

**CARIBBEAN FINANCIAL ACTION  
TASK FORCE**

**ANNUAL REPORT  
1997 - 1998**

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## SUMMARY

Barbados served as Chair during the fourth operational year of the Caribbean Financial Action Task Force (CFATF) and appointed as Chairman its Attorney General and Minister of Home Affairs, Mr. David Simmons, Q.C. During this fourth operational year, CFATF achievements in both administrative and substantive areas were numerous. Calvin Wilson, a citizen of Trinidad and Tobago and formerly Senior Crown Counsel in London, was appointed Deputy Director of the CFATF. CFATF Membership increased from twenty to twenty-five governments with subscription of the MOU by The Governments of Jamaica, Venezuela, Dominica, St. Kitts and Nevis, and Suriname. CFATF Policy regarding Observer nations was amended to permit this status to any government which participates in the Self Assessment and Mutual Evaluation Programmes. An invitation to Colombia to join the CFATF as an Observer was issued although no response has been received. Finally, building upon the mandates issued by the October 1997 Council in Barbados, the Plenary:

- i. Completed stages three and four of the four part money laundering typology programme;
- ii. Developed and forwarded to the Council for its approval Conclusions and Recommendations based upon findings developed through the typology programme;
- iii. Developed and forwarded to the Council for its approval a budget, including its recommendation that the current Deputy Director Calvin Wilson be promoted to Executive Director and funding for the Executive Director position;
- iv. Reviewed, approved, and forwarded to the Council for its approval the Selection Committee's recommendation to endorse France's nomination and secondment of Mr. Pierre Lapaque as CFATF Deputy Director;
- v. Reviewed and forwarded to the Council for its approval mutual evaluation reports for Costa Rica, Barbados, Dominican Republic, and The Bahamas; and,
- vi. Reviewed the status of a Headquarters Agreement between the CFATF and the Government of Trinidad and Tobago; and,
- vii. Developed and forwarded to the Council for its adoption the CFATF Annual Report for 1998 and Budget for 1999.

Also during 1998, Mutual evaluation visits to Antigua and Barbuda, Turks and Caicos, Bermuda, and Saint Lucia were completed. The Government of St. Kitts and Nevis, as explained in detail in the body of this Report, was deemed to have cancelled its Mutual Evaluation. Nicaragua, noting that it had not yet enacted any legislation defining money laundering as a criminal offence, took the position that it was not ready for and requested postponement of its Mutual Evaluation.

## THE CFATF MUTUAL EVALUATION PROGRAMME

The Council of Ministers in Costa Rica mandated the completion of all Mutual Evaluations by the year 2000 and accordingly Plenary IV adopted a plan of action which resulted in the compilation of a schedule of mutual evaluation visits.

At Plenary V in Trinidad and Tobago confirmation was given that all mutual evaluations for 1997 had taken place and Plenary VI in Tortola was advised that for 1998 all visits were completed for the period ending July 30, 1998, in relation to Antigua and Barbuda, Turks and Caicos Islands, Bermuda and St Lucia.

In the case of Bermuda and Antigua and Barbuda, the examiners have all made their submissions and the reports are in progress. However, Plenary VII resolved that recent legislative amendments in Antigua and Barbuda could be addressed in an addendum to the Mutual Evaluation Report as these had not been enacted at the time of the visit. The Plenary resolved that this report would be discussed formally at the next CFATF Plenary in March 1999. With respect to Turks and Caicos and Saint Lucia, the Secretariat is still awaiting submissions from all Examiners and is continuing its

efforts to ensure the timely submission of the other reports which are outstanding. It is anticipated that all reports will be ready for discussion at the March 1999 Plenary.

#### **i.) ST KITTS & NEVIS:**

The Mutual Evaluation of St Kitts and Nevis was scheduled for August 10-14, 1998. However, by August 03, 1998, the Secretariat was not provided with notice of approval of the proposed examiners, a schedule of visits, Mutual Evaluation Survey forms, Parts II and III of the Self-Assessment Questionnaire, nor the relevant laws, regulations and directives.

St. Kitts and Nevis was therefore deemed to have cancelled the Mutual Evaluation.

As directed by Plenary VI the Secretariat canvassed with the Government of St Kitts and Nevis the week of February 22 - 26, 1999, has been confirmed as the new dates for the mutual evaluation visit. Examiners have been identified and they have confirmed their availability. The Secretariat is awaiting confirmation from the Government of St. Kitts and Nevis regarding their acceptability, and has requested to be provided with all the relevant materials as outlined above.

#### **ii.) SUITABLE EXAMINERS**

At Plenary V in Trinidad the issue of the definition of a "suitable examiner" for the purposes of the Mutual Evaluation Programme was discussed.

As set forth in CFATF Mutual Evaluation Procedures, suitable examiners are "senior officials with responsibility for supervision of financial institutions, law enforcement, legislation, or judicial responsibility, with a particular emphasis on money laundering and a knowledge of the requirements of the FATF and CFATF Recommendations." Given the wide range of complex legal, financial and law enforcement issues which Mutual Evaluations entail, it was agreed that Examiners should continue to be "senior officials".

Plenary V recognised that as "senior officials" CFATF Examiners have busy work schedules which significantly affect their availability for Mutual Evaluation visits and, in other cases, their ability to draw up their reports within a reasonable period of time.

With a view to ameliorating these problems Plenary V determined to expand the pool of available examiners without compromising on the level of their qualifications. Barbados noted that it had nominated a recently retired senior official of its Central Bank to serve as the financial expert for the Mutual Evaluation of the Turks and Caicos Islands, with that government's concurrence. Noting this experience, Barbados pointed out that limiting the pool of examiners to currently employed senior officials was counterproductive and proposed that the term "suitable examiner" be redefined to include "former or current senior officials with experience in the relevant field."

Following discussion, Plenary V agreed that the concerns implicit in ensuring that only "senior officials" served as Examiners could be preserved even while using former officials provided that they had had relevant experience. Accordingly, Plenary V resolved that it would recommend to the Council an expanded definition of an examiner for inclusion in the official CFATF Mutual Evaluation Procedures. As resolved by Plenary V, "Suitable Examiners are former or current senior officials who have had or who have responsibility for supervision of financial institutions, law enforcement, legislation, or judicial responsibility, with a particular emphasis on money laundering and a knowledge of the requirements of the FATF and CFATF Recommendations."

The Council in Barbados considered and endorsed this recommendation by Plenary V.

#### **FINALISATION OF MUTUAL EVALUATION REPORTS**

Plenary VI in Tortola heard an additional status report from Costa Rica and determined to afford that jurisdiction a last opportunity to present a final status report to Plenary VII which would then

forward it to the Council for approval as Final. Plenary VI also considered the Mutual Evaluation Report for the Dominican Republic and determined to forward it to the Council for approval as final. Mutual Evaluation Reports for Barbados and The Bahamas were also given preliminary consideration by Plenary VI and full review by Plenary VII, in Grand Cayman. Plenary VII resolved to forward Mutual Evaluation Reports for Barbados and The Bahamas to the Council for approval as final. The Mutual Evaluation Report for Saint Vincent and the Grenadines was not discussed by Plenary VI or Plenary VII because, in both cases, this jurisdiction was not represented.

Summaries of the Mutual Evaluation Reports for Barbados, The Bahamas, Costa Rica, and the Dominican Republic are attached to this report .

#### **FUNDING FOR AND APPOINTMENT OF THE CFATF DEPUTY DIRECTOR**

In Barbados, the Council reviewed and approved Plenary IV's recommendation for funding of the Deputy Director post with the following amendments. The Council directed that contributions from the Netherlands to be disbursed beginning in 1998 in yearly allotments of \$40,000, \$30,000, and \$20,000, as well as further contributions from France and the United Kingdom for US\$ 25,000 and 20,000, respectively, should be earmarked for the Deputy Director Fund. Further, the Council directed that annual membership contributions from all Members, including Jamaica and Venezuela which signed the MOU in Barbados, and Dominica which represented that it was prepared to sign the MOU, should also be taken into account in determining the contribution to be made by each Member. Following this mandate, the Secretariat produced and distributed an amended budget including a revised four year schedule for member contributions to the Deputy Director fund.

The revised budget and schedule were approved by the Council which further resolved that: Members should remit their contributions to the Deputy Director Fund no later than February 15, 1998. To this end, the Council encouraged Members to include their annual and Deputy Director Fund contributions to the CFATF as a line item in their respective national budgets in order to ensure timely payment. The Council further directed that: the position of the Deputy Director be advertised regionally; applications be accepted through November 20; applicants be reviewed by the Selection Committee; the post of Deputy Director be filled by January 1, 1998; and, that the candidate hired as Deputy Director be hired for a four year term on a one year renewable basis.

As directed, the Secretariat advertised in regional press with a closing date of November 30, 1997. Eleven candidates applied, of which six were selected for interviews and one, Mr. Calvin J. Wilson, was appointed effective February 8 and was introduced to Plenary V which convened in Port of Spain on March 23 - 24, 1998.

Mr. Wilson combines both relevant banking and legal experience. A Barrister-at-Law (Inns of Court, UK - 1988) and an Attorney-at-Law (Supreme Court, Trinidad - 1989), he worked for eight years (1988 - 1996) as Senior Crown Prosecutor and Principal Crown Prosecutor Designate at the Crown Prosecution Service, London. There, Mr. Wilson prosecuted a wide range of criminal offences and provided legal support to investigations of commercial and banking fraud, money laundering, and drug trafficking cases. Prior to his tenure with the Crown Prosecution Service, Mr. Wilson worked in middle management positions at the Bank of Commerce in Trinidad from 1977 to 1984.

Since joining the CFATF Secretariat as Deputy Director, Mr. Wilson has, among other things, co-ordinated and overseen the Mutual Evaluation visits of Antigua and Barbuda, Turks and Caicos, Bermuda, and Saint Lucia. In addition, he has played a significant role in the co-ordination of Typology Exercises Three (International Finance) and Four (Emerging Cyberpayments Technology). Indeed, Mr. Wilson authored the report on the CFATF Money Laundering Typology Programme, including its Conclusions and Recommendations. Finally, Mr. Wilson has participated in the negotiation of the CFATF Headquarters Agreement and has played a central role in the preparation of briefing papers for Plenary VI in Tortola, British Virgin Islands, and Plenary VII and Council Meeting IV in Grand Cayman, Cayman Islands.

## CFATF MEMBERSHIP INCREASES BY FIVE

The CFATF Memorandum of Understanding (MOU) was concluded as final by the Council meeting in Costa Rica in 1996 and was subscribed by twenty Members.<sup>1</sup> Through the MOU Members reaffirmed their commitments contained in the Kingston Declaration of 1992, and their commitment to effectively implement the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the 40 FATF and 19 CFATF Recommendations adopted in 1990 and 1992, respectively, and, where applicable, the Plan of Action of the Summit of the Americas.

Due to unavoidable commitments, Dominica, St. Kitts and Nevis, and Suriname which had participated as Members from the inception of the CFATF were not represented at the 1996 Council II in Costa Rica. The Council stated its objective that Dominica, St. Kitts and Nevis, and Suriname be incorporated as Members as soon as possible, and directed that the Secretariat travel to these jurisdictions as soon as possible in order to secure their subscription. Dominica and St. Kitts and Nevis subscribed the MOU in their respective capitals on 12 December 1997 and 2 February 1998, respectively. Suriname, through its Ambassador to Trinidad and Tobago, subscribed the CFATF MOU in Port of Spain on 26 June 1998.

Jamaica and Venezuela were present at the Council in Barbados in 1997 and subscribed the MOU. In Jamaica's case, subscription of the MOU had been delayed pending the CFATF's determination whether that jurisdiction's proposed reservations were acceptable. Following discussion by the Plenary, Jamaica's "reservations" were recast as "interpretative notes" and, as such, deemed acceptable. At the Council in Barbados, the Honourable Carl Miller, Minister of State, on behalf of Jamaica signed the MOU on October 8, 1997, subject to the following interpretative note:

"The Government of Jamaica

(1) does not consider that the Memorandum of Understanding establishes the Caribbean Financial Action Task Force as being endowed with international legal personality or as an international organisation but as a forum for consultations; and,

(2) considers the results of the deliberations of the Caribbean Financial Action Task Force as constituting recommendations and not giving rise to legal obligations."

In signing the MOU, also on October 8, 1997, Venezuela adopted an interpretative note similar in text and identical in substance to Jamaica's. Specifically, Venezuela subscribed the MOU stating:

The Republic of Venezuela

1.) Considers the results of the deliberations of the CFATF, in particular of the Mutual Evaluation Programme, as recommendations and under no circumstances legal obligations of the Republic.

2.) Notes that its participation in international organisations may require prior Executive or Legislative approval, or both.

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<sup>1</sup> The MOU was subscribed by: Anguilla, Antigua and Barbuda, Aruba, The Commonwealth of the Bahamas, Barbados, Belize, Bermuda, British Virgin Islands, Cayman Islands, Costa Rica, Dominican Republic, Grenada, Montserrat, Netherlands Antilles, Panama, Nicaragua, Saint Lucia, Saint Vincent and the Grenadines, Turks and Caicos, and Trinidad and Tobago. Guatemala signed the MOU Ad Referendum and since has given no indication that it intends to subscribe with or without reservation(s).

## **CFATF POLICY ON OBSERVER NATIONS**

The Council in Barbados took note of the fact that Colombia, which had been represented at the previous year's Council in Costa Rica, did not subscribe the MOU. In considering this issue, the Council was cognisant that the MOU does not derive from an international treaty. It took into account Colombia's representations that the MOU does not satisfy Colombian law because it does not conform to international law governing treaties which establish international organisations and which create funding and other obligations for signatory governments. Acknowledging this legal impediment as well as Colombia's importance to the region, the Council in Barbados determined to find a mechanism that would ensure that country's continued participation in the CFATF programme. Accordingly, the Council adopted a new policy providing that any nation could, at the invitation of the Chairman, join the CFATF as an Observer subject to completion of a positive mutual evaluation. The Council directed the Chairman to issue such an invitation to Colombia, inviting it to join the CFATF as an Observer and to schedule its mutual evaluation for 1999.

By letter dated 24 November 1997 CFATF Chairman David Simmons advised Colombia of its newly developed policy regarding Observers and invited that Nation to join the CFATF subject to participation in the CFATF Self Assessment and Mutual Evaluation Programmes. Mr. Simmons proposed to Colombia that its Mutual Evaluation be conducted January 11 - 15, 1999. To date, Colombia has provided no written response.

## **THE CFATF MONEY LAUNDERING TYPOLOGY PROGRAMME**

Originally, the CFATF planned only to conduct a one stage Typology Exercise focused largely on Money Laundering through domestic financial institutions. This first exercise took place in Port of Spain, February 27 and 28, 1997.

An Experts Working Group comprising Aruba, Costa Rica, the Cayman Islands, Dominican Republic, Trinidad and Tobago and the Netherlands Antilles was formed. The Working Group's mandate was to analyse the results of the CFATF Typology Exercise and to formulate a proposal to the Council regarding the revised FATF and the CFATF Recommendations.

Circumstances, however, dictated a broader approach. Rather than one stage, the CFATF Plenary resolved that, in addition to its examination of money laundering in the domestic financial services sector, it would conduct additional Typology Exercises to examine this issue as it occurs:

1. In The Casino and Gaming industry;
2. Through Offshore banks and other Offshore Financial Intermediaries, including International Business Corporations;
3. In Non-bank Financial Institutions; and,
4. Through Emerging Cyberspace and Cyberpayment Technologies.

But for an examination of Non-bank Financial Institutions, these Typology Exercises have now taken place. Plenary VII resolved that the CFATF should conduct a free trade zone typologies exercise, reviewed the reports which have been compiled on typologies exercises to date, and forwarded these reports to the Council in Grand Cayman. A synopsis of these reports is included in this report as Attachment A. The Conclusions and Recommendations drawn from these exercises have been written up by the Secretariat in a draft document now under study by a CFATF Working Group. This Working Group is to consider, among other things, what effect, if any, findings made through these exercises will have on the CFATF 19 Recommendations. The Working Group's deliberations are scheduled to continue through and conclude by the end of the 1998 - 1999 term.

Regarding non-bank financial institutions, typology exercises conducted to date indicate that, in distinct contrast to the North American context, currency exchange, cheque cashing and money remittance transactions in CFATF member states are conducted to a great extent within formal banking structures which are already subject to counter money laundering measures.

Although envisaged as part of the initial Typology Exercise calendar, the Plenary concluded that an examination of money laundering, in the Non-bank Financial Institutions would not provide any significant additional information to assist the CFATF response to the FATF 40 Revised Recommendations. Consequently, the CFATF does not at this time contemplate conducting a typology exercise focused specifically on non-bank financial institutions.

### **STAGE ONE -- DOMESTIC FINANCIAL INSTITUTIONS**

The first CFATF Typology Exercise, conducted in Port of Spain February 27 and 28, 1997, focused on money laundering through domestic financial institutions as viewed from the perspective of various law enforcement, including regulatory, authorities. This first exercise established that money launderers do not limit themselves to domestic financial institutions. Launderers use established and new banking technologies, domestic and offshore banks and businesses, non-bank financial institutions, and other entities. Their methods evolve continually to evade counter measures by governments and the private sector and therefore must be closely studied in all areas where it occurs.

For these reasons, the Plenary resolved following this first exercise to include in the CFATF typology programme not only domestic financial institutions but to examine as well money laundering in three other areas: a) the casino and gaming industry; b) International Finance; and, c) non-bank financial institutions.

### **STAGE TWO MONEY LAUNDERING THROUGH THE CASINO AND GAMING INDUSTRY**

In July 1997, Stage Two of the CFATF Typology Exercise, the Casino Regulatory Conference (Money Laundering Risks), was held in Aruba. Experts from the U.S. FinCEN, the U.K. Gaming Board, Aruba, the Bahamas, Canada, Costa Rica, and the private sector considered:

- (i) money laundering risks of the casino/gaming industry;
- (ii) alternative regulatory approaches to address these risks; and
- (iii) the minimum legal and regulatory requirements necessary to avoid and/or control these risks.

In addition to identifying the money laundering risks inherent in the casino and gaming industry, as well as studying several regulatory regimes, the Conference shed light on other potential problem areas including Internet gaming and other commercial ventures, as well as Cybercurrency.

As one of the speakers noted: a Kittitian developed the software for Internet gambling; service providers for Internet gambling are located in the Caribbean; and, service providers for other ongoing Internet commercial ventures, including on-line Internet banking are also located in the Caribbean.

CFATF Member jurisdictions which were identified as having financial institutions conducting on-line services on the Internet included Antigua and Barbuda and Trinidad and Tobago. Services offered by banks in these jurisdictions operating on the Internet include current/V.I.P. accounts, certificate of deposit accounts, foreign exchange, investment management, letters of credit, on-line incorporation and other corporate services. Other jurisdictions with financial institutions having

home pages on the Internet include Barbados, Bermuda, the British Virgin Islands, the Dominican Republic, Jamaica, Grenada, and Trinidad and Tobago.<sup>2</sup>

The dilemma for Caribbean and other governments is that Internet gaming, banking, and other activities are happening largely without any controls. With Internet gaming, companies are cognisant of laws in jurisdictions which might affect their activities and seek to avoid those which are unfavourable or unclear. Jurisdictions like the United States and many in Europe are likely to be avoided because of existing regulations affecting casino, gaming and other activities over telephone lines.

In the absence of any other recognised jurisdiction providing the legislative base, then it is natural that a provider will go to any place where they are accepted. The next alternatives are island countries in the Caribbean and the Pacific where gaming is legal.

This CFATF Typology Exercise focused on these issues and others which are the subject of an ongoing heated debate in the United States, Europe, and New Zealand. Apart from the question of how money laundering might occur through the Internet, there were also raised related conflict of law questions: where does an Internet fraud, money laundering, or other crime occur - in the country where the server is located or where the victim resides?

These and related issues have been considered in reports issued by the FATF, the Group of Ten, the G-7 Heads of State, and private sector organisations in Europe, the United States, New Zealand and elsewhere. These and related issues were brought home to the Caribbean in the CFATF and FinCEN Casino and Gaming Regulatory Conference.

### **STAGE THREE: INTERNATIONAL FINANCE**

In Barbados, the Secretariat briefed the Council on the development of and progress in the CFATF typologies exercises noting, in particular, that the next typologies exercise scheduled for March 25-26, 1998, would focus on the offshore sector. The Council, after brief discussion, determined that a typology exercise focused on the "offshore sector" would be too narrow and risk ignoring the fact that international transactions conducted by both domestic and offshore financial institutions are potentially vulnerable to abuse by money launderers. Accordingly, the Council in Barbados mandated that this typology exercise focus on and be titled "International Finance."

The International Finance Typology Exercise focused generally on money laundering and financial crime risks in international financial transactions. Proceedings began with a review of money laundering case studies involving Caribbean domestic and offshore financial institutions. CFATF Member Governments (Aruba, Cayman Islands, Antigua and Barbuda, and Trinidad and Tobago) presented case studies. Also presenting such case studies were France, the United Kingdom, and the United States.

Following these presentations, various Caribbean bank regulatory experts reviewed the current state of the regulation and supervision of both domestic and offshore financial institutions operating in the region. Cross border banking and the Basle Committee Core Principles for Effective

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<sup>2</sup> The development and utilisation of new technology in banking has not escaped the attention of Caribbean bank supervisory authorities. The Central Bank of the Bahamas hosted the XV Annual Conference of Caribbean Bank Supervisors October 16 - 18, 1997, where the Eastern Caribbean Central Bank, the Bank van de Nederlandse Antillen, and the Central Bank of Belize discussed, *inter alia*, "Technological Innovations and the Implications for the Supervision of the Financial System."

Supervision were next reviewed, followed by a panel discussion comparing internationally accepted and Caribbean minimum standards.

**STAGE FOUR:  
MONEY LAUNDERING THROUGH EMERGING  
CYBERSPACE TECHNOLOGIES**

Taking note of the Plenary's findings following the Casino and Gaming Industry Typology Exercise, the Council in Barbados concluded that the CFATF could not sit idly by. Taking further note of revised FATF Recommendation 13 which provides that "Countries should pay special attention to money laundering threats inherent in new or developing technologies that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes" the Council resolved to add to the CFATF Typology Programme another step focusing on Money Laundering Through Emerging Cyberspace Technology.

The Council mandated that the Secretariat, in close collaboration with the Commonwealth Secretariat and officials from the U.S., U.K., and other interested jurisdictions, develop a programme of activities aimed at sensitising regional governments to the possibilities of money laundering through emerging Cyberspace technologies.

In executing this mandate the CFATF and the Commonwealth Secretariats (hereafter "the Secretariats"), with technical assistance from the U.S. Treasury Department's Financial Crimes Enforcement Network, organised a series of four preliminary tests as a precursor to a Workshop to discuss "Money Laundering through Emerging Cyberspace Technology". The Workshop was held in Port of Spain, Trinidad, May 4-7 1998.

The RAND Corporation was engaged to develop the Workshop materials and to submit these materials to four preliminary tests to be conducted by Caribbean and U.S. legal, bank regulatory, and law enforcement experts. In four separate tests conducted in Washington, D.C., Miami, and Barbados, these experts closely reviewed and edited workshop materials in order to ensure that they were well adapted to regional laws and circumstances and CFATF objectives. Participants in these preliminary tests are identified at Attachment B.

The final workshop materials developed through this system of tests consisted of a hypothetical situation set in the year 2005 and involving a well established merchant family with extensive operations in the Caribbean, the Americas and Europe. The merchant family operated through a network of companies some of which conducted legitimate business and the others of which engaged in money laundering activities. The companies used the Internet and Cyberspace extensively for carrying out their operations.

Delegates to the final workshop, convened in Port of Spain May 4 - 7, 1998, included Attorneys General, Finance Ministries, Central Banks, and high ranking law enforcement officials from CFATF Member Governments. These delegates are identified in Attachment C.

The workshop considered the ramifications of the simulated scenario under the broad headings of due diligence, oversight and supervision, law enforcement, and legal issues and formulated certain conclusions and recommendations for action to be taken by the CFATF Secretariat and CFATF Member Governments. (See Attachment D) Generally, these conclusions and recommendations:

- a. Acknowledge the need to encourage economic growth, while remaining cognisant of the potential for criminal abuse of Internet and cyberpayment mechanisms.
- b. Note the difficulties inherent in monitoring and regulating Internet activities;
- c. Like FATF Recommendation 13, urge special attention to money laundering threats posed in new or developing technologies, adoption of appropriate counter measures, and enhanced international co-operation; and,
- e. Encourage development, in co-operation with the private sector, adequate national responses comprising criminal sanctions and civil remedies for the misuse of computers and computer networks, and laws for the collection, preservation and admissibility of electronic evidence.

In addition to the foregoing, the Workshop requested the Secretariats, working with Member governments, to develop proposals to tackle crime through emerging Cyberspace technologies, and to study private sector proposals for self regulation of the industry and regulation by governments. The Secretariats were further requested to collaborate with international organisations in developing an appropriate multilateral response.

In performing this work, the Secretariats were advised to take into account the views of the Workshop on the following issues:

- a. In the context of oversight and supervision and due diligence:
  - the relevance of enhancing “know your customer” procedures to take into account Cyberspace technology;
  - the usefulness of digital signatures and encryption techniques;
  - the need to ensure the maintenance of adequate records to ensure appropriate monitoring of network activity and to facilitate international sharing of information;
  - the continued relevance of suspicious activity reporting;
  - the need to adapt licensing procedures to cyber technology; and
  - the need to develop appropriate supervisory regimes adapted to Cyberspace.
- b. In the context of law enforcement:
  - subject to judicial oversight and appropriate protection of the right to privacy, the relevance of techniques, both existing and future, for the interception and tracking of communications;
  - subject to proper safeguards, the utility of undercover operations;

- the use of special investigative tools, including informants; and
  - the relevance of licensing information as a tool for investigating cyber financial crime.
- c. In the context of legal issues:
- the application to cyber and other electronic-media records of existing rules covering law enforcement access to information;
  - the need to develop and harmonise laws and regulations governing cyber crimes and cyber activity and the improvement of oversight and enforcement mechanisms;
  - the desirability of developing common licensing standards for Internet Service Providers and approval procedures for new gaming software;
  - the need for common definitions of legitimate and illegitimate Cyberspace financial activity;
  - the need to improve mutual legal assistance;
  - the need to develop rules to ensure cyber crime cases are brought in the appropriate jurisdiction; and,
  - the need to consider international law and sovereignty issues..

Finally, in reaching these conclusions, the Workshop noted and was strongly of the view that national capacities, resources, economic circumstances and training and technical assistance needs had to be taken fully into account in formulating any proposals for further action to be taken by CFATF and Commonwealth member governments.

#### **THE EUROPEAN COMMISSION (E.C.) AND U.S. FUNDED REGIONAL PROJECT**

At the Council Meeting in Barbados, it was announced that CARIFORUM and the European Commission and the U.S. have undertaken to jointly finance a regional training and technical assistance initiative based upon the CFATF proposal and the subsequent "Project Idea" by UNDCP. The CARIFORUM/E.C./U.S. initiative, entitled "Caribbean Regional Anti-Money Laundering Programme (1997 - 2001)", proposes legal and judicial, enforcement agency, and financial sector projects.

A Financing Agreement was later signed between CARIFORUM and the European Commission on September 22, 1998. It allocates ECU 4.0 million to the programme and envisages additional donor support from the USA and the UK. Although this commitment of funds was announced in October 1997 in Barbados, as of the date of this Annual Report, no CARIFORUM funds have been made available to the CFATF.

Also at Barbados, the UK announced that it would fund and help identify from the UK a suitable candidate for the position of enforcement agency technical adviser. As of the date of this writing, the UK has advertised the position to identify a suitable candidate and has programmed interviews for March, 1999.

Prior to the Council Meeting in Barbados, the U.S. had, by letter dated September 19, 1997, advised the Secretariat of its contribution of US\$ 480,000 and soon thereafter remitted the funds.

Subsequently, the U.S. by letter dated June 17, 1998, advised the E.C. of its intention to contribute additional funds for the remaining years of the project, expected to be five years. Shortly thereafter, by letter dated September 18, 1998, the U.S. advised the Secretariat of its contribution of US\$ 600,000 to the Secretariat for implementation of the regional anti-money laundering project by the CFATF. These funds too have been remitted to the Secretariat.

In the interests of securing progress while awaiting the completion of E.C. procedures required as a condition precedent to the disbursement of funds, the U.S., by letters dated March 6, 1998, and June 15, 1998, authorised the application of its contribution to configure and furnish project office space. In April, the CFATF Secretariat moved to new office space contributed by the Government of Trinidad and Tobago. This space was configured and furnished using a combination of Secretariat and Regional Project Funds.

The U.S. also authorised the use of its contribution to advertise for and hire a Project Manager and for payment of his/her emoluments during the first year, provided that the candidate selected were either a Caribbean National or an American, preferably Caribbean.

In accordance with terms of reference established by the project document, the E.C., and the U.S., the Secretariat advertised in regional press for a project manager. Twenty-one applications were received. From these, six candidates were selected for interviews which were conducted during the course of Plenary VI in Tortola, British Virgin Islands.

Interviews were conducted by the Selection Committee which comprised: the Chairman, represented by Jennifer Edwards; the Deputy CFATF Chairman, represented by Sam Bulgin; Trinidad and Tobago, represented by Dawne Spicer; the European Drug Commission Office, represented by Michel Amiot; the U.S., represented by Rob Boone; and, the CFATF Secretariat represented by the Director and Deputy Director.

Of the six candidates interviewed, Mr. Brian J. Reynolds, O.B.E., was unanimously preferred as the best. Mr. Reynolds is a British citizen who, at the time of the interview, was employed by the U.K. Department for International Development (DFID) on contract until November, 1998. On contract with the IDD, Mr. Reynolds was appointed to reorganise the St. Kitts and Nevis Police Force. In this capacity, he served initially as Commissioner of Police for 2 years and 6 months. Following this initial term, he was appointed as Police Adviser to the Government and the Commissioner of Police of St. Kitts and Nevis and continued in that appointment until the end of his contract in November 1998.

Prior to working as Commissioner of Police of St. Kitts and Nevis, Mr. Reynolds over the course of his career had gained substantial background and experience in five police forces, four in the United Kingdom. This experience ranged over a variety of demanding divisional posts and branches of New Scotland Yard. Since 1967, Mr. Reynolds has been charged with substantial management responsibilities in his various assignments. Between 1982 and 1986, he was Head of the National Drugs Intelligence Unit, New Scotland Yard, London. For the last six years of his service prior to assuming his post as Commissioner of Police in St. Kitts and Nevis, Mr. Reynolds was responsible for a staff of 5,800 and an annual budget of 211 million (sterling).

Most importantly for purposes of the CFATF Regional Project, Mr. Reynolds has been trained in the P.R.I.N.C.E. (British Government system of project management) and has operated a number of large projects in that system. Most recently, for example, the British Development Caribbean Policing Project for St. Kitts and Nevis.

By letter dated 13 October 1998, CFATF Chairman David Simmons extended an offer of employment to Mr. Reynolds who in his letter dated October 14 accepted. Mr. Reynolds is expected to assume office in March 1999.

## EXTERNAL RELATIONS

### FATF

Continuing and reaffirming the established tradition of close co-operation between the FATF and the CFATF, Jean Spreutels, President of the FATF, was invited to address the Council in Barbados. Mr. Spreutels acknowledged this tradition of close co-operation and then proceeded to describe the principal activities which the FATF would undertake under his presidency. He also highlighted and commended "major CFATF initiatives" planned for the forthcoming year" and described the new challenges which the FATF and CFATF would need to address in the future.

Noting the FATF's agreement in 1994 to continue its work for five years, Mr. Spreutels stated that in its ninth round, the FATF would be primarily concerned with deciding its future activities to be undertaken after 1999. As described by the FATF President, issues to be addressed by the FATF included:

- a. Identifying tasks yet to be accomplished in combating money laundering;
- b. Steps to be taken to ensure global acceptance and implementation of the 40 Recommendations;
- c. The future direction, duration, and objectives of the FATF;
- d. Considering whether the most effective way to combat money laundering in the long term is through regional bodies like the CFATF; and,
- e. Determination as to whether new Members should be admitted to the FATF and, if so on what terms.

Mr. Spreutels reported that in the last FATF year six mutual evaluations were conducted, and that these focused on the effectiveness of money laundering counter-measures in place. During his term, he noted, ten such evaluations would take place and all FATF Members were cognisant that the standards set in this second round of mutual evaluations were higher than those employed in the first.

Mr. Spreutels described the FATF's determination to make the self assessment process more dynamic and useful. He noted that the FATF would not limit this process to one involving correspondence between Members and the Secretariat. Rather, he reported, the FATF had adopted a means of following up on written answers through a question and answer procedure at Plenary Meetings.

Regarding typology exercises conducted during Mr. Spreutels' tenure, FATF law enforcement experts would focus on non-financial businesses and professions, as well as the money remittance industry. The need for such work, Mr. Spreutels noted, was based upon the shift of money launderers away from banks and towards non-bank financial institutions, and the FATF's belief that an ongoing assessment of current and future money laundering threats is an essential part of its work and of any regional body which aims to combat money laundering. As stated by the FATF President: "If one does not know the nature of the threat one cannot act against it."

The FATF External Relations Strategy for 1998, Mr. Spreutels noted, would be directed towards support of regional bodies such as the CFATF, and focused in areas of the world where anti-money laundering work has not kept pace with the FATF/CFATF, e.g. Africa and the Middle East. Mr. Spreutels also spoke of the FATF's intention to continue its dialogue with the financial services industry. He announced that in Brussels in June, 1998, a financial services forum would be held

where industry representatives would be provided with an opportunity to meet with FATF Government officials to discuss issues of importance including feedback on suspicious transactions.

Regarding the CFATF, Mr. Spreutels commended the adoption of a mandatory mutual evaluation calendar, the exchange of CFATF and FATF Mutual Evaluation Reports and Summaries, and the possible reciprocal participation in each organisation's Mutual Evaluation visits. Reiterating the FATF concern with evolving money laundering techniques, he commended the CFATF's conduct of typology exercises and commented that the FATF looks forward to hearing the results of the CFATF review.

Mr. Spreutels acknowledged the creation of the CFATF Steering Group. He also noted the utility of this Group which, he stated, would like its FATF counterpart provide guidance in the formation of policy, expert advice, and general support to the CFATF Chairman. In closing, Mr. Spreutels reviewed those challenges that we (the FATF and CFATF ) will face in the future. These include: emerging cyberpayment technologies which have been reviewed by the FATF and would this year be studied by the CFATF; and, the trend toward use of non-bank financial institutions by money launderers.

Mr. Spreutels concluded by congratulating the CFATF for the significant progress it had achieved over the last year and is continuing to make, and by reaffirming the FATF's commitment to continued excellent mutual co-operation between our two organisations.

#### **DUBLIN GROUP MEETINGS**

During the course of 1998, the Secretariat attended meetings of the Dublin Group convening in Port of Spain and Barbados. Members of the Dublin Group include Ambassadors from Canada, France, Japan, the Netherlands, the Federal Republic of Germany, the United States, and the United Kingdom and UNDCP and E.C. representatives accredited to Trinidad and Tobago and Barbados. They convene regularly to discuss and to ensure co-ordination between their respective training and assistance initiatives. The CFATF Secretariat, since its establishment in Trinidad, has been a regular member of these two groups, attending all their meetings and advising them of CFATF initiatives and the training and technical assistance needs of Members.

#### **UNDCP**

Eighteen months after the recommendations of the Regional Plan of action on Drug Control Co-ordination and Co-operation (May 1996, Barbados), UNDCP convened the 2<sup>nd</sup> Regional Meeting on Drug Control Co-ordination and Co-operation (8 and 9 December 1997, Santo Domingo) to review progress made in implementation of the Regional Plan, also called the Barbados Plan. The Meeting brought together Ministers and Senior Technical Officers representing 16 independent Caribbean countries, 1 US Commonwealth State, the 2 Dutch Associated States in the Caribbean, 5 British Overseas Territories, the 3 French Overseas Department, 7 Caribbean organisations, including the CFATF, 10 countries with interests in the region, 4 international and regional organisations; and 13 UN bodies.

Most significantly for the CFATF, the Meeting AGREED, *inter alia*, to:

initiate activities in the area of prevention of money laundering in the Caribbean, on the basis of the UNDCP/CFATF proposal and the EU/US regional money laundering project proposal and to link activities under this project with those of other related projects, such as, *inter alia*, the UWI/Legal Training and the UNDCP Global Programme on Money Laundering; and,

to implement the regional money laundering project proposal through CFATF in association with the European Commission, the United States, and other co-operating and supporting countries. The location of the project office is to be determined by the Council of the CFATF by 1 March 1998.

In addition to the foregoing initiative, the CFATF has continued its participation in the UNDCP Caribbean Programme in Support of the Barbados Plan of Action. Specifically, the Secretariat has provided the UNDCP Regional Office for inclusion in the Caribbean Co-ordination Mechanism (CCM) Database information regarding Mutual Evaluations conducted to date and those scheduled for the future. Additionally, the Secretariat has compiled and before year's end will forward to UNDCP for inclusion in the AMLID database drug control, bank regulatory, and anti-money laundering legislation of all CFATF Members that have undergone Mutual Evaluation.

## **PUBLIC SPEAKING**

As in 1997 and years past, during 1998 the Secretariat continued to receive and to accept numerous invitations to address conferences convened by regional governments as well as private sector organisations. The Secretariat made presentations on money laundering methods and countermeasures, money laundering vulnerabilities of domestic and offshore financial service providers and commercial enterprises, the CFATF Recommendations and anti-money laundering programmes, procedures, and legislation to: the Meeting of Bank Supervisors convened by the Caribbean Bankers' Association and co-hosted by that organisation and the Central Bank of The Bahamas; bankers, bank regulators, and other law enforcement officials at a conference sponsored by the Government of Dominica; the Trinidad and Jamaica Institute of Bankers; the Regional Drug Commanders Conference in Saint Lucia; the Meeting of the ACCP in Saint Maarten; the INTERPOL/FOPAC in Lyon, France; bank officials, regulators and other government officials convened in Saint Lucia by that country's Government.

In addition to the foregoing, the Secretariat addressed the FATF Plenary in February and June, and the FATF Financial Services Forum in Brussels, also in June. Equally important, the Secretariat made a presentation to and participated in a meeting of International Organisations convened by the U.N. Global Anti-Money Laundering Programme in Vienna, Austria.

On the margins of the CFATF Plenary in Tortola, the Secretariat addressed a local chapter of the Rotary Club, addressing the issue of the shift in money laundering from the financial services industry to the commercial sector.

Finally, CFATF Chairman Designate George McCarthy addressed a meeting of Ministers of Commonwealth States convened by the Commonwealth Secretariat in June of this year. At this meeting, the CFATF was held up to public international scrutiny as a sterling example of a successful regional anti-money laundering organisation. Mr. McCarthy on behalf of the CFATF responded to the invitation to recount to Commonwealth Ministers in attendance at this meeting the reasons for the successes enjoyed by the CFATF. Summarising briefly, Mr. McCarthy explained that the CFATF had established and successfully implemented three cardinal principles for its success: parity; full participation; and inclusion.

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With respect to this first principle, the CFATF had secured for itself as an organisation and for its Member Governments Parity with other Governments and International Organisations in the international dialogue on anti-money laundering measures. Simultaneously, Mr. McCarthy explained that the CFATF had ensured for itself and for its Member Governments full participation in the ongoing international debate on the same and related issues. Finally, he noted that every reasonable

measure had been taken to ensure that through the CFATF all its Members were included as full participants in the ongoing international dialogue regarding anti-money laundering measures.

#### **INTERNATIONAL ORGANISATIONS**

In addition to the E.C., the FATF, and UNDCP mentioned above, during 1998, the Secretariat maintained relations with the Commonwealth Secretariat, the Offshore Group of Banking Supervisors (OGBS), OAS/CICAD, INTERPOL, and CCLEC. Additionally, the CFATF invited and secured OGBS, Basle Committee, CIFAD, U.S. Treasury (FinCEN) and IMF participation in its International Finance Typology Exercise. In close collaboration with the Commonwealth Secretariat and the U.S. Department of the Treasury (FinCEN), the CFATF designed , co-funded, and executed the Money Laundering Through Emerging Cyberspace tests and workshops. Finally, the Secretariat engaged the IADB in discussions regarding the formation of training and technical assistance programmes in Central America and secured IADB representation at the CFATF Plenary in Trinidad in March.

A visit to Saint Vincent and the Grenadines organised by the Dublin Group based in Barbados provided the Secretariat with a valuable opportunity to apprise itself of circumstances and current issues in that Member jurisdiction.

#### **ATTENDANCE AT CFATF MEETINGS**

Meeting in Grand Cayman on November 18 and 19, the Council mandated that the rosters indicating attendance at CFATF meetings be included in the Annual Report. The 1997 - 1998 term of the CFATF began with a Ministerial Meeting held in Barbados October 7 - 8, 1997. The Attendance List for this Ministerial Meeting is set forth at Attachment E. This was followed by three plenaries held as follows. Plenary V and the International Finance Typology Exercise convened in Port of Spain, Trinidad on March 23 - 26, 1998. (Attachment F) Plenary VI was held in Tortola, British Virgin Islands, on August 17 - 20, 1998. (Attachment G) Finally, Plenary VII convened for one day on November 18, in Grand Cayman, Cayman Islands. (Attachment H)