash Equivalents</b>		
- beginning of year	<u>266,719</u>	<u>117,474</u>
- end of year	<u>248,508</u>	<u>266,719</u>

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

# Caribbean Financial Action Task Force

## Notes To The Financial Statements - 31 December 2001

(Expressed in United States Dollars)

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### 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 2001

(Expressed in United States Dollars)

#### 4 Fixed Assets

<b>Cost</b>	<b>At 01/01/01 US\$</b>	<b>Additions</b>	<b>Disposals</b>	<b>At 31/12/01 US\$</b>
Motor vehicles	9,589	--	--	9,589
Furniture and fixtures	16,379	3,200	--	19,579
Office equipment	48,827	21,466	(7,552)	62,741
	<u>74,795</u>	<u>24,666</u>	<u>(7,552)</u>	<u>91,909</u>
<b>Depreciation</b>	<b>At 01/01/01 US\$</b>	<b>Current Charge</b>	<b>Disposals</b>	<b>At 31/12/01 US\$</b>
Motor vehicles	7,838	347	--	8,185
Furniture and fixtures	4,078	1,546	--	5,624
Office equipment	14,119	6,494	(3,610)	17,003
	<u>26,035</u>	<u>8,387</u>	<u>(3,610)</u>	<u>30,812</u>
<b>Net Book Amount</b>	<u>48,760</u>			<u>61,097</u>

## Caribbean Financial Action Task Force

### Notes To The Financial Statements - 31 December 2001

(Expressed in United States Dollars)

3	<b>Contributions - Donor Countries</b>	<b>2001 US\$</b>	<b>2000 US\$</b>
	These are as follows:		
	Co-operating and supporting nations:		
	Canada	85,747	30,000
	France	39,364	24,007
	United Kingdom of Great Britain and Northern Ireland	14,316	157,104
	United States of America	50,000	35,000
	Kingdom of the Netherlands	30,000	20,000
	Spain	15,478	11,904
	Switzerland	28,717	--
		<u>263,622</u>	<u>278,015</u>
	Member countries:		
	Anguilla	9,185	7,484
	Antigua /Barbuda	9,197	5,192
	Aruba	14,173	7,484
	Bahamas	9,389	7,484
	Barbados	9,377	7,484
	Belize	9,197	7,484
	Bermuda	9,197	7,484
	British Virgin Islands	9,197	7,486
	Cayman Islands	9,197	10,000
	Costa Rica	9,166	7,484
	Dominica	--	7,484
	Dominican Republic	9,185	7,484
	Grenada	6,277	7,484
	Haiti	--	--
	Jamaica	9,197	7,902
	Monsterrat	9,185	7,484
	Netherlands Antilles	9,165	7,484
	Panama	9,173	7,484
	St Kitts & Nevis	9,197	7,484
	St Lucia	10,006	7,484
	St Vincent	5,000	7,484
	Suriname	9,185	--
	Trinidad and Tobago	9,235	7,484
	Turks and Caicos	9,197	7,484
	Venezuela	--	7,484
		<u>201,277</u>	<u>172,776</u>
	Contributions accrued:-		
	Nicaragua	9,197	7,484
	Suriname	--	7,484
	Dominica	9,197	--
	Antigua /Barbuda	--	2,292
	Grenada	2,908	--
	St Vincent	4,197	--
	Venezuela	3,751	--
		<u>29,250</u>	<u>17,260</u>
	Prepaid contributions:-		
	Contributions prepaid	49,761	--
		<u>49,761</u>	<u>--</u>
	Total Cash Contributions	<u>543,910</u>	<u>468,051</u>

## Caribbean Financial Action Task Force

### Notes To The Financial Statements - 31 December 2001

(Expressed in United States Dollars)

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3	<b>Contributions - Donor Countries</b> (continued)	<b>2001</b>	<b>2000</b>
		<b>US\$</b>	<b>US\$</b>
	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	<u>18,000</u>	<u>18,000</u>
		<u>143,000</u>	<u>143,000</u>

## ANNEX C

### SUMMARIES OF MUTUAL EVALUATION REPORTS

#### THE DOMINICAN REPUBLIC

The Dominican Republic is not a producer of illicit drugs; nevertheless, its geographic position makes it a transit route for drugs and dirty money. The drugs seized have been mostly cocaine and marijuana. In the last two years Ecstasy has been added to the list, and accounts for a considerable proportion.

Government drug and anti-money laundering policy is contained in a National Anti-Narcotics Plan 2000-2005, in which an attempt has been made to address all aspects of the phenomenon, the existing eradication methods, the weaknesses of the system and the short-term challenges.

The National Anti-Narcotics Plan is a medium-term programmatic guide that takes as a point of departure the economic, political and social situation in the context of narcotics, and a critical assessment of the problems of drug trafficking and money laundering in the Dominican Republic. Finally, it contains the measures to be taken to achieve greater control in the prevention and repression of money laundering and illicit drug trafficking.

The draft law against laundering of proceeds of illicit trafficking in controlled drugs and substances and other serious offences seemed, at the time of our visit, to possess all the features needed to create an adequate legal framework for this type of offence. Although there is a series of adequate legal provisions to prevent certain financial services being exploited for money laundering, not all financial institutions are required to abide by these measures. At the time of the circulation of the Report, said draft law had become law and enacted by the Executive, together with its regulations.

At the time of the Evaluation, the United Nations Office on Drugs and Crime was providing support to the Dominican authorities with regard to training of officials involved in interdiction and from the Attorney General's Office, through seminars on means of evidence and techniques for the analysis and investigation related to money laundering.

Limited economic resources to meet the needs of all the supervisory agencies would appear to be an obstacle to implementation of preventive and repressive measures. Nevertheless, we note that efforts are being made to obtain more resources and greater benefit from those available.

Certain regulatory agencies, such as the Free Zone Council, the Casino Council and the Ministry of Finance, do not have supervisory authority over the institutions regulated by them, and therefore have no means of checking any money laundering activities that may occur in them.

By Executive Resolution No. 7-93 of 30 May 1993, the Dominican Republic, in compliance with CFATF Recommendation 1, ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances signed in Vienna in 1988.

Act No.50-88 of 30 May 1988 on Controlled Drugs and Substances in the Dominican Republic, as amended by Act 35-90 of 7 June 1990 and Act 17-95 of 17 December 1995, and its Regulations contained in Decree No. 288-96 of 3 August 1996, put into effect Article 3 of the abovementioned Convention, which addresses acts related to the handling of narcotic and psychotropic substances; manufacture, transport, distribution of equipment, materials and substances for use in the cultivation, production or manufacture of narcotics or psychotropic substances; and criminalizes acts related to laundering of the proceeds of drug trafficking.

Laundering of the proceeds of offences related to drugs and other illicit substances is penalised by Dominican law as required by the 1988 Vienna Convention. However, up to the time of the Mutual Evaluation visit, this was the only money-laundering offence addressed by the law; the Dominican Republic has not extended it to laundering of the proceeds of other serious crime, and thus meets FATF criterion 19 for defining non-cooperative countries or territories.

Pursuant to the new law, the basic penalty to be applied for money laundering offences ranges from two (2) to five (5) years' imprisonment, as well as fines from fifty thousand pesos (RD\$50,000.00) to a hundred thousand pesos (RD\$100,000.00)

Besides setting out general provisions and procedures for prosecution of drug crimes, the law lays down a series of mandatory rules for financial institutions, designed to prevent money laundering.

Under Decree No. 288-96 of 3 August 1996, the entities enumerated above must properly identify their clients and put into effect the necessary measures to this end. They must not accept anonymous accounts or accounts under fictitious names. They must also record, on a specially designed form, transactions in national or foreign currency that exceed US \$10,000.00, as well as transactions they consider suspicious, providing details of the person carrying out the transaction. Records of reports and transactions must be kept for at least five (5) years after they are made.

Only transactions with an aggregate value of more than the national currency equivalent of ten thousand US dollars (US\$10,000.00), carried out during the same working day, are considered to be a single transaction.

The Superintendence of Banks is the entity responsible for ensuring that institutions supervised by it comply with the terms of Decree No. 288-96. To fulfil this responsibility, Resolution 06-2001 of 29 May 2001 puts into effect an Instruction for implementation of the "know your customer" procedure in financial institutions and bureaux de change, as a uniform system of client records. This Resolution lays down penalties for financial institutions and bureaux de change which do not comply with the Instruction. Guidelines have also been issued for prevention of money laundering, for the national financial system, bureaux de change and other financial institution. These Guidelines include a description of suspicious activities, to provide an overall understanding of irregular operations and typical behaviour of money launderers.

As regards requests for international assistance, Dominican courts may receive requests from competent authorities in other states, for the purpose of identifying, detecting, seizing or confiscating property, products or instruments used in illicit trafficking or related offences, subject to submission of a resolution issued in accordance with Dominican law.

Confiscated property not destroyed shall be sold at public auction, and the proceeds of such auction shall be distributed among bodies responsible for developing and implementing prevention, rehabilitation and education programmes against the use, abuse, consumption, distribution and illicit traffic of controlled drugs and substances, in accordance with CFATF Recommendation 9.

In compliance with FATF Recommendations 3 and 4 and CFATF Recommendation 16, the Dominican Republic adopted the 1981 Inter-American Convention on Extradition. Dominican law permits the extradition of nationals, with the sole condition that the penalty to be imposed on the accused shall not exceed the maximum penalty provided in Dominican law (30 years). The international law principle of reciprocity is also applied, to make possible extraditions to countries with which no extradition treaties have been signed.

The law providing for regulation of free zones is Act No. 8-90 of 15 January 1990. It stipulates that permission to set up businesses in free zones is granted by the National Export Zone Council, which is also responsible for monitoring compliance with the Act. This Council does not exercise real supervision or authority over businesses in the free zones; it confines itself to granting licences.

The National Free Zone Council is the agency responsible for screening all information on authorisations, imports and other activities affecting businesses in the Dominican free zones. This information may be exchanged with national authorities and other free zones.

There is no requirement to report suspicious cash transactions over ten thousand US dollars (US\$10,000.00) or the equivalent in Dominican pesos. Nor are there any plans or programmes for anti-money laundering training. Although the Dominican Republic took part in the CFATF free zone typology exercise, there was no evidence of interest in establishing controls over this type of activity.

In the Office of the Superintendent of Banks there is a Financial Intelligence Division responsible for channelling to the National Drug Control Directorate the reports received from the financial institutions, together with a brief analysis of them. At present the division has a staff of 7, including both technical and administrative personnel. The technical staff undergoes continuous training.

The law does not prohibit cancellation of operations with a client on evidence of irregular or suspicious behaviour, in order to investigate the unusual conduct. The Examiners were informed that in cases of suspicious behaviour banks usually close the account to protect themselves.

At present it is mandatory to report only transactions in excess of the national currency equivalent of ten thousand US dollars (US\$10,000.00) or operations that aggregate to that amount in one (1) day. However, compliance officers have been alerted to the need to report as suspicious any transaction aggregating to more than the national currency equivalent of ten thousand US dollars (US\$10,000.00) in one week.

It is not mandatory to report quasi-cash transactions exceeding the national currency equivalent of ten thousand US dollars (US\$10,000.00); it is left to the discretion of the individual officer whether to do so.

A single form is used for reporting suspicious transactions and transactions exceeding the national currency equivalent of ten thousand US dollars (US\$10,000.00). A clearer form is at present being worked out. Since 1988 there has been a significant increase in reports of suspicious transactions on the part of both bank and non-bank financial institutions.

The Association of Bureaux de Change and the Association of Remittance Agents are aware of the problems of money laundering and the damage it does to their country. A campaign of awareness has therefore been undertaken to prevent this type of activity in these institutions and in the society in general. They report periodically to the Superintendent of Banks transactions exceeding the national currency equivalent of ten thousand US dollars (US\$10,000.00), and they also submit an analytic report of the state of each business. Besides the form supplied for this purpose, they have designed another to give further information on their clients.

Insurance and reinsurance companies and brokers are not required to report suspicious transactions or transactions exceeding the national currency equivalent of ten thousand US dollars (US\$10,000.00), or to abide by the guidelines in Decree 288-96 for client identification or filing of documents relating to their operations.

The Office of the Superintendent of Insurance exercises no type of control to prevent the use of the insurance market for money laundering. Nor has it developed any training programme for the purpose.

In the National Drug Control Directorate is the Joint Information and Coordination Centre (JICC), a department also created by Act 50-88 to collect, analyse and distribute intelligence information, with a view to countering illegal drug activity. JICC officers are stationed at all ports, airports and frontiers, and collect information for input into a database, thus enabling exchange of information with other national and international agencies.

Any person entering the Dominican Republic must declare cash in excess of the national currency equivalent of ten thousand US dollars (US\$10,000.00). Failure to do so constitute smuggling, which is punished by confiscation of the money not declared.

The powers of the Office of the Superintendent of Insurance in money laundering matters (prevention and detection) should be strengthened. This does not seem to be considered a priority in the evolution of its functions.

Agencies responsible for regulating activities that in one way or another might lend them to money laundering, such as gambling and free zones must possess a system of anti-money laundering controls. Guidelines should also be developed for the detection of suspicious behaviour (FATF Recommendations 27 and 28).

It would be useful to report not only cash transactions, but quasi-cash transactions and those which, aggregated over a period longer than one day, exceed the equivalent in national currency of ten thousand US dollars (US\$10,000.00). Reporting of suspicious operations must also be made mandatory.

Lists of clients “exempt” from reporting requirements are not desirable. One method used by organised crime to launder dirty money is to intermingle it with clean money within already existing businesses. Adequate control of all operations, without discriminating against or favouring anyone, is therefore necessary.

## **REPUBLIC OF PANAMA**

The Examiners emphasize the legislative work achieved by Panama in developing in so short a period a legal framework incorporating in its structure the 40 FATF and the 19 CFATF Recommendations, which in turn reflect the principles of the 1988 Vienna Convention. Added to the legislative achievement, the various bodies that supervise and control the economic sectors have brought into being regulations, statutes, conventions, treaties and memoranda of understanding with other nations, thereby strengthening the efforts of Panama in combating the problems derived from illicit drugs, and in particular money laundering.

The Examiners’ overall opinion is that the Financial Analysis Unit at present maintains positive levels of action and coordination with all related agencies in the combat against drug trafficking and money laundering. During the interviews we perceived, in addition to the implementation of more and better legal tools, attitudes conducive to teamwork, and ongoing training and cooperation with international authorities.

The Republic of Panama has initiated a series of legislative measures to bring its legal framework up to date and prevent, control and punish money laundering. It has also created and strengthened national institutions responsible for the control and supervision of the various sectors of the economy,

as well as instituting systems for reporting suspicious activities in the system. As a framework for the measures required to defend its highest national interests, Panama signed the 1988 Vienna Convention, and it is on this that the national legal framework at present in force is based.

There are various national agencies responsible for collecting information and intervening in the repression of the drug trade, such as: The Narcotics Division of the Criminal Investigation Police, the Directorate General of Customs, the National Air Service, the National Maritime Service, the National Police and the Special Narcotics Investigation and Prosecution Service.

Decree 125 of 27 March 1995, amended by Decree No.26 of 2 March 2001, created the High-Level Presidential Commission against Money Laundering. The task of this advisory Council is to discuss the problems of money laundering and recommend preventative and repressive measures, as well as to advise the President of the Republic on the subject.

The Republic of Panama signed the United Nations Convention against Transnational Organised Crime in December 2000, as well as a series of agreements and other instruments now before the Congress for formalisation or ratification.

The Office of the Superintendent of Banks, by Agreement No. 10-2000 of 15 December 2000, lays down the regulations for a Compliance Programme for the banking sector, designed to prevent money laundering.

With regard to the legal framework, it must also be noted that the Office of the Superintendent of Banks, by means of its Agreement 9-2000 of 23 October 2000, establishes the basic rules for prevention of inappropriate use of banking services.

The Ministry of Internal Affairs and Justice, by Resolution 1.446 of 13 September 1991, created in that Ministry the Directorate for Coordination and Implementation of Mutual Legal Assistance in Criminal Matters, concluded between the Republic of Panama and the United States of America. The purpose of this administrative unit is to serve as the coordinating body or central liaison authority between the Republic of Panama and the United States of America and the States signatory to the Treaty.

The experience developed by the Ministry of Internal Affairs and Justice with regard to mutual legal assistance should be extended to any other Convention or Agreements that the Republic of Panama may enter into with other countries on this subject.

The creation and strengthening of the National Directorate for Implementation of Mutual Legal Assistance and International Cooperation Treaties (TALM) was a praiseworthy initiative, as it simplifies the legal red tape with the competent authorities.

As part of the restructuring of the Office of the Superintendent of Banks, a Unit for the Prevention of the Inappropriate Use of Banking Services has been set up in the Head Office. This Unit specialises in the analysis, study and prevention of the inappropriate use of banking services. Its creation enables the institution to comply with and remain up to date in international standards for supervision and regulation of the banking sector in the area of money laundering prevention.

This Institution and the Financial Analysis Unit (FAU) have been responsible for putting in place prevention policies in both the financial and commercial sectors, exercising their authority directly over the institutions supervised or indirectly by advising the respective supervisors.

All banking entities, without distinction, are subject to the provisions of Law No 42, which, in Article No. 1 and Agreements 9-2000, 8-2000 and 10-2000, lays down measures for prevention of money laundering.

Adequate identification of clients and reporting to the FAU cash transactions in excess of ten thousand balboas (B/: 10,000.00), as well as succeeding transactions close together in time, which even if individually below this amount, exceed it in aggregate. The above applies to financial instruments that represent money (bank cheques, giros, payment orders, lottery tickets, etc.).

Bank secrecy is not applicable to the Office of Superintendent of Banks or to the Financial Analysis Unit (FAU) when an investigation is likely. The Office is empowered to report suspicious transactions, on its own initiative, to the FAU. Up to the time of the mutual evaluation visit, the Superintendent had communicated five (5) suspicious operations to the FAU. The role of the Superintendent is supervision, while that of the FAU is analysis and investigation. Their interaction is direct, close and cordial.

Numbered accounts are not considered a major danger, since the accounts are not anonymous and the financial institutions are obliged to apply know-your-customer policies. In addition, numbered accounts are not protected by bank secrecy if investigation is necessary.

In case of violations and as the situation may demand the Superintendent of Banks is empowered to intervene in the non-compliant institution, request the removal of any officer and even revoke the operating licence. The Superintendent of Banks has issued administrative warnings to two (2) banks for non-compliance. Fines range from US \$5,000.00 to US \$1,000,000.00.

Remittances through banks are supervised, but are not considered as cash. The Money remitters are supervised by the Ministry of Trade and Industry. There are very few companies of this kind in Panama. There is no open electronic transfer service from abroad, only between Panamanian banks.

With regard to the Black Market Peso Exchange, the Examiners were informed that there are cooperation agreements with countries such as Colombia, Venezuela, USA, and Aruba. The new laws have tended to limit the spread of this type of offence.

All banks have Compliance Officers, and had them even before the adoption of Law 42-2000, as part of their self-regulation. All banks have Manuals of Preventive Procedures, and these are revised and updated periodically.

As regards the know-your-customer- programme, all banks are required to fully identify their clients, to the extent that complying with all the requirements has become a hurdle for potential clients. This programme does not end with the deposit and verification of the data requested, but extends to periodic visits to the customers. It should be mentioned that these procedures received the approval of the Internal Revenue Service (IRS) of the United States.

Off-shore banking is not a problem, since these banks are entities subject to supervision. What constitute a real problem are shell banks operating outside Panama, since they can fool any institution by disguising their illegitimacy with false documentation.

The Financial Analysis Unit (FAU) operates under the National Security Council. Its Director is appointed by the President of the Republic. The holder of the post is not immune to dismissal, although it is financially autonomous.

As the Competent Authority its role both preventive and investigative, both proactive and reactive, depending on the information obtained. This information is received, analysed and investigated. Then it is passed to the competent legal body.

The users of the Colon Free Zone are entities subject to supervision. The management of the Free Zone, with advice from the FAU, will be creating an Anti-Money Laundering Department, to prevent businesses in the Zone being used for money laundering, and to assist the competent authorities in detecting it.

The FAU is a member of the Egmont Group, and this opens the door to international cooperation, mainly for exchange of information. Panamanian law prohibits exchange of information with any other country, except under a bilateral agreement, even exchanges between responsible institutions in Panama and those of the other country. There are plans for signing such an agreement with all the member countries of the Egmont Group.

Panama's Financial Analysis Unit (FAU) has made progress in signing a series of agreements for exchange of information with the USA, Belgium, Colombia, Croatia, El Salvador, Spain, Britain, the Isle of Man, British Virgin Islands, Bulgaria, Costa Rica, Brazil and Venezuela.

The National Securities Commission (CNV) is responsible for fostering and strengthening conditions conducive to the development of the Panamanian stock market, and for monitoring and controlling the operations of entities subject to its supervision, i.e. intermediaries in the market: securities dealers, brokers, investment consultants and investment managers. It also maintains the register of the Risk Evaluators operating in Panama.

The CNV is an independent State agency, created by Decree Law 1 of 1999, with its own legal personality and its own budget, derived from registration fees paid by supervised entities and administrative fines imposed for violation of stock market rules. It also has an allocation from the State, but determines its own budget and enjoys autonomy of financial management. The moneys it collects do not go into the consolidated fund.

Securities trading houses are entities subject to supervision. All have Procedure Manuals and Compliance Officers, who must take an examination to be appointed. They are subject to know-your-customer rules. There has so far been no instance of a suspicious transaction report. Any such report would be made to the FAU, through the Commission.

The CNV has been active in providing and receiving training both for the entities under its supervision and its own staff, as well as regulators from other countries, for example members of the FIUs and the Superintendents' Offices of Guatemala and Honduras. Members of the Commission and management alike have participated in training courses and seminars for the supervised institutions, dealing with the importance of the Securities Law and its regulations, including those which regulate the conduct of market intermediaries to prevent money laundering.

A training programme is being developed to familiarise all the savings and loan cooperatives with the prevention and detection of money laundering. All cooperatives are in the process of preparing their Compliance Manuals, the enforcement of which will be verified by yearly inspections. Suspicious activity reports must be sent to the FAU. Up to the time of this evaluation only one (1) such report had been received from the entire cooperative system.

Investigation of offences related to drug trafficking and money laundering is one of the responsibilities of the Criminal Investigation Police (PTJ). This force was created by Law No. 16 of 9 July 1991. It is a public institution falling directly under the Attorney General's Office, and its

main task is crime suppression. At the present time the Narcotics Division is responsible for action against the drug traffic. It has a strength of 132 officers nationally, 35 of them in Panama City.

In addition, the PTJ has personnel trained and specialising in various areas of crime, including money laundering. To combat this crime, a Financial Investigation Unit (FIU) was created in 1995. This Unit carries out investigations assigned to it by the Prosecutor General's Office, arising out of cases reported by the Financial Analysis Unit (FAU).

With regard to technical resources, the representatives of the National Police informed the evaluators during the interview that the National Commission for the Study and Prevention of Drug-Related Crime (CONAPRED) has earmarked approximately \$50,000.00 to acquire equipment (especially computing equipment) for the exclusive use of the National Police in fighting drug crime.

The National Commission for the Study and Prevention of Drug-Related Crime, as Administrative Coordinating Commission for training of Panamanian officials in optimal techniques for prevention of drug-related crime, is at present developing an inter-agency programme for control of chemical and precursor substances entitled CCQ, which includes, in addition to integrated structuring of controls, the development of plans for ongoing training in the subject.

Penalties for money laundering should be increased to confiscation of property ranging from the amount laundered to the entire property of the offender, for full compliance with CFATF Recommendations 8 and 11 and FATF Recommendations 6 and 7.

The United Nations Convention against Transnational Organised Crime should be ratified as soon as possible, in order that its provisions may be incorporated into the laws in force in Panama, pursuant to FATF Recommendations 34 and 35.

The Office of the Superintendent of Banks should carry out an analysis of compliance with anti-money laundering regulations on the part of trust companies, and determine the level of real commitment of this sector to comply with Law 42 of 2 October 2000, in accordance with the terms of FATF Recommendations 23 and 26.

The Colon Free Zone Administration should strengthen its Inspection Department with training and structural amplification, as well as continue with the awareness and training seminars for the rest of its staff and for all users. This should be mandatory, under the supervision, and with the technical advice, of the FAU.

## **REPUBLIC OF COSTA RICA**

At the time of its First Round Mutual Evaluation Costa Rica implemented a series of laws and regulations to address money laundering. However, these measures are still insufficient in the light of the standard required of all the members of the Caribbean Financial Action Task Force. Costa Rican authorities recognise this, and consequently, in an effort to address the deficiency, have submitted a Bill to extend the definition of money laundering to all offences punishable by four or more years' imprisonment. This Bill was submitted for constitutional decision because of doubts concerning, inter alia, the provisions removing obstacles to providing information to the authorities.

At the time of the Second Round Mutual Evaluation visit, a Bill of the Law of Narcotics, Psychotropic Substances, Non-authorized drugs and Money Laundering was at the Legislative Assembly. This Bill, among other important aspects includes; the amplification of the money laundering offence with serious offences as predicate offences beyond just drug trafficking, the power to allow the FIU to exchange information with administrative, judicial and counterpart authorities, the

obligation of the offshore banks operating in Costa Rica to submit to the national regulations as regards money laundering, pecuniary sanctions to physical and juridical persons for non-compliance of the anti-money laundering provisions, the obligation of money remitters to submit to money laundering prevention controls, direct reporting of suspicious operations to the FIU, enhanced penalties when the money laundering offence is carried out by several associated individuals, and the power for the offices of superintendents to carry out on-site supervisions. We consider that if the Bill is passed in its original form, Costa Rica will be in compliance with CFATF standards.

Costa Rica's geographical location makes it an attractive transshipment point for drugs (mainly cocaine and heroin) from South America to the United States. Costa Rica has strict licensing procedures for the importation and distribution of precursor and essential chemicals, as well as prescription drugs. Local cannabis production is spread over small plots, mainly in the mountainous area close to the Panamanian frontier and the Caribbean regions of Limon and Salamanca and the Valle del General on the southern Pacific coast. Marijuana is the only illegal drug cultivated in Costa Rica, and is not exported. Local illegal drug consumption is increasing, and includes "crack" and "Ecstasy".

As part of its policies for prevention of money laundering, Costa Rica is in the process of putting in place administrative and legal provisions for prevention, detection and punishment of activities related to this scourge, with special emphasis on regulation of financial activities, for which purpose the Superintendent General of Financial Institutions, the Superintendent General of Securities and the Superintendent of Securities have issued various regulatory resolutions.

The bank sector and non-financial businesses carrying on economic activity report all transactions in excess of US\$10,000.00, as well as those of lesser amounts that are considered suspicious, to the various superintending agencies. But there are limiting factors, in that this information is shared only with those bodies, and if an investigation is initiated by the investigating bodies a judge's permission is required to obtain it. The compliance officer also has the discretion to decide whether a transaction is suspicious before reporting it.

The Law also exempts financial institutions, their directors, executives and staff from all civil and criminal liability for reporting suspicious transactions to the authorities, and imposes criminal sanctions on them if they inform their clients that reports on them are being made.

Costa Rica does not comply satisfactorily with FATF Recommendation 2: The general rule in Costa Rica is constitutional protection of confidentiality of information. The exception is that in drug-related offences this protection is not an impediment to the provision of information (Articles 20, 27 and 37 of Law 7786 on Narcotics, Psychotropic Substances, Illicit Drugs and Related Activities). Despite this, there is a limiting factor on the provision of information in the shape of the requirement of good faith in the suspicious transaction report made by the financial institutions themselves if they are to be exempt from civil or criminal liability. This is an obstacle because it allows the compliance officer to determine *motu proprio* whether the transaction is suspicious or not. Furthermore, if it is an investigation initiated by the investigative agencies, access to the information requires a judge's order. For these reasons we consider that this recommendation is partially complied by the Costa Rican authorities.

Costa Rica does not comply satisfactorily with FATF Recommendation 3. Articles 83 and 32 of the abovementioned Law permit exchange of information with foreign authorities, but this is subject to authorisation by a judge, and is a limitation on prompt and effective response.

FATF and CFATF Recommendations 4 are partially complied with, since the law at present in force in Costa Rica criminalizes money laundering only in relation to activities deriving from drug

trafficking based on receipt of the object of the offence, as provided by the Vienna Convention, but does not extend it to other serious crimes (Articles 72 to 74 of Law 7786).

To freeze or confiscate assets the prosecutorial service (Ministerio Público) must apply to a court. The authorities may use property and interest on seized assets in the fight against drug trafficking. The authorities' inability to block, seize or freeze property without judicial authority entails the risk that during the trial some property or funds may be dissipated or change hands. FATF Recommendation 7 is therefore partially complied with.

Although the financial institutions together with the Office of the Superintendent General of Financial Institutions (SUGEF) have carried out training in money laundering prevention, it is apparent that lack of resources is a drawback to the development of a real training policy for this purpose. The Costa Rican authorities recognise this in their questionnaire. We therefore consider that FATF Recommendation 13 is partially complied with.

The present law does not place branches of financial institutions abroad under the jurisdiction of the SUGEF. Rather, these branches are subject only to the provisions existing in their host countries. This shortcoming is being addressed by the authorities of the SUGEF, by signing bilateral agreements with counterparts in countries where there are branches of Costa Rican banks. FATF Recommendation 20 is adequately complied with.

In order for a financial institution to operate it needs financial authorisation from the SUGEF or the Superintendent General of Securities (SUGEVAL). To obtain this it must meet certain requirements regarding capital, status as limited liability company (sociedad anónima) and financial group, etc. There are limitations, such as the fact that this authorisation is not optional, i.e. if the institution meets the requirements the authorities cannot deny permission, or if one of its members has a dubious public reputation, but has a clean record officially, there is no impediment to his being part of the institution. There is also no legal provision requiring transfer or sale of his shares to be subject to the authority of the supervisory agency, and this means that once permission is granted anyone can acquire shares in financial institutions. There is insufficient compliance with FATF Recommendations 25 and 29.

There is no legal provision requiring professionals to report to the authorities any transaction they consider suspicious. This is based on the principle of professional secrecy. FATF Recommendation 27 and CFATF Recommendation 6 are not complied with.

Information from suspicious transaction reports is shared by the SUGEF with the public prosecutor's office (Ministerio Público), but in order to share it with international authorities a judge's authorisation is required, although the SUGEF authorities are in the process of signing memoranda of understanding to facilitate exchange of information. Recommendation 32 is partially complied with.

Since the last CFATF evaluation of Costa Rica, at the end of 1995, the most important step taken has been the promulgation in 1998 of Law 7786 "on Narcotics, Psychotropic Substances, Illicit Drugs and Related Activities".

Among the most important provisions of this Law is the creation of a legal model designed to avoid and control the entry of capital of unknown or suspicious origin. It creates a basic criminal offence defining more clearly the illegal activity of the money launderer. In addition, an offence is defined which penalises failure by officials – of supervisory and supervised institutions alike - to observe the fundamental duty of caution by facilitating the commission of a money-laundering offence. Finally, the Financial Analysis Unit was created, with investigative, preventive and repressive powers, and power to trace and locate drug trafficking proceeds.

At the time of the present evaluation, an amendment to Law 7786 was before the Legislative Assembly, which among other provisions extends the offence of money laundering to all proceeds of serious crimes, and increases the powers of the Financial Analysis Unit.

The financial system in Costa Rica is regulated and supervised by three agencies: the Superintendent General of Financial Institutions (SUGEF), The Superintendent General of Securities (SUGEVAL) and the Superintendent of Pensions (SUPEN).

These three agencies are themselves supervised by the National Council for Supervision of the Financial System (CONASSIF), which is composed of the Minister of finance, the Chairman of the Central Bank and five members of the Central Bank board. CONASSIF is responsible for appointing and dismissing the heads of each of the three supervisory agencies, and approves the rules they administer. Under a directive by CONASSIF, all regulated financial intermediaries are subject to internal inspections at least once a year.

Law 7786 does not expressly empower SUGEF to carry out money laundering inspections or to include money laundering aspects in the inspections carried out under Law 7558. Since promulgation of Law 7786 in May 1998, both SUGEF and SUGEVAL have issued circulars requesting supervised institutions to formulate procedures and controls to prevent money laundering.

Law 7786 prohibits anonymous accounts or accounts under obviously fictitious names. It requires all financial institutions to verify and record the identity, representation, domicile, legal capacity and occupation, or type of business, of occasional or regular customers.

Financial institutions must also obtain and keep information on the real identity of persons in whose name an account is opened or a transaction carried out, if there is a suspicion that the client is not acting in his own name. Documents recording the identity of customers and details of transactions must be kept for a period of not less than five (5) years by all the institutions supervised by SUGEF, SUGEVAL and SUPEN.

Banks and financial institutions domiciled abroad, and authorised to operate within financial groups registered in Costa Rica, are not subject the supervision of the Superintendent General of Financial Institutions (SUGEF) or any other supervisory agency. Nor are they subject to any anti-money laundering legal requirement or regulation. Costa Rica relies entirely on the supervision and laws of the home jurisdiction of these institutions.

The prudential provisions of Acts 7786 and 7558 do not apply to them. Nor do Circulars 16-98, 30-98, 15-2001, 23-2001 or 27-2001. However, local banking operations and transactions of these institutions domiciled outside Costa Rica can in fact be supervised through the Costa Rican financial house through which they execute such transactions by means of a “service contract”. FATF Recommendation 8 is not complied with.

The same foreign-based financial institutions are subject only to rudimentary licensing requirements, and to no formal requirements regarding the reputation or suitability of managers, directors or principal shareholders. They also do not fall under the prohibition of anonymous or numbered accounts, or accounts under fictitious names, provided for in Law 7786 and External Circulars 16/98 of SUGEF and 642/98 of SUGEVAL.

Rules for know-your-customer, suspicious transaction reporting, ongoing staff training, record keeping and record conservation are also not applied to them. These regulations apply only to local operations effected through the local agent or contracting bank. In these circumstances, FATF Recommendation 20 and CFATF Recommendation 11 are not complied with.

SUGEF's legal power under Law 7558 to share information administratively is restricted to the area of security and solvency. The confidentiality provisions of the Law remain in force as regards administrative sharing of information on money laundering. SUGEVAL is similarly restricted by stock market confidentiality. FATF NCCT Criterion 8 therefore applies.

Legal authority for administrative sharing of money laundering information through international cooperation is not consistent in its interpretation. Nevertheless, since banks and financial institutions abroad are not regulated or supervised locally, international cooperation is not possible or effective in regard to these institutions. FATF NCCT Criterion 15 therefore applies.

Although investigating and reporting suspicious and unusual transactions is mandatory, there is no provision for specific legal sanctions for non-compliance. There is no uniformity of practice concerning how and when suspicious and unusual transactions must be reported. There are decision structures that depend on individuals or even committees acting as filters. There are also no prudential criteria for closure of suspicious and unusual bank accounts. We consider that FATF NCCT Criteria 10 and 11 apply.

There is evidence of a high level of start-up of limited liability companies (sociedades anónimas) in the Republic of Costa Rica, but the national register is not computerised and it is therefore difficult to determine directly to how many of them an individual belongs. This could hinder the detection of suspect funds. FATF NCCT Criterion 12 applies. FATF Recommendation 12 is not complied with.

It is evident that there are legal obligations designed to induce people in general to collaborate in the repression and prevention of drug-related crime. The State intends that, in order to facilitate investigation of borderless crimes, which include money laundering, the Costa Rican authorities may provide cooperation to foreign authorities and receive cooperation from them for: witness statements, certified delivery of documents and other procedures provided for in the Vienna Convention or any other international instrument approved by this Republic. This is proof of the will to cooperate internationally in the fight against financial crime.

Concerning money laundering: Up to the present time, Costa Rican law requires the investigator to understand this term to apply solely to assets derived from the drug traffic, but not from other offences such as kidnapping, vehicle theft, smuggling, etc. Opinion: I think that the application of the term should be changed to include other offences, to prevent the proceeds of other criminal activity entering this country's financial system for laundering purposes.

As regards exchange of police information, close coordination is evident between police bodies engaged in combating drug trafficking before, during and after exchanging information useful for clinching a case, in the area of either drug trafficking or money laundering.

There is a positive trend in the Public Prosecutor's Office to use prosecutors specialising in drug trafficking and economic crime. These operate jointly with the police bodies in criminal investigations. Despite the limited complement of police officers there are specialists, with university degrees, trained in investigating economic crime.

In the light of the previous paragraphs, the Examiners consider that the Costa Rican authorities should set a deadline for the implementation of those Recommendations not, or insufficiently, complied with. Costa Rica might, if its laws permit, specify by regulation the perpetration of the offence of money laundering as it appears in the CICAD model regulations.

The Cayman Islands has to a large extent discharged its international obligations re legislative initiatives in the control, detection and prevention of money laundering. The main weaknesses appear to be the absence of a Specific Seized Assets Fund (although it is noted that the Treasury has an internal segregation system) and in the area of international cooperation. With respect to international cooperation, however, the Examiners did note that whilst there is need for further legislative initiatives, there are competent administrative measures currently in existence.

Significant progress has been made since June 2000 to implement legislative reforms in order to create a comprehensive and effective anti-money laundering framework. The Cayman Islands Government has amended a number of laws and issued Money Laundering Regulations and CIMA has issued Guidance Notes. Of critical importance is the fact that the legal amendments grant CIMA the power to monitor all relevant financial service providers for compliance with the Money Laundering Regulations. Further harmonisation of the legislation was ongoing as at evaluation date.

The commitment and resolve by the Cayman Islands Government to preserve the reputation of the jurisdiction and safeguard the financial services sector was unmistakable. To the jurisdictions credit, this effort has culminated in their removal in June 2001 from the FATF NCCT list.

The level of private and public sector collaboration appears to be high, so too is the level of awareness to the money laundering issue. This may be in large part due to the integrative institutional framework employed.

It is the consensus of the Examiners that there is an effective anti-money laundering framework in place in the Cayman Islands. The Cayman Islands appears to be fully compliant with all Recommendations with the exception of FATF Recommendation 27. On completion of the Memorandum of Understanding between CIMA and the professional bodies, regarding compliance monitoring mechanisms full compliance with FATF Recommendation 27 will be achieved. The jurisdiction appears to have satisfactorily implemented measures to comply with the revised 19 CFATF Recommendations. In the opinion of the Team of Examiners, the jurisdiction does not meet any of the FATF 25 Point NCCT Criteria.

The Cayman Islands are not generally considered as a significant drug producing or consuming territory. However, like most other Caribbean islands, the Caymans are vulnerable as a transit territory for narcotics from South America to the United States of America and Europe. The primary sources for illicit transshipments of marijuana and cocaine are Colombia, Honduras and Jamaica.

The Proceeds of Criminal Conduct Law (2001 Revision) (PCCL) forms the basis of the jurisdiction's anti-money laundering framework. It provides for the offence of money laundering where a person has engaged in criminal conduct or has benefited from criminal conduct.

The law also provides for the protection of financial institutions, their employees and others from criminal or civil liability for breach of any restrictions on the disclosure of information. In addition, the offence of "tipping off" is provided for and in so doing restricts disclosure to persons where such disclosure is likely to prejudice an investigation. The Money Laundering Regulations (MLRs) issued under the PCCL on 1 September 2000 set out the statutory anti-money laundering requirements on relevant financial business.

An important feature of the legislative amendments made in 2001 was the amendment to the law of evidence in facilitating money-laundering prosecutions. Thus, overseas convictions can as a result be admitted as evidence of predicate crime, overseas evidence can be given by video link and in addition to short-form committals; the Grand Court is allowed to commit defendants for trial on indictment by way of a voluntary bill, without the necessity of lengthy proceedings in the Magistrate's Court.

In addition, the Cayman Islands Monetary Authority has issued Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands. These Notes were co-authored by a number of the industry associations and are intended to provide general, practical guidance for all persons engaged in the provision of relevant financial services. While not designed to be legislatively enacted, the courts will take them into account in determining whether a person has complied with the Money Laundering Regulations 2000.

The Cayman Islands have a requirement for the mandatory reporting of suspicious activity for all serious predicate offences. Further, Section 27 of the PCCL (2001 Revision) makes the failure to report suspicious transactions a criminal offence. Except as provided under Regulation 7(6) in relation to one-off transactions, the legislation does not specify or provide guidance as to compliance with instructions from the Financial Reporting Unit (FRU) following the disclosure of suspicious activity. The mutual evaluation team was however, informed that adherence to instructions from the FRU following SARs was the norm and practice and there have never been any problems encountered previously.

There is no threshold amount for the reporting of suspicious transactions. Instead, there is a general duty to report any transaction once any person knows or suspects that another person is engaged in money laundering.

The Proceeds of Criminal Conduct Law includes a “safe harbour” provision so that a person making a mandatory report can rely on immunity from any subsequent criminal prosecutions. Both the Proceeds of Criminal Conduct Law and the Regulations provide for disclosure to the competent authority and penalize failure to do so.

In addition to the PCCL provisions noted in item 8 relating to all serious crimes other than drug trafficking, the Cayman Islands have in force the Misuse of Drugs Law (2000 Revision) which covers drug trafficking and related offences and in so doing makes provisions for the enforcement of Restraint, Confiscation and Forfeiture Orders. The Law also makes it an offence to deal with property where there is knowledge or reasonable grounds to believe that such property is derived from or used in connection with drug trafficking.

The Confiscation sections 30-33 provide for the forfeiture and confiscation of acquired assets, which are both property and value based. Additionally the confiscation measures specifically apply to controlled drugs, which include narcotic drugs, psychotropic substances and precursor chemicals.

When property is confiscated under the Proceeds of Criminal Conduct Law and the Misuse of Drugs Law, the seized funds are paid into general revenue for accounting purposes, they are in fact segregated internally by the Treasury so that they can be distinguished and applied to anti-money laundering and anti-narcotics purposes. Since 1992, all disbursements out of such funds have gone to these purposes (\$806,000). In practice, it is the responsibility of The Chief Justice in collaboration with the Attorney General to make recommendations to the Executive Council and seek their approval for the disposal of such property.

Anti-money laundering efforts in the financial sector are spearheaded by the Anti-Money Laundering Oversight Group (AMLOG), which was formed in 2001. Its primary function is to oversee the effective implementation of the jurisdiction’s anti-money laundering programme. This includes ensuring effective collaboration between regulators and law enforcement, advising government on key issues and overseeing international cooperation.

The primary goal of the Group up to mid 2001 was to ensure that the jurisdiction was removed from the FATF NCCT list. This was accomplished in June 2001, when the FATF’s NCCT report

recognized that the Cayman Islands had addressed the deficiencies identified as evidenced by the enactment of legal reforms and concrete steps in their implementation. The Group continues to monitor efforts towards enhancing compliance with international anti-money laundering standards as they evolve.

CIMA is the key authority responsible for the licensing and supervision of the financial services industry, including monitoring for compliance with the Money Laundering Regulations. Section 30 of the Monetary Authority Law (2001 Revision) establishes CIMA as the responsible authority for banks, trust companies, companies managers, insurance companies, mutual funds, money services businesses, credit unions and building societies and such other financial institutions as may be prescribed in any law. The Financial Reporting Unit and the Attorney General's Office are the other administrative authorities responsible for anti-money laundering matters.

The Financial Reporting Unit was established in 1989 and is the appointed reporting authority under Section 21 of the Proceeds of Criminal Conduct Law (2001 Revision). It is responsible for the receipt, analysis and onward disclosure of suspicious transaction reports (SARs); financial investigations; international money laundering enquiries; assistance to CIMA in vetting licence applicants; handling, in conjunction with the legal department, production orders and restraint orders; maintaining a database of SARs and conducting, in conjunction with the legal department, money laundering investigations and prosecutions;

Enforcement of all the laws relating to money laundering, asset forfeiture and restraint is the prerogative of the Royal Cayman Island Police Force, particularly the FRU, which works in conjunction with the Attorney General's Office. All cases, in which assets are suspected to be derived from the proceeds of drugs or other major crime, are the responsibility of the DTF and the FRU.

The National Drug Council, along with the RCIP's Drugs Task Force has a responsibility to deal with strategic information, monitoring and analysing the overall drug situation. One of the functions/responsibilities of the National Drug Council is to formulate policies and develop programmes geared towards the reduction of drug abuse and to advise the Minister on reform law issues, relating to the misuse of drugs.

It is perceived that Customs Department plays a relatively minor role in the anti-money laundering fight. The Examiners were advised that there has only been one (1) instance where a customs investigation has led to a money laundering case. There were three (3) customs investigations ongoing at evaluation date.

There is no statutory requirement to declare cash over a certain limit to Customs on entry. If intercepted, Customs can confiscate cash if there are reasonable grounds of criminality. The Customs Declaration form relates only to declared goods which excludes cash, monetary instruments. A criminal offence related to failure to declare is therefore not possible.

The Government of Cayman Islands has established a Unit known as the Joint Intelligence Unit (JIU), which is a collaborative effort by Immigration, Customs and the RCIP. This Unit has been met with periods of great success with drug control related issues. It has the responsibility for collection, analysis and dissemination of information. The JIU comprises six (6) RCIP officers, one (1) Customs officer and one (1) Immigration officer, with prison officers acting *in situ* and co-opted when required.

Consideration should be given to ensuring that onsite examination procedures for all CIMA regulated persons are conformed in the area of anti-money laundering checks in order to standardize and improve onsite reviews.

The pace of onsite examinations should continue to be closely managed to ensure that goals for 2002 are realized, particularly those of the Insurance, Fiduciary and Investment Divisions. Any increased demands arising from the need to effectively regulate service providers should be taken into account.

While the Drugs Task Force boasts a highly motivated and well-trained staff, their efforts would be significantly bolstered if the situation with the main sea-going vessel which has been out of commission for over 18 months due to disrepair, could be remedied. There need to be increased sea searches/patrols. The building which currently houses the DTF is itself in an extreme state of disrepair and the plans afoot mentioned to the Team to relocate the staff and equipment to a more modern facility should be implemented.

## **REPUBLIC OF TRINIDAD AND TOBAGO**

The POCA Act 2000 brought an impetus in the fight against money laundering and illegal drugs for the Government of Trinidad and Tobago. The regulatory framework seems now to be fully in accordance with international standards. There seems to be enough national coordination mechanisms in place now for concerted efforts in this area and recent results are encouraging. However, it is still too recent to have a more concise evaluation of these results and the efficiency of some of the coordination mechanisms. The Government of Trinidad and Tobago, greatly assisted by the US, is putting considerable resources in place in their fight against money laundering and trade in illegal drugs. Arrests and confiscation numbers seem to depict a greater success in this area in recent years.

The efforts of the government of Trinidad and Tobago could be better evaluated if more and better information is presented on the staffing and training of the Financial Intelligence Unit within the SSA and the level of cooperation and coordination in this area with other local agencies and foreign central authorities. The effect of the input of these resources on the DPP's office, the OCNU, the Customs and its Marine Interdiction and Canine Units, the Trinidad and Tobago Coast Guard, and the JOCC will also be needed to make a more precise evaluation of these efforts.

Like most other Caribbean islands Trinidad and Tobago is a transit country for narcotics from South America to the US and Europe. Marijuana is cultivated in Trinidad and Tobago for domestic use and exported to other countries in the region.

Its anti-money laundering framework comprises of the Dangerous Drugs Act, 1991 as amended, the Proceeds of Crime Act, 2000, and the Mutual Assistance in Criminal Matters Act, 1997 as amended. Its principal government authorities responsible for anti-money laundering matters are the Counter Drug Crime Task Force, the Strategic Services Agency and the Central Bank. The Director of Public Prosecutions is responsible for prosecuting money-laundering offences, and the Central Authority Department is responsible for receiving and executing requests for mutual legal assistance and extradition.

The Proceeds of Crime Act 2000 expanded money laundering predicate offences to include all serious crimes and instituted reporting requirements for suspicious transactions. It also sought inter alia to empower the confiscation, forfeiture and seizure of property, derived from criminal activity, while also making it an offence for professionals such as legal advisors and accountants who in the course of their profession failed to disclose knowledge or suspicion of money laundering.

The POCA 2000 does not explicitly state that there is a central authority to which disclosures of suspicious transactions must take place but does make provision for the appointment of a designated authority. According to section 2 of the Act this designated authority is to be appointed by order of the Minister of National Security and must be a person with 10 years experience as either an attorney-at-law,

an accountant, or a police officer (not below the rank of Inspector) with expertise in financial investigations. At the date of this report, the designated authority had not yet been appointed. In that regard Trinidad and Tobago is not in compliance with FATF Recommendation 15 and CFATF Recommendation 1. FATF NCCT Criterion 10 is met.

In the absence of such an authority, however, since its inception in 1997, the Financial Investigations Unit of the CDCTF has been receiving suspicious, large and unusual transaction reports from the local banks on a voluntary basis.

The Government must move quickly to appoint a designated authority as provided in Section 2 of the POCA 2000 to bring T&T into compliance with FATF Recommendation 15 and CFATF Recommendation 1.

Pursuant to Section 58, the Comptroller of Accounts must establish a seized assets fund in the accounts of the Government of Trinidad and Tobago. Money from the fund is to be used for community development, drug abuse, demand reduction, rehabilitation projects and law enforcement. The Ministry of National Security is required to make Regulations for the inter alia appointment, functions of the Seized Assets Committee and Rules for regulating and prescribing the procedure to be followed under the Act. No Regulations or Rules have been made as yet. Once the necessary Regulations have been made, the Seized Assets Committee appointed and procedures put in place relative to the operation of the fund, these would assist those agencies like NADAPP which have limited resources available at their disposal to carry out their mandates. In that connection Trinidad and Tobago is not fully compliant with CFATF Recommendation 9.

The Government of T&T should move quickly to establish a seized assets fund pursuant to Section 58 of the POCA 2000 and draft regulations for inter alia the appointment and functions of the Seized Assets Committee and rules for regulating and prescribing the procedure to be followed under the Act. This would facilitate it in its community development, drug abuse, demand reduction, rehabilitation and law enforcement efforts relative to drugs.

The principal laws by which international co-operation is currently afforded are the Extradition Act (the schedule to which includes offences under the Dangerous Drugs Act, 1991), the Dangerous Drugs (Amendment) Act, 1994, the Dangerous Drugs (Registration of External Confiscation and External Forfeiture Orders) Order, 1999, the Mutual Legal Assistance in Criminal Matters Act, 1997.

While the Mutual Assistance in Criminal Matters Act 1997 does envisage informal requests for assistance which may be transmitted orally, formal requests for assistance must comply with the conditions set out in the First Schedule to the Act.

Section 6 of the Mutual Assistance in Criminal Matters Act specifically provides that the Mutual Assistance in Criminal Matters Act does not authorize extradition, or the arrest or detention of any person for the purpose of extradition. Extradition is addressed in the Extradition (Commonwealth and Foreign Territories) Act 1985. FATF Recommendation 40 is not fulfilled, as money laundering is not an extraditable offence under the Act. Neither is Trinidad & Tobago a party to the OAS Convention on Extradition, as required by CFATF Recommendation 16.

Other forms of co-operation which countries are encouraged to participate in include co-operative investigations among appropriate competent authorities including controlled deliveries related to assets known or suspected to be the proceeds of crime.

The present structure of T&T's international cooperation regime may limit it in the type and range of cooperation it is able to provide which may make it vulnerable to criticism in this area in terms of its full compliance with FATF Recommendations 37 and 40 and CFATF Recommendation 16.

The main anti-money laundering statute covering the operations of financial institutions is the Proceeds of Crime Act, 2000 (POCA), which requires every financial institution or person engaged in a relevant business activity to pay special attention to all complex, unusual or large transactions whether complete or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.

Upon suspicion that the transactions could constitute or be related to illicit activities, a Failure to report suspicious transactions to the designated authority is an offence punishable by fines and imprisonment. There is no specific requirement for financial institutions or persons engaged in relevant business who report suspicious transactions to comply with instructions from the designated authority as stated in FATF Recommendation 18. However, the guidelines issued by the Central Bank of Trinidad and Tobago (CBTT) do require licensees under the Financial Institutions Act to co-operate fully with law enforcement authorities when a suspicious transaction report has been made.

No Regulations have been issued for carrying into effect the purposes of the POCA. However draft Regulations detailing record keeping requirements have been drafted. The definition of financial institution within the POCA should be expanded to cover all market participants in the securities industry, where such participants are not licensed under the FIA. The POCA should be expanded to cover gateway entities, such as lawyers and accountants.

The Guidelines issued by the CBTT set out detailed KYC provisions covering both new and existing customers. They cover identification and verification of identity for both individuals and corporate customers; income and verification of income for both individuals and corporate accounts; information from corporate customers regarding information on shareholders who hold more than 5% of the share capital of the company; KYC requirements for other types of services such as fiduciary transactions and the renting of safety deposit boxes. In addition there is a requirement to verify the true identity of the beneficial customer, where the licensee suspects that the customer is not acting in his/her own behalf. This complies with FATF Recommendations 11 and 12, at least as institutions supervised by the CBTT are concerned. There is however no requirement to renew identification of the client or beneficial owner when doubts appear as to their identity in the course of business relationships, thus meeting FATF NCCT Criterion 5.

There is no legislatively stipulated retention period for financial activity records as it pertains to detecting money laundering. At present the only specific record keeping requirements extant are the guidelines issued by the CBTT in 1995, which are used by banks and non-bank financial institutions licensed under the FIA.

Licensees are required to maintain all necessary records on both domestic and international transactions for a period of five years to allow reconstruction of individual transactions. They are also required to document large, complex and unusual transactions or patterns of transactions, which have no apparent economic or visibly lawful purpose for a period of five years.

On-site inspections of insurance companies and intermediaries should be commenced, if not already commenced, as soon as possible by the new supervisory unit.

The IA should be reviewed to include similar provisions for fit and proper requirements as per the FIA, beneficial shareholding as per Recommendation 1, and exchange of information as per Recommendation 2.

With regard to feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, incoming travellers are required to fill out a currency declaration form for cash over US\$5,000. As a result, FATF Recommendation 22 is covered.

The primary responsibility for the investigation of money laundering and drug trafficking offences lies with the OCNU, whereas the responsibility for the investigation of money laundering offences lies with the Counter Drug Task Force (CDTF). The CDCTF has a Financial Investigations Unit, which is headed by an Acting Inspector of Police. These officers have undergone a basic financial investigation course sponsored by the UK Police. The CDCTF is a separate agency under the Ministry of National Security which investigates major drug trafficking and money laundering. The staff comprises personnel from the Police Service, Immigration, Customs, Inland Revenue and Administrative personnel on contract.

The Central Authority Department within the Ministry of National Security was established in 1999 to facilitate international requests based on Mutual Legal Assistance Treaties (MLAT). At this time, however, the Central Authority can only comply with a request from another Central Authority in another jurisdiction with whom there is a MLAT as no legislation has been passed to enact the Vienna Convention. The countries with whom Trinidad and Tobago have a MLAT at this time include the USA, the UK and to some extent Canada. At present, personnel attached to this Unit include an attorney and one lay person.

### **THE COMMONWEALTH OF THE BAHAMAS**

The recent enactment of several new laws in The Bahamas has contributed to significant progress in strengthening its counter-money laundering framework and complying with FATF and CFATF recommendations. The Bahamas now needs to focus on continuous implementation of its new legislation. The commitment of financial and human resources in the establishment of a financial intelligence unit and on-site examination capability of the supervisory bodies should aid in the effective implementation of the new regime.

The fact that seven (7) money-laundering prosecutions had been instituted in the Magistrates Court is ample proof of serious efforts at implementation of the current legislation. The understanding and desire to go beyond the enactments and into the courts in testing the legislation is rather refreshing

The substantial reforms enacted by the Government of The Bahamas, has reduced its financial sector's vulnerability to money laundering in a considerable manner. The financial services architecture has been given a solid basis with the incorporation of mutual funds under the legislation. The vigorous KYC Rules and Guidance on Suspicious Transaction Reporting seem rather probing and comprehensive in addressing current realities in this area of volatility and vulnerability. The work of the Central Bank as a regulator is in depth and thorough with manageable checks and balances. The Gaming Board and Industry personnel were frank, assertive and reliable in assessment of risks and controls in that sector.

Because of its geographic location and soil type, The Bahamas is not a significant cultivator of marijuana; neither does it cultivate coca plants. There are also no clandestine laboratories for the production of cocaine or other synthetic drugs. The geographic characteristics of The Bahamas are however, attractive to drug traffickers and because of the vicinity, is an inviting transshipment route for US-bound cocaine and marijuana.

The withdrawal of the United States (US) Coast Guard detection and monitoring aircraft from The Bahamas for homeland defence in response to the September 11 terrorist attack on the USA, has weakened the detection capacity for transnational transportation of drugs. In addition the geographical situation of The Bahamas consisting of over 700 scattered islands makes it extremely difficult for the authorities to effectively patrol all the islands.

It is assumed that Money Laundering in The Bahamas is probably related to the proceeds of cocaine and marijuana trafficking, however a substantial portion is likely to be related to financial fraud. Since the new legislation, The Bahamas' first major money laundering conviction was in December 2001 and

involved \$241,000 in drug trafficking proceeds. Another major money laundering case is that of a prominent Bahamian attorney who is charged with financial fraud of \$1.7 million. Prosecution is awaiting information from the Cayman Islands and is scheduled for trial at the Supreme Court in 2002.

The Bahamas' anti-money laundering framework comprises the Dangerous Drugs Act, 2000; the Proceeds of Crime Act, 2000; the Proceeds of Crime (Designated Countries and Territories) Order, 2001; the Evidence (Proceedings in other Jurisdictions) Act, 2000 as amended; the Criminal Justice (International Co-operation) Act, 2000 The Financial Intelligence Unit Act 2000; The Financial Transactions Reporting Act 2000; The Financial and Corporate Providers Act 2000; The Financial Transactions Reporting Regulations 2000; The Financial Intelligence Unit (Transactions Reporting) Regulations 2001. The International Obligations (Economic and Ancillary Measures) (Afghanistan) Order, 2001 was enacted to assist in countering terrorist financing.

The Dangerous Drugs Act (DDA) provides for export, import and transit licenses for certain drugs, places restrictions on export, import, possession and supply of dangerous drugs, and also makes provision for the forfeiture of dangerous drugs, and the instrumentality of the related drug offence.

By the Dangerous Drugs Act (Application) Order, 1994 all of the drugs included in the schedules to the Single Convention on Narcotics Drugs 1961 and the psychotropic convention, 1971 are now regulated under the DDA.

Section 33 of the DDA provides for the forfeiture of personal property used in the commission of any offences under the Act and therefore this section would apply to property used to manufacture precursor substances to which the Act applies.

The Proceeds of Crime Act, 2000 is applicable to any property whether or not it is situated in The Bahamas. Pursuant to Section 3, the Act defines 'criminal conduct' as drug trafficking or any relevant offence. Included as crimes under the Act are, the offence of money laundering, offences relating to dangerous drugs under the Customs Management Act and aiding, abetting, counselling or procuring the commission of any of the previously listed activities.

The offence of laundering one's own proceeds of criminal conduct is also provided for. Since criminal conduct under the Act includes drug trafficking offences and other relevant offences, the provisions of FATF Recommendation 4 and CFATF Recommendation 4 which require that money-laundering arising from drug trafficking and all serious crimes be criminalized are fulfilled. The *scienter* requirement for the money laundering offences is knowing, suspecting or having reasonable grounds to suspect, thereby meeting another requirement of CFATF Recommendation 4.

Section 40(2) provides disclosure protection to persons who disclose their suspicion or belief of an offence in good faith. Further, a person is not guilty of an offence if (i) he makes a disclosure before he does the act and the act is then done with the consent of a police officer or (ii) he discloses after he does the act but such disclosure is on his own initiative and made as soon as is reasonably possible. Accordingly, this Section serves to satisfy FATF Recommendation 16.

The enforcement of foreign Confiscation Orders is dealt with in Part VII of the Act. The Act is applicable to both proceedings which have been or will be instituted in the country that is requesting enforcement of the Order. An external Confiscation Order is defined by this Part of the Act as '...an order made by a court in a designated country for the purpose of recovering property, or the value of such property, obtained as a result of or in connection with drug trafficking or...money laundering or other related offence, ...or of depriving a person of a pecuniary advantage so obtained.' Proceeds of Crime legislation could be amended to allow forfeiture/confiscation of traced items or imposition of a fine in lieu of actual items especially if third party hardship will ensue.

The establishment of a Confiscated Assets Fund is taken care of by Section 52 and allows compliance

with the part of FATF Recommendation 38 that requires provisions be made to facilitate the sharing of confiscated assets between countries. The Fund can also be used to satisfy an obligation of the Government of The Bahamas to a foreign jurisdiction, to meet the remuneration and expenses of a receiver appointed under the Act, to pay compensation or costs that are awarded under the Act and to cover costs associated with the administration of the Fund.

The Evidence (Proceedings in Other Jurisdictions) Act 2000 seeks to make provisions to enable the Supreme Court to assist their foreign counterparts in obtaining evidence required for proceedings in civil and commercial matters in those jurisdictions. The Act also extends the powers of the Court to issue process to secure the attendance of witnesses. The interpretation section of the Act defines 'civil proceedings', in relation to the requesting court, as proceedings in any civil or commercial matter. A subsequent amendment to the Act (Act No.33 of 2000) allows the Supreme Court of The Bahamas to assist foreign states in obtaining evidence where the proceedings are pending before the requesting court or are contemplated and still in the investigative stage.

This provision enables The Bahamas to meet the requirements of FATF Recommendation 37, and avoid NCCT Criteria 20 and 22.

The Criminal Justice (International Co-operation) Act 2000 allows The Bahamas to co-operate with other countries in criminal investigations and proceedings and also enables compliance with the 1988 UN Vienna Convention.

Both the Proceeds of Crime Act 2000 and Criminal Justice (International Cooperation) Act, 2000 now also authorizes enforcement of external confiscation orders.

The main anti-money laundering statutes dealing with the operations of financial institutions are the Financial Transactions Reporting Act 2000 (FTRA), the Financial Intelligence Unit Act, 2000 (FIUA) and the respective implementing regulations. The FTRA generally makes it an offence for financial institutions to conduct any transaction without verifying the identity of the facility holder and anyone on whose behalf a facility holder may be acting. The FTRA stipulates mandatory requirements for know-your-customer procedures, suspicious transaction reporting, and record keeping for transactions conducted by financial institutions.

Section 39 of the FTRA created the Compliance Commission in order to ensure that non traditional financial institutions including the so-called gatekeepers comply with their obligations under the counter-money laundering regime. This arrangement complies with FATF Recommendation 27. Under sections 43 and 46 the Commission is authorized to conduct annual on-site examinations to ensure compliance with the FTRA and, after consultation, to issue guidance as to duties, requirements, standards, procedures and best practices to be observed by entities and individuals regulated by the Commission.

The FTRA requires that all financial institutions supervised by the Commission must be subject to annual on-site examination of their Anti Money Laundering procedures. The Act authorizes the Commission to appoint examiners to conduct the examinations on its behalf. As a matter of policy the Commission has determined that approved public accountants will perform the routine annual examinations. Prior to performing any examination on the Commission's behalf the public accountant must be duly appointed. This approach significantly reduces the amount of in-house resources required by the Commission to carry out this function.

The Financial Transactions Reporting Regulations, 2000 (FTRR), which came into force on December 29, 2000 set forth the information and documentation a financial institution must rely on to verify the identity of a client.

The Bahamas has sought to apply customer identification procedures to accounts in existence prior to the enforcement of the FTRR. The deadline for the identification of the beneficial owners of all accounts has been extended to 31 December 2002 by Order of the Minister of Finance dated 27 June 2002. The above provisions are extensive and provide for effective identification procedures.

Section 14(1) of the FTRA requires a financial institution to report any transaction or proposed transaction which it knows, suspects or has reasonable grounds to suspect involves money laundering to the Financial Intelligence Unit (FIU). This requirement is in compliance with FATF Recommendation 15 and avoids NCCT Criterion 10.

Although, there is no specific requirement in The Bahamas legislation for financial institutions to pay special attention to all complex, unusual large transactions that have no apparent economic or visible lawful purpose, the Guidance Notes gives guidance to financial institutions on how to deal with 1 complex, unusually large transactions that have no apparent economic or visible lawful purpose.

Financial institutions should be legally required to ensure that all anti-money laundering procedures are applied to branches and majority owned subsidiaries located abroad and to include in their anti-money laundering programs adequate screening procedures to ensure high standards when hiring employees and an audit function to test the system.

The Financial Intelligence Unit (FIU) was formally established and became operational on the 29th of December 2000 with the enactment of The Financial Intelligence Act, 2000 under section 3. According to the Act the FIU is responsible for receiving, analyzing, obtaining and disseminating information that relates to or may relate to drug trafficking and money laundering. The Act gives the FIU authority to compel production of information and documents without a Court order, and to exchange information with foreign FIU's.

Section 18 of the FTRA prohibits financial institutions from disclosing the existence of suspicious transaction reports to anyone other than specific relevant personnel thereby creating a provision against tipping off as stipulated by FATF Recommendation 17. Failure to comply with any of the provisions stipulated in the above sections of the FTRA is deemed an offence by section 20 and punishable on summary conviction by proportional fines for individuals and corporate bodies. The above measures establish the framework for an effective mandatory system for reporting suspicious or unusual transactions and resolve the concerns in NCCT criteria 10 and 11.

Section 23 of the FTRA requires financial institutions to keep records of all transactions as are reasonably necessary for the FIU to be able to reconstruct the details of any transaction. These records to be retained for a period of not less than five (5) years after the completion of the relevant transaction or the termination of a facility.

The Financial Intelligence (Transactions Reporting) Regulations, 2001 (FITRR) were enacted under section 14 of the Financial Intelligence Unit Act, 2000 and are applicable to the same financial institutions as the FTRA. The FITRR requires financial institutions to maintain internal reporting procedures that include the appointment of a money laundering reporting officer responsible for disclosing suspicious transactions to the relevant authority and a compliance officer to ensure full compliance with the relevant laws. The FITRR also requires financial institutions to establish appropriate anti-money laundering training programmes for employees to be made aware of legislative requirements and institutional procedures. Additionally, training in the recognition and handling of transactions must be provided at least once a year.

With regard to feasible measures to detect or monitor the physical cross-border transportation of cash and bearer negotiable instruments, The Bahamas authorities decided that a currency declaration bill was unnecessary since the Proceeds of Crime Act already allows for the seizure of cash by the police.

However, the recommendation suggests more of a monitoring than a criminal detecting function. At present the cross border monitoring of transportation of cash and bearer negotiable instruments is conducted by agents under the provisions of the United States Pre-clearance Agreement for travel to the United States, but there are no similar facilities for travel to other countries. Consideration should be given to establishing feasible measures for the monitoring of the cross-border flow of cash.

The Attorney General's Office reviews and prosecutes criminal cases, and works very closely with the Drug Enforcement Unit (DEU) within the Police Force in gathering, collating, analyzing and developing relevant information and intelligence concerning drug trafficking, money laundering and other serious crimes.

The Office of the Attorney General in addition to its prosecution role also in charge of responding to international requests for Law Enforcement cooperation and is the designated central authority in Mutual Legal Assistance Treaties (MLAT) to which The Bahamas is party.

The Drug Enforcement Unit within the Royal Bahamas Police Force (RBPF) was formed in 1988 and consists of 76 officers and 5 civilians and has the responsibility for investigating suspicious transaction reports received from the Financial Intelligence Unit and all reports of money laundering received from law enforcement agencies or the public. The Section is mandated to receive and render assistance to foreign law enforcement agencies around the world, and to investigate large cash seizures as well as local drug traffickers and other serious crime offenders, to determine whether they benefited from their criminal conduct.

With a view to developing further operational effectiveness and sharing knowledge regionally, there should be increased contacts with other regional Police Forces, perhaps on one-week attachments.

Customs officers stationed at the ports should become more vigilant given the in-transit character of the drug problem in The Bahamas and the utility of the ports for moving illicit substances from the production countries to the consumer markets of North America and Europe. Additional staffing should be examined for the Customs Department to ensure efficiency in revenue collection and drug interdiction efforts. The 1993 request for an additional staff should be urgently considered. The shortage of manpower and the increased workload perhaps could provide an explanation as to why training in this department has been given such little attention.

The Customs Department is in need of an ongoing training programme. The exposure to training of only four officers out of a total corps of 463, to money laundering matters should be looked into as a priority.

Much has been achieved thus far and every effort should be taken to avoid complacency and to ensure that the new regimes continue to be implemented efficiently. Law enforcement authorities should keep abreast of changing international legislative benchmarks and current money laundering typologies so as to be in the forefront of the fight against international organized criminal activity.