

**CARIBBEAN FINANCIAL
ACTION TASK FORCE**

**ANNUAL REPORT
1994 - 1995**

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SUMMARY

The first full year of the activities of the Caribbean Financial Action Task Force (CFATF) was marked by the establishment of the Secretariat which is hosted by the Government of Trinidad and Tobago, and the inception of the CFATF work programme.

A substantial part of the work was directed to the self assessment programme which monitored advances made in implementing the recommendations. Most member governments completed a questionnaire which addressed the status of implementation of the recommendations. Subsequent analysis of the responses indicated that the adoption of measures to counter money laundering has continued steadily and enabled the identification of the key areas for further attention.

The second major area of work was the embarkation on a programme of mutual evaluation. This provides a detailed examination of measures adopted to counter money laundering and has a particular value in establishing a broad understanding of the effectiveness of different approaches to the problem. Two examinations were carried out by the CFATF (The Cayman Islands and Trinidad and Tobago). Additionally the CFATF has participated in the evaluation of the Netherlands Antilles and Aruba by the FATF. A further seven members have volunteered for mutual evaluation and the programme is expected to result in the completion of the examination of all members within four years.

The provision of technical assistance and training in order to ensure the implementation of these laws is vitally important. In the past two years most of the efforts have been focused at awareness raising on a fairly broad front, as a precursor to the passage of laws and their subsequent application. Multilateral organisations have provided a variety of programmes aimed at enhancing implementation. The self assessment survey addressed this issue. Responses included needs for training in financial supervision; financial investigation and intelligence; and prosecutor training. The Secretariat helps to co-ordinate the work carried out in this field by the UNDCP, the OAS-CICAD, ILANUD, and The Commonwealth Secretariat.

In order to ensure the most effective co-ordination of national and regional efforts, a new structure for the CFATF was devised. This comprises National Anti-Money Laundering Committees which will relate to the Secretariat; and two levels of meetings - technical and Ministerial.

A plenary meeting of the CFATF was convened in Port of Spain in November 1994 as a technical workshop which considered a variety of matters and made proposals for agreement by Ministers. The Ministerial meeting was held in Port of Spain, in May 1995.

Since its inception the CFATF has been funded by five FATF donor countries. A proposition that member countries should contribute to the budget was considered and member countries agreed to pay the costs of the CFATF from 1996. It was also agreed to seek the firm commitment of each Member Government to continue financial support for the next 5 years.

There were a number of significant developments in the political arena which dealt with money laundering. In October 1993, the Commonwealth Heads of Government Meeting in Cyprus identified the threat which money laundering poses to financial systems worldwide and agreed to support international co-operation in combating this financial crime. This was followed by the Meeting of Commonwealth Law Ministers in Mauritius from 15-19 November 1993 at which Ministers resolved to put into place comprehensive provisions to counter money laundering. The CARICOM heads of Government met in July 1994 in Barbados, and accepted the recommendation for accelerating the regional action agenda against money laundering. This has resulted in a collective response by CARICOM Central Banks, who have now prepared draft Guidelines on Money Laundering for use by supervised financial institutions. Finally, in December 1994, the Plan of Action agreed at the Summit of the Americas called for a co-ordinated hemispheric response, including consideration of an inter-American convention, to combat money laundering.

1. INTRODUCTION

The Caribbean Financial Action Task Force was established as a result of three regional meetings of Governments. In June 1990 the government of Aruba hosted a conference attended by representatives of fifteen states, plus the five 'donor' countries of the Financial Action Task Force which have an affiliation with the region¹. The Aruba meeting reviewed the 40 recommendations which had been produced by the FATF and produced twenty-one recommendations, nineteen of which were later adopted as the CFATF recommendations. These complement the original FATF recommendations and have particular applicability within the region.

The Government of Jamaica hosted the second regional meeting, in Kingston, in June 1992, which took the form of a technical workshop attended by the representatives of the states and territories which had attended Aruba. This workshop addressed the main areas of focus: legal; financial; political; and technical assistance. Detailed recommendations were prepared, and later presented to a Ministerial Meeting which was convened in Kingston in November 1992 and included participation of twenty Caribbean states plus the FATF affiliates.

The Ministerial Meeting produced an accord embodied in the 'Kingston Declaration on Money Laundering'. This Declaration endorses the implementation of the 1988 UN 'Vienna' Convention, the OAS Model Regulations and the FATF and the CFATF recommendations. A steering group was formed, comprising five countries representing the membership of twenty-six², the five donor countries, and Trinidad and Tobago was elected to the chair. Finally, the Kingston Declaration called for the establishment of a Regional Secretariat to co-ordinate the process of implementation within member states. Each member country has identified a principal representative through whom all communications are channelled and who represents the government at technical meetings.

In November 1993 a Steering Group meeting was convened in Port of Spain which agreed on the arrangements for the creation of the Secretariat. The Secretariat was then established during early 1994, hosted by the Government of Trinidad and Tobago, and funded by the FATF donor countries. Its staff consists of a Director seconded from the UK and two locally appointed staff. The Secretariat has a work programme with three core elements: self assessment; mutual evaluation; and technical assistance and training. The Secretariat liaises closely with countries which provide assistance, together with multi-national organisations. Additionally it participates in various regional and international initiatives aimed at money laundering control.

¹The USA, Canada, The Kingdom of the Netherlands, France, and the United Kingdom. ²Antigua & Barbuda, Anguilla, Aruba, The Bahamas, Barbados, Bermuda, The British Virgin Isles., The Cayman Isles., Colombia, Costa

Rica, Dominica, Dominican Republic, Grenada, Guyana, Jamaica, Mexico, Montserrat, The Netherlands Antilles, Panama, St. Kitts & Nevis, St. Lucia, St. Vincent & The Grenadines, Suriname, The Turks & Caicos Isles., Trini-

A plenary meeting of the CFATF was convened as a workshop in Port of Spain in November 1994 and reviewed the progress made since the Kingston meetings and the establishment of the Secretariat. This meeting prepared for a Ministerial meeting which was held in Port of Spain on 24-25 May 1995.

2. REVIEW OF THE ROLE AND STRUCTURE OF THE CFATF

Enhancements to the structure of the CFATF were reviewed. In November 1994 a subgroup examined a variety of propositions and then recommended a revised structure of the CFATF from national to regional levels. Recommendations were also made for the rotation of the Chairmanship. The elements of the new integrated structure will comprise:

National anti-Money Laundering Committees or other similar entities in each individual country, comprising senior representatives of all the relevant disciplines whose joint efforts are essential for implementing effective action against money laundering. The co-ordination of the efforts of Government departments and the private financial sector is vital. Whether these committees are established on an *ad hoc* basis or more formally is a matter of choice - what is important is that they enhance teamwork and implementation. Among other things, these Committees can:

- { monitor and promote the implementation of the FATF and CFATF Recommendations;
- { develop a national consensus on counter money laundering measures;
- { develop national policy positions in respect of money laundering initiatives;
- { select the country's representatives to multi-lateral organisations and meetings;
- { provide a standing point of contact for the CFATF Secretariat;
- { oversee the implementation of decisions from international meetings, and meetings of the CFATF.

A Plenary of Senior Officials (Principal Representatives) of all member countries and donor countries. The plenary will meet at least twice a year, and on an ad hoc basis as may be necessary, and will examine issues relevant to anti-narcotics money laundering policy in the region. During the next twelve months this group will consider the mutual evaluation reports, the adoption of new money laundering counter-measures developed by the Financial Action Task Force, and will make proposals on technical issues for the Ministers' meeting.

A Plenary of Ministers which will meet annually. This meeting will consider a report of CFATF activities and agree on a work programme for the following year. It will discuss and decide on policy matters as may have arisen out of the work of the Plenary of Senior Officials, the FATF, or other bodies. At the Ministerial meeting it was agreed that the Chairmanship should change annually and that a deputy Chairman of the CFATF should be elected. In order to provide continuity the deputy Chairman would be the Chairman designate for the following year. Costa Rica was elected for the deputy Chairmanship for 1995. Trinidad and Tobago will

retain the Chairmanship until the next Ministerial Plenary, when the Chair will pass to Costa Rica.

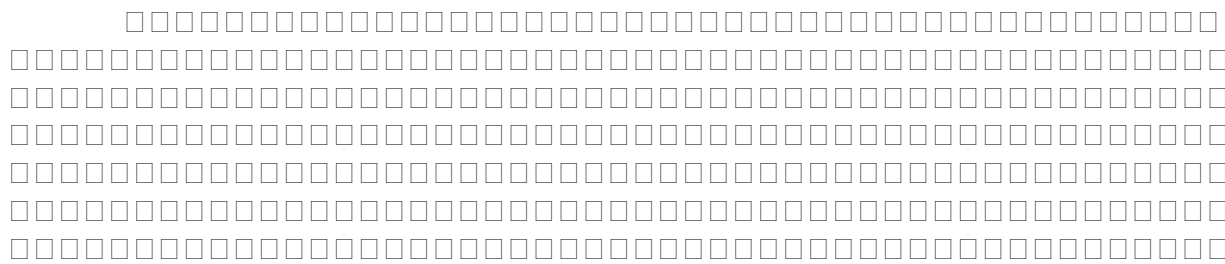
The CFATF Secretariat, which consists of the Executive Director and locally appointed staff, overseen by the Chairman between plenary meetings. The Secretariat has responsibility for the implementation of the CFATF Work Programme, as defined by the Kingston Declaration:

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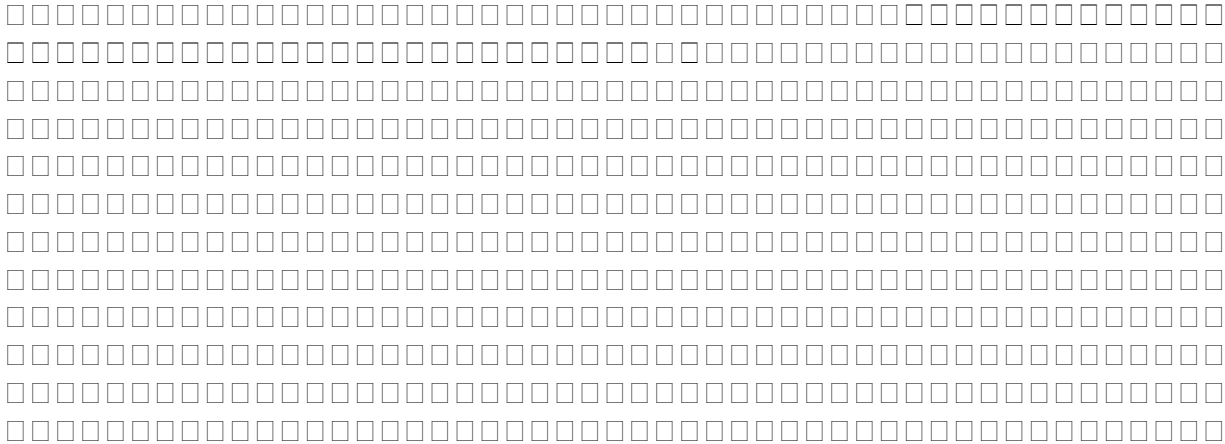
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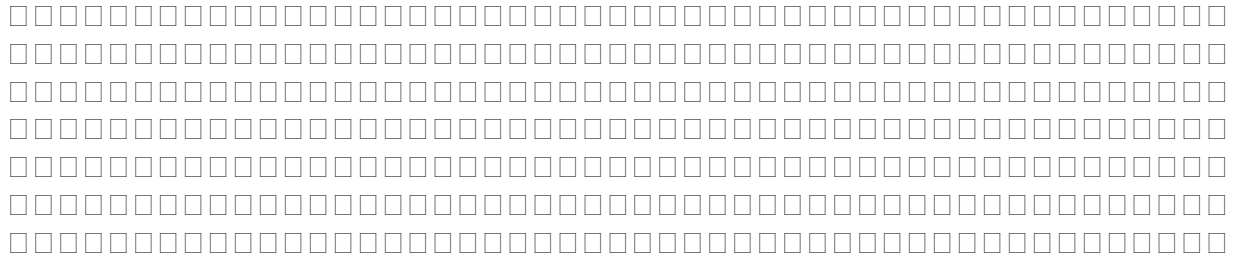


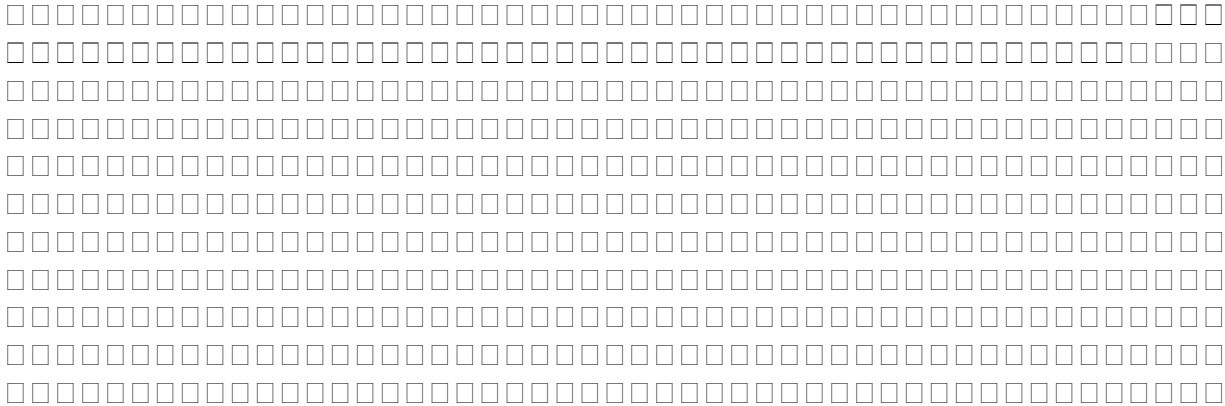


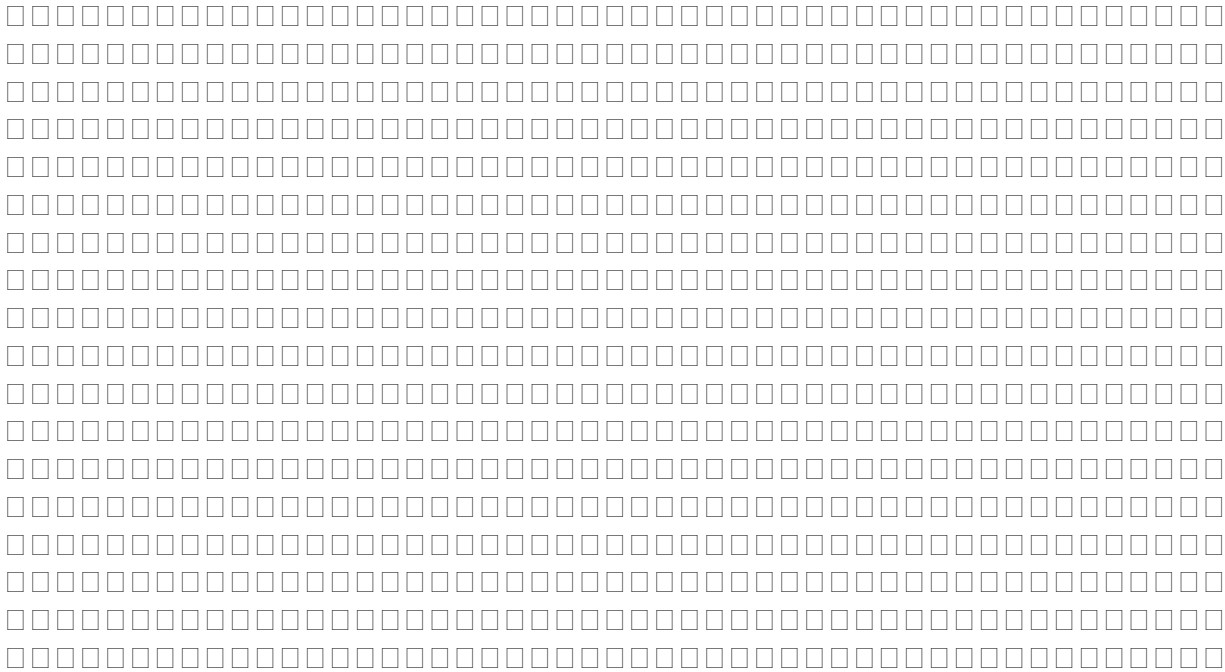


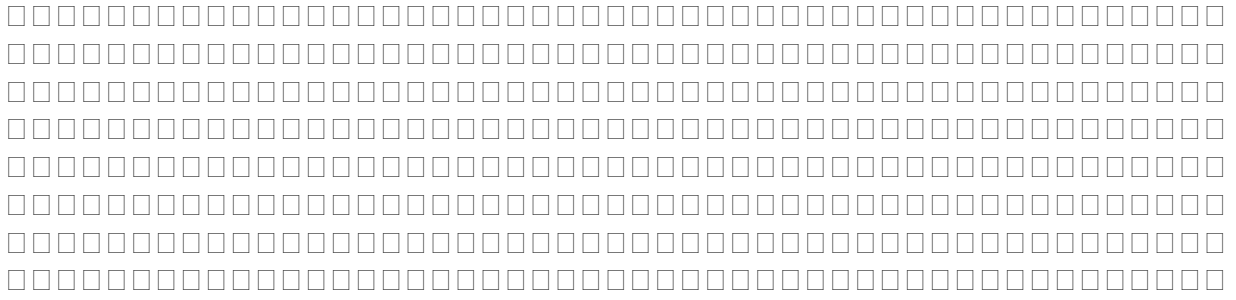


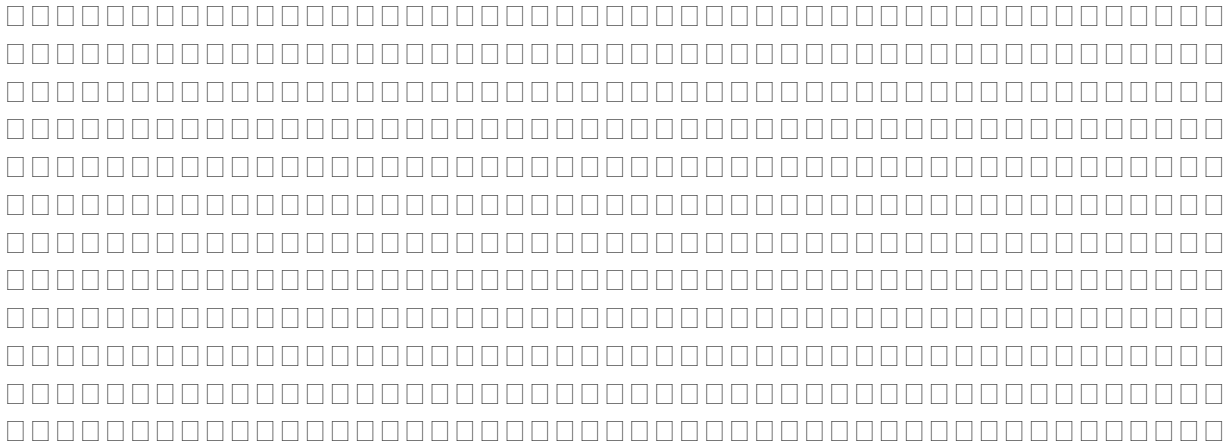
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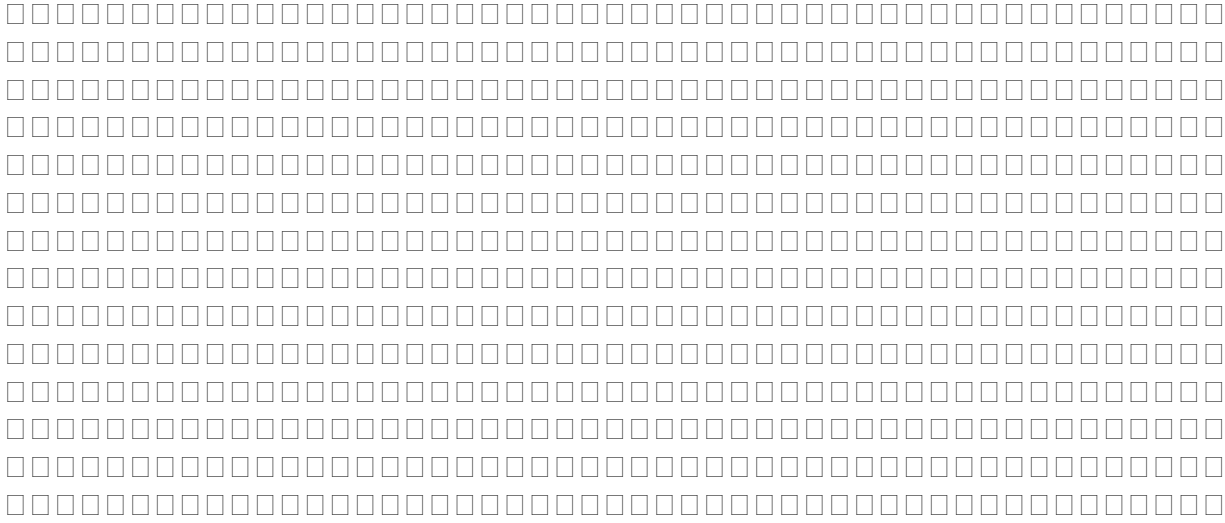


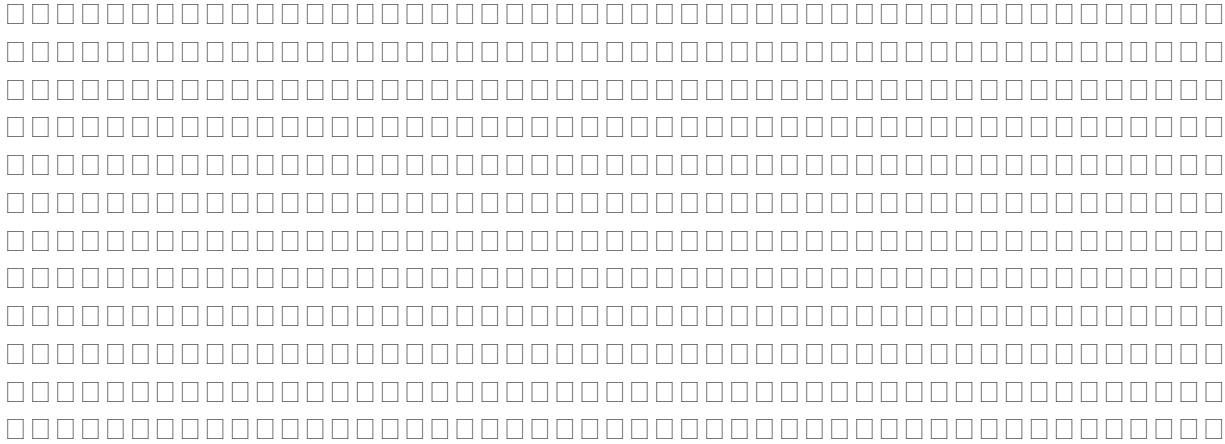


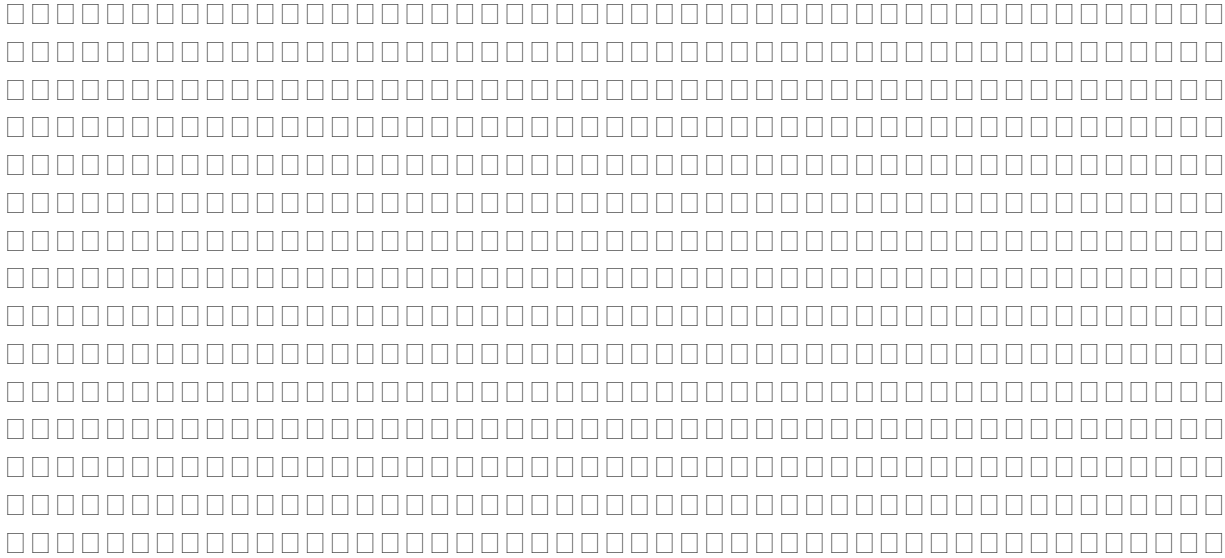














The Secretariat was mandated to prepare and distribute a revised questionnaire which simplified and abbreviated many of the questions used in the vulnerability survey. Even so, it comprised a total of 125 questions dealing with the 59 recommendations in three parts: Legal, Financial and CFATF issues. They set down objective standards to assess implementation of the recommendations and the responses provide an up-to-date picture of progress and a means for evaluating the effectiveness of member countries' counter-money laundering programmes and training needs.

The questionnaires were distributed in June 1994 and the majority of responses have now been received. The Secretariat produced an analysis of the present state of implementation of the recommendations and a comparison with the responses in the Coopers and Lybrand report. Where certain responses were not provided the analysis relies on data provided in the response to the earlier survey, as in many instances this data remains valid. The following is a summary of the members' state of implementation

i) Legal Issues

The membership of the CFATF has continued to make progress over the past two years in adopting the legal Recommendations. Twenty-one members indicate that they now have the necessary provisions for the identification, seizing and forfeiture of assets derived from drug trafficking. It is believed however that the remaining members have also adopted these provisions to some extent. Most require a criminal conviction prior to the confiscation order.

Seven jurisdictions have recently introduced laws making drug money laundering a criminal offence, which creates a majority of members in this position. The four remaining members who have yet to take action (Dominican Republic, Guyana, Jamaica and Suriname) expect to pass the necessary legislation within the next 12 months. In some instances the existing laws do not extend to a drug trafficker laundering his own proceeds.

As yet, only four members (Aruba, Netherlands Antilles, Panama and St Kitts) have laws which criminalise the laundering of the proceeds of other crimes, although some members have already recognised the desirability of doing so and others already have the ability to schedule other predicate offences in their existing law.

Seven members indicated that they still have significant restrictions on their ability to provide assistance to other jurisdictions seeking to identify, freeze or confiscate criminal assets. At present approximately half the members have bilateral treaties in effect. Several of those who have any treaties are considering or negotiating further agreements. At present only two members are a party to a treaty which provides for assistance for non-drug predicates for money laundering (The Netherlands Antilles and Aruba re European Convention on Mutual Assistance in Criminal Matters.) The majority of members' laws allow for extradition for drug money laundering offences. Three members (Cayman Islands, Costa Rica and Netherlands Antilles) have recently introduced arrangements for sharing of confiscated assets between jurisdictions, but the majority still have no formal mechanisms to do so.

An area where progress was perceived to be slow was the ratification and implementation of the 1988 Vienna Convention. The situation now is substantially improved. All but two members (St Kitts, St Lucia) have signed or acceded to the convention, although some members still need to pass some laws to fully comply with the Convention.

Seven members have introduced measures to comply with the Recommendation dealing with illicit funds crossing borders and a similar number are planning to do so.

ii) Financial Issues

The 1994-1995 self-assessment exercise showed that although the Recommendations which address financial matters were not fully applied by all members, major overall progress had been made. Considerable differences still persist in the state of implementation of the various Recommendations between the banking sector and non-bank financial institutions (NBFIs).

Almost all members comply fully with the customer identification requirements, although there are still some exceptions with regard to the identification of third party beneficiaries of accounts, especially among NBFIs. Special concern arises from the fact that the banks in one member are still allowed to keep anonymous accounts and another appears still to permit accounts in fictitious names, although in practice the banks would not permit this. All members but one are in full or partial compliance with record-keeping rules.

Significant progress has been made with the implementation of Recommendations dealing with the increased diligence of financial institutions: almost all governments require banks, and to a slightly lesser extent non-bank financial institutions, to pay special attention to complex, unusually large transactions. Most members permit (and some now require) their banks to report their suspicions if they suspect that funds stem from criminal activity. However, only a small proportion has identified an authority or agency competent to deal with such information. Where such reports are permitted or even required the volume of reports appears to be low and it may be that this area deserves more specific attention. Of those members which do receive reports, only half permit the exchange of information, either spontaneously or on request.

At present, a small minority of members still do not require banks or non-banks to develop specific programmes against money laundering. In the others, the supervisory authorities ensure that adequate programmes are set up. Far fewer seem to conduct examinations to ensure that non-bank institutions have adequate systems in place. Guidelines have already been established by two thirds of the member governments to assist their banks in detecting suspicious transactions. A similar proportion indicate that they have taken measures to ensure that banks and other financial businesses are not controlled or acquired by criminals, although almost all members have thorough requirements for the identification of individuals who own or control licensed banks, together with similar requirements when changes in ownership occur.

The future of the CFATF self-assessment programme was reviewed and it was agreed to pursue the programme on an ongoing basis. It noted that during the past twelve months similar surveys have been used by the Offshore Banking Group, CICAD, the Summit of the Americas money laundering workshops, and the Commonwealth Secretariat. Recognising that each request inevitably places a burden on the officials who have to respond, initiatives are in hand to improve co-ordination and, where possible, to exchange data. This is particularly the case with the Commonwealth Secretariat, which was mandated by Finance Ministers to carry out a similar survey. In order to avoid any duplication, future surveys will adopt identical questionnaires and, subject to the agreement of countries participating in both schemes, the data arising will be exchanged between the Secretariats.

b. Mutual Evaluation

The overall objective of the mutual evaluation programme is to create a constructive consultative approach to assisting Governments with the implementation of the recommendations. Each member country may nominate examiners to the Secretariat. Examiners are senior officials with responsibility for supervision of financial institutions, law enforcement, or legal development, with an emphasis on money laundering and a familiarity with the FATF and CFATF Recommendations.

The country being examined provides an analysis of the money laundering problem together with details of the measures in force or planned to address the problem. During a three day on-site visit the examiners meet with senior officials who have responsibility for legal policy, financial market supervision, prosecution and investigation of money laundering, together with representatives of financial institutions, to discuss their approach to money laundering. A detailed report is then prepared by the examiners which describes their findings and identifies possible improvements to the country's anti-money laundering system. This report, which remains confidential, is submitted to a Plenary Session of the CFATF for adoption. Summaries of the evaluation reports are included in subsequent annual reports.

At the Steering Group meeting of the Caribbean Financial Action Task Force (CFATF) held in Port of Spain in November 1993, both The Cayman Islands and Trinidad & Tobago volunteered to participate in the first mutual evaluations conducted by the CFATF. The Cayman Islands were the first member of the CFATF to be examined in January 1995. Trinidad and Tobago was examined in April 1995. In March 1995 the CFATF Secretariat participated in the examination of the Netherlands Antilles and Aruba which were examined as an extension of the evaluation of the Kingdom of the Netherlands by the FATF. The Bahamas, Costa Rica, St. Vincent and St. Lucia have also volunteered for evaluation later in the 1995 programme. Antigua, Barbados, the Dominican Republic Jamaica and St Kitts and Nevis also volunteered for evaluation during 1996.

The Ministerial meeting considered options for dealing with the evaluation reports of Trinidad and Tobago and The Cayman Islands, and subsequent reports. It was agreed that these reports should be dealt with in detail by a technical meeting of CFATF officials and the conclusions of that meeting would be presented to the next meeting at Ministerial level when the reports would be adopted.

6. DEVELOPMENT OF THE CFATF MEMBERSHIP

The CFATF also considered the extension of membership to non-participating countries within the region in order to ensure that counter-money laundering measures are introduced consistently by all jurisdictions throughout the wider Caribbean region. A review of acceptance of the invitations to the Aruba and Kingston meetings was undertaken, together with the requirements for entry into the CFATF.

As all members of the CFATF subscribe to the terms of the Kingston Declaration on Money Laundering (which includes implementation of the 40 FATF recommendations, the 19 CFATF recommendations and ratification of, or accession to, the UN 1988 Vienna Convention) it was agreed that this would be an appropriate basis for new membership.

The Ministerial meeting agreed that the Chairman of the CFATF should extend an invitation to those countries situated in Central America between Mexico and Costa Rica to become members of the CFATF subject to their adoption of the terms of the Kingston Declaration on Money Laundering.

7. SUMMIT OF THE AMERICAS

In December 1994, a Plan of Action was agreed by governments participating in the Summit of the Americas. This Plan of Action agreed on the implementation of a broad range of measures including those which deal with crime. In particular, Action item Six, Combating the Problem of Illegal Drugs and Related Crimes, calls for a working level conference to be held, followed by a Ministerial conference, to study and agree on a co-ordinated hemispheric response, including consideration of an inter-American convention.

In March 1995 a planning meeting was convened in Washington and agreed an agenda for the Working Level Conference. The planning meeting concluded that both the working level and Ministerial conferences should focus on the implementation of existing conventions, agreements and recommendations.

Working level conferences were held in April and June and it is anticipated that the Ministerial conference will be held in late 1995. Ministers at the CFATF Ministerial meeting commended this initiative and agreed that the work carried out by the CFATF already had positive effects. It was also agreed to commend the process of mutual evaluation to the post-Summit of the Americas forum.