



**Financial Action Task Force  
on Money Laundering**  
Groupe d'action financière  
sur le blanchiment de capitaux

**ANNUAL REPORT  
2001–2002**

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# FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING

## ANNUAL REPORT 2001-2002

### SUMMARY

1. Hong Kong, China<sup>1</sup> chaired the thirteenth round (2001-2002) of the Financial Action Task Force on Money Laundering (FATF). A significant achievement of the round was the FATF response to counter the financing of terrorism. Following the events of 11 September 2001, the FATF met in an extraordinary session on 29-30 October 2001 in Washington DC to consider the necessary steps for preventing and combating terrorist financing activity. The result of the meeting was the FATF's decision to expand its mandate to include terrorist financing. The other concrete achievements of the meeting were the establishment of new international standards for combating terrorist financing – the Eight Special Recommendations – and the development of a comprehensive Plan of Action for implementing them.

2. The key objective of the Plan of Action was the completion, in January 2002, by FATF member jurisdictions of the first phase of a self-assessment exercise against the Special Recommendations on combating terrorist financing.<sup>2</sup> All countries in the world have also been invited to participate in this assessment process on the same terms as FATF members. Another important objective of the Plan was the publication in April 2002, of the FATF Guidance for Financial Institutions in Detecting Terrorist Financing.

3. Since November 2001, the FATF Eight Special Recommendations on terrorist financing have been endorsed by many non-FATF members and international organisations and bodies. At a global Forum on the financing of terrorism, held in Hong Kong, China, on 1 February 2002, 65 jurisdictions from FATF, FATF-style regional bodies and the Offshore Group of Banking Supervisors, as well as nine international organisations, stressed the need for all countries in the world to adopt and implement the Special Recommendations. The Forum called on all non-FATF jurisdictions to participate in the self-assessment exercise on terrorist financing.

4. According to the priorities agreed to in the review of the FATF's remit for 1999-2004 and approved by the Ministers of the FATF member countries on 28 April 1998, the activities of the Task Force have continued to focus on three main areas:

- the spreading of the anti-money laundering message to all continents and regions of the globe;
- the improvement of FATF members' implementation of the Forty Recommendations;
- the strengthening of the review of money laundering methods and counter-measures.

5. The other achievements of FATF-XIII included significant progress in the work on non-cooperative countries or territories (NCCTs), the development of collaboration with the international financial institutions and the publication of a Consultation Paper on the review of the Forty Recommendations.

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<sup>1</sup> The FATF President was Mrs. Clarie Lo, Commissioner for Narcotics of the Hong Kong Special Administrative Region Government.

<sup>2</sup> The results of the self-assessment exercise of members vis-à-vis the Eight Special Recommendations are contained at Annex B.

6. The FATF completed the third phase of its key initiative on non-cooperative countries and territories. The progress on this initiative is reflected in a separate update of the review to identify NCCTs,<sup>3</sup> carried out in 2000 and 2001.
7. Co-operation with the international organisations concerned with combating money laundering was marked by reinforced collaboration with the International Financial Institutions (IFIs), to develop an international methodology to assess anti-money laundering and counter-terrorist financing measures.
8. The Task Force pursued its comprehensive review of the Forty Recommendations. On 31 May 2002, the FATF released a Public Consultation Paper<sup>4</sup> which sets out the range of issues considered in the review and provides options for dealing with the risks or proposals that have been raised. The FATF has invited all interested parties to comment on the proposals contained in the Consultation Paper by 31 August 2002. A Forum with the private sector representatives and non-members will be organised in October 2002 to discuss the issues raised in the Consultation Paper.
9. As in previous years, the Task Force continued to monitor members' implementation of the Forty Recommendations on the basis of the self-assessment procedure.<sup>5</sup> In conjunction with the Gulf Cooperation Council (GCC), the FATF conducted the mutual evaluations of two GCC member States -- the United Arab Emirates and Qatar.<sup>6</sup>
10. The review of current and future money laundering threats has continued to be an essential part of the FATF's work. Chaired by New Zealand, the annual exercise examined terrorist financing typologies and focused on a number of other issues, including correspondent banking, private banking and corruption, bearer securities and other negotiable instruments.
11. In line with the FATF's policy for expanding its membership and on the basis of a substantial political commitment, South Africa will be invited to join the FATF as an observer in October 2002. Finally, the African Development Bank and the Egmont Group of Financial Intelligence Units were granted observer status within the FATF.

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<sup>3</sup> See *FATF Review to Identify Non-Cooperative Countries or Territories: Increasing the Worldwide Effectiveness of Anti-Money Laundering Measures*, 21 June 2002. This report is available at the following website address: [http://www.fatf-gafi.org/NCCT\\_en.htm](http://www.fatf-gafi.org/NCCT_en.htm).

<sup>4</sup> This document is available through the FATF website at the following address: [http://www.fatf-gafi.org/40RecsReview\\_en.htm](http://www.fatf-gafi.org/40RecsReview_en.htm).

<sup>5</sup> See Annex C.

<sup>6</sup> Summaries of the evaluations can be found in Annex G.

## INTRODUCTION

12. The Financial Action Task Force was established by the G-7 Summit in Paris in July 1989 to examine measures to combat money laundering. In 1990, the FATF issued Forty Recommendations to address this problem. The Recommendations were revised in 1996 to reflect changes in money laundering trends. The current membership of the FATF comprises twenty-nine governments<sup>7</sup> and two regional organisations,<sup>8</sup> representing the major financial centres of the Americas, Europe and Asia. The delegations of the Task Force's members are drawn from a wide range of disciplines, including experts from the Ministries of Finance, Justice, Interior and External Affairs, financial regulatory authorities and law enforcement agencies.

13. In July 2001, Hong Kong, China succeeded Spain to the Presidency of the Task Force for its thirteenth round of work. An exceptional number of five Plenary meetings was held in 2001-2002, two at the headquarters of the OECD in Paris, one in Washington D.C., United States, one in Hong Kong, China, and one in Rome, Italy. A special experts' meeting was held at the end of 2001 in Wellington, New Zealand, to consider methods, trends and counter-measures related to money laundering and terrorist financing. Several meetings of specialised Working Groups dealing with the review of the Forty Recommendations took place outside the regular meetings of the Plenary.

14. The FATF remains fully committed to the work of FATF-style regional bodies (FSRBs), namely the Asia/Pacific Group on Money Laundering (APG), the Caribbean Financial Action Task Force (CFATF), the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), the Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures of the Council of Europe (PC-R-EV) and South American Financial Action Task Force (GAFISUD). The FATF President and Secretariat, as well as certain FATF members, attended the meetings of such groups. Finally during FATF-XIII, the FATF has continued to co-operate closely with international and regional organisations concerned with combating money laundering, and representatives of such bodies participated in the work of the FATF. Representatives from the African Development Bank, the Asia Development Bank, the Commonwealth Secretariat, the Egmont Group of Financial Intelligence Units, the European Central Bank (ECB), Europol, the International Monetary Fund (IMF), the Inter-American Development Bank (IADB), the Inter-American Drug Abuse Control Commission of the Organisation of American States (OAS/CICAD), Interpol, the International Organisation of Securities Commissions (IOSCO), the Offshore Group of Banking Supervisors (OGBS), the United Nations Office for Drug Control and Crime Prevention (UNODCCP), the United Nations Security Council Counter-Terrorism Committee, the World Bank, and the World Customs Organisation (WCO) attended various FATF meetings during the year.

15. Parts I, II, III and IV of the report outline the progress made over the past twelve months in the following four areas:

- Countering the financing of terrorism.
- Spreading the anti-money laundering message throughout the world.
- Strengthening the review of money laundering methods and counter-measures.
- Improving the implementation of the Forty Recommendations.

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<sup>7</sup> Argentina; Australia; Austria; Belgium; Brazil; Canada; Denmark; Finland; France; Germany; Greece; Hong Kong, China; Iceland; Ireland; Italy; Japan; Luxembourg; Mexico; the Kingdom of the Netherlands; New Zealand; Norway; Portugal; Singapore; Spain; Sweden; Switzerland; Turkey; the United Kingdom and the United States.

<sup>8</sup> European Commission and Gulf Co-operation Council.

## I. COUNTERING THE FINANCING OF TERRORISM

16. Following the events of 11<sup>th</sup> September in the United States, the FATF met in an extraordinary session on 29-30 October 2001 to consider the steps that needed to be taken. At this very important meeting which took place in Washington DC, the FATF acted decisively to establish clear standards for the prevention of terrorist financing, for the tracking down and interception of terrorists' assets and for the pursuit of individuals and countries suspected of participating in or supporting terrorism.

17. In response to the threat posed by terrorists and terrorist organisations, FATF expanded its mandate to include the combating of terrorist financing. Another concrete accomplishment of the meeting was the setting up of new international standards for combating terrorist financing and a Plan of Action for implementing them. All FATF members except Iceland have provided endorsement at a political level for both these new standards and for the expansion of the FATF mandate.

### A. THE EIGHT SPECIAL RECOMMENDATIONS AND THE FATF'S PLAN OF ACTION

18. The FATF has adopted Eight Special Recommendations against terrorist financing.<sup>9</sup> These Recommendations have been developed in addition to the existing Forty Recommendations which are accepted as the internationally recognised global standard for combating money laundering. The set of new Recommendations commit FATF members to undertake the following actions:

- Take immediate steps to ratify and implement the relevant United Nations instruments;
- Criminalise the financing of terrorism, terrorist acts and terrorist organisations;
- Freeze, seize and confiscate terrorist assets;
- Report suspicious transactions linked to terrorism;
- Provide the widest possible range of assistance to other countries' law enforcement and regulatory authorities for terrorist financial investigations;
- Impose anti-money laundering requirements on money remittance systems, including informal value transfer systems;
- Strengthen customer identification measures in international and domestic wire transfers; and
- Ensure that entities, in particular non-profit organisations, cannot be misused to finance terrorism.

19. In order to secure the swift and effective implementation of these new standards, the FATF agreed to an overall Plan of Action. Immediately after the issuance of the Eight Special Recommendations, the FATF developed a self-assessment questionnaire to help evaluate the level of implementation of the Eight Special Recommendations. In January 2002, FATF member jurisdictions completed the first phase of a self-assessment exercise against the Special Recommendations. All countries of the world have now also been invited to participate on the same terms as FATF members.

20. In April 2002, the FATF issued a document describing the methods of terrorist financing and the types of financial activities constituting potential indicators of such activity. The aim of this guidance is to assist financial institutions and other vulnerable entities in detecting and reporting terrorist financing through the existing anti-money laundering channels. To prepare this guidance, members studied and discussed relevant cases of terrorist financing in the FATF Typologies meeting which was held in Wellington, New Zealand on 19-20 November 2001. This year's FATF typologies report,<sup>10</sup> which was published on 1 February 2002, contains an in-depth analysis of the methods used

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<sup>9</sup> The full text of the Special Recommendations is at Annex A.

<sup>10</sup> The report is available through the FATF website at: [http://www.fatf-gafi.org/FATDocs\\_en.htm#Trends](http://www.fatf-gafi.org/FATDocs_en.htm#Trends).



in the financing of terrorism. This report and the guidance will be updated regularly as the FATF and its members increase their knowledge of the financing of terrorism.

21. In addition to the above, after June 2002, the FATF will begin developing a process to identify weaknesses in the world-wide efforts to combat terrorist financing. This process will include the development of guidance on implementing the 8 Special Recommendations and the identification of jurisdictions with inadequate measures to combat the financing of terrorists.

#### **B. THE SELF-ASSESSMENT OF FATF MEMBERS VIS-À-VIS THE EIGHT SPECIAL RECOMMENDATIONS**

22. Immediately following the adoption of the Eight Special Recommendations on terrorist financing, the FATF undertook to assess the level of implementation of the Special Recommendations through a self-assessment exercise. A questionnaire on terrorist financing (SAQTF) was developed with a series of questions for each of the Special Recommendations. As for the self-assessment process with regard to the Forty Recommendations, the questions were designed to elicit details that help determine whether a particular jurisdiction has in fact implemented a particular Special Recommendation. The questionnaire took into account the guidance issued by the UN Security Council Committee established for monitoring the implementation of UN Security Council Resolution 1373 (2001) of 28 September 2001 [S/RES/1373(2001)]. Where appropriate, questions in the self-assessment questionnaire contain cross-references to the relevant provisions set out in the UN guidance and S/RES/1373(2001).

23. FATF members submitted responses to the SAQTF in January 2002. The information was used in preparing a first analysis of the overall implementation of the Eight Special Recommendations and to help identify problems in interpretation or implementation. As a result of some of the conclusions of the first analysis, the FATF produced additional guidance on the SAQTF and the Special Recommendations, which was published on the FATF website in March 2002. The first SAQTF was modified somewhat (questions on UN Security Council Resolution 1390 were added), and another call was made on all non-FATF member jurisdictions to participate in the self-assessment process. The additions to the SAQTF were also circulated to FATF members to elicit their responses and to ensure that FATF and non-FATF members are providing answers to the same questions.

24. The results are encouraging for this first self-assessment of FATF members against the Special Recommendations. The overall picture that emerges from these results appears to show that FATF members have made a great deal of progress in a very short time (eight months) in putting counter-terrorist financing measures into place.<sup>11</sup> SR III (Freezing and confiscating terrorist assets) has the best compliance level with just over three-quarters of the FATF membership reporting full implementation, and the level for SRV (International co-operation) follows close behind with just under three-quarters. Around two-thirds of FATF members have achieved full compliance with SRs II (Criminalising terrorist financing) and IV (Reporting suspicious transactions related to terrorism). For SRs VI (Alternative remittance) and VII (Wire transfers), approximately half of the FATF has implemented measures fully, although in both cases a good number additional members have some measures in place.

25. Despite the extraordinary steps taken since last October to put necessary counter-terrorist financing measures into effect, there is still some work to be done by the FATF to ensure that its members have fully implemented the Special Recommendations. With regard to SR 8 (Non-profit organisations), for example, FATF members decided to give additional consideration of this issue before proceeding to a full analysis of the self-assessment results. With regard to SR I (Ratification

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<sup>11</sup> A table showing the overall results for each FATF member is included at Annex B. This table will also be available on the FATF website (<http://www.fatf-gafi.org>) and will be updated as FATF members continue to make progress in implementing the Special Recommendations.

and implementation of UN instruments), the self-assessment results show only four FATF members at full implementation. Most members have fully implemented the UN Security Council Resolutions; however, the majority of members still have not ratified the UN Convention on the Suppression of Terrorist Financing. During the June 2002 Plenary, several members reported that the legislative process was nearing completion in their respective jurisdictions and that they would shortly be able to report full implementation of SR I.

### C. INTERNATIONAL MOBILISATION AND THE WORLD-WIDE SELF-ASSESSMENT EXERCISE ON TERRORISM FINANCING

#### Forum on Terrorist Financing

26. The fight against terrorist financing requires the united effort of countries around the world, including both FATF and non-FATF members. Therefore, on 1 February 2002, the FATF held a special Forum on terrorist financing at the conclusion of its Plenary meeting in Hong Kong, China. Sixty-five jurisdictions from the FATF and from the FATF-style regional bodies in Asia, Eastern and Southern Africa, South America, Caribbean and Europe, and the Offshore Group of Banking Supervisors participated in the Forum. In addition, nine international organisations also attended.

27. All jurisdictions present agreed on the importance of global adoption and implementation of the Eight Special Recommendations and of joining the FATF's efforts to combat terrorist financing. FATF members repeated their commitment to assist non-members, as appropriate, in complying with the Special Recommendations.

#### World-wide self-assessment exercise

28. The participating non-FATF countries also agreed to take part in a self-assessment exercise relating to the Eight Special Recommendations on the same terms as FATF members and to return the completed self-assessment questionnaire to the FATF Secretariat before 1 May 2002. As indicated in the previous section, upon completion of the initial phase of this exercise by FATF members, it was decided that additional guidance would be drafted and published to assist non-FATF members to understand some of the concepts contained in the Special Recommendations on terrorist financing and to clarify certain parts of the SAQTF. Therefore, in March 2002, the FATF published Guidance Notes for the Special Recommendations on Terrorist Financing and the Self-Assessment Questionnaire.<sup>12</sup>

29. To encourage countries to join in the FATF's efforts in the global fight against terrorist financing, at the beginning of March 2002, the FATF President wrote to all UN Ambassadors to invite their governments to participate in the self-assessment exercise vis-à-vis the Eight Special Recommendations. To date, **58** non-FATF members have returned a completed questionnaire to the FATF Secretariat.<sup>13</sup> The FATF is encouraged by the number of jurisdictions, which have responded so far in this self-assessment exercise. The FATF nevertheless calls on all jurisdictions which have not already done so, to complete the self-assessment questionnaire regarding the Eight Special Recommendations and to return it to the FATF Secretariat no later than 1 September 2002.

#### Co-operation with other international organisations

30. Another aspect of the global mobilisation against terrorist financing relates to the co-operation between the FATF and the international community. Since November 2001, the FATF has

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<sup>12</sup> This guidance is available through the FATF website at: [http://www.fatf-gafi.org/TerFinance\\_en.htm](http://www.fatf-gafi.org/TerFinance_en.htm).

<sup>13</sup> The list of countries and territories, which have participated in this exercise so far, will be available on the FATF website after the June 2002 Plenary meeting.

intensified its co-operation with the FATF-style regional bodies and international organisations and bodies, such as the United Nations, the Egmont Group of Financial Intelligence Units, the G-20 Finance Ministers and Central Bank Governors and the International Financial Institutions, which support and contribute to the international effort against money laundering and terrorist financing. In February 2002, the FATF President addressed the United Nations Security Council Counter-Terrorism Committee (UNSC CTC) in New York and briefed the Financial Stability Forum meeting in March 2002 in Hong Kong, China, as well as the International Monetary and Financial Committee (IMFC) Deputies meeting in April 2002 on the FATF's initiatives to combat the financing of terrorism. Representatives of the UNSC CTC also updated the FATF members on their work on the occasion of the FATF Plenary meetings.

## II. SPREADING THE ANTI-MONEY LAUNDERING MESSAGE THROUGHOUT THE WORLD

31. As the primary objective of its current mandate, the FATF is committed to promoting anti-money laundering initiatives in all continents and regions of the globe and to building a world-wide anti-money laundering network. This strategy consists of three main components: enlarging the FATF membership, developing credible and effective FATF-style regional bodies, and increasing co-operation with the relevant international organisations.

32. The FATF continued its collaboration with these relevant international organisations/bodies, and participated in several anti-money laundering events organised by other bodies. To increase the effectiveness of international anti-money laundering efforts, the FATF and the other organisations and bodies endeavour to co-ordinate their activities through an annual co-ordination meeting and meetings of various regional ad hoc groups which take place in the margins of the FATF Plenary. During 2001-2002, co-operation with the international organisations was marked by significant progress on the development of an anti-money laundering/counter terrorist financing methodology, based on the Recommendations of the FATF.

33. In addition, FATF has continued its important and ongoing work on non-cooperative countries and territories in the fight against money laundering by monitoring the continued progress made by NCCTs, and by recommending that FATF members apply counter-measures to those NCCTs which had not made adequate progress.

### A. FATF EXPANSION

34. According to the objectives agreed upon in the review of the FATF's future (carried out in 1998), the FATF has decided to expand its membership to include a limited number of strategically important countries<sup>14</sup> which could play a major role in their regions in the process of combating money laundering.

35. The criteria for admission are as follows:

- to be fully committed at the political level: (i) to implement the 1996 Recommendations within a reasonable timeframe (three years), and (ii) to undergo annual self-assessment exercises and two rounds of mutual evaluations;
- to be a full and active member of the relevant FATF-style regional body (where one exists), or be prepared to work with the FATF or even to take the lead, to establish such a body (where none exists);

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<sup>14</sup> Irrespective of their level of economic development.

- to be a strategically important country;
- to have already made the laundering of the proceeds of drug trafficking and other serious crimes a criminal offence; and
- to have already made it mandatory for financial institutions to identify their customers and to report unusual or suspicious transactions.

36. Following the addition of Argentina, Brazil and Mexico to the FATF membership in June 2000, the representation of Central and South America was thus reinforced. The FATF is now considering the possible membership of other strategically important countries from other regions in which the FATF wants to strengthen representation. FATF has recently taken a more active approach on the enlargement of the membership and has therefore undertaken several FATF high-level missions to target countries. As a result, in June 2002, following its written political commitment to endorse the Forty Recommendations, to undergo two mutual evaluations and to play an active role in its region, it was decided that the Republic of South Africa would be invited to join the FATF as an observer and to attend the next Plenary meeting in October 2002. The FATF will continue to address the issue of possible new members in 2002-2003.

## B. DEVELOPMENT OF FATF–STYLE REGIONAL BODIES AND THE OGBS

37. Active efforts have continued to support or foster the development of FATF-style regional bodies (FSRBs) in all parts of the world. These groups, which have similar objectives and tasks to those of the FATF, provide the same peer pressure, which encourages FATF members to improve their anti-money laundering systems. The FATF-style regional bodies have expanded or are in the process of expanding their mandate to include the fight against terrorist financing and to endorse the Eight Special Recommendations of the FATF. Such groups now exist in the Caribbean, Europe,<sup>15</sup> Asia/Pacific, Eastern and Southern Africa, and in South America<sup>16</sup>. Further groups are still in the process of being established for Western and Central Africa. In parallel, the Offshore Group of Banking Supervisors (OGBS) is implementing a strategic plan of action from 2001-2004 to combat money laundering and terrorist financing.

### Caribbean Financial Action Task Force

38. The Caribbean Financial Action Task Force (CFATF), which was the first FSRB, has a membership of twenty-six States from the Caribbean basin.<sup>17</sup> It was established as the result of meetings convened in Aruba in May 1990 and Jamaica in November 1992. The main objective of the CFATF is to achieve the effective implementation of, and compliance with the nineteen CFATF and Forty FATF Recommendations. The CFATF Secretariat monitors members' implementation of the Kingston Ministerial Declaration through the following activities: self-assessment of the implementation of the Recommendations; an on-going programme of mutual evaluation of members; co-ordination of, and participation in training and technical assistance programmes; plenary meetings twice a year for technical representatives; and an annual Ministerial meeting.

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<sup>15</sup> For the non-FATF members of the Council of Europe.

<sup>16</sup> A complete list of the members and observers of the FSRBs can be found on the FATF website at: [http://www.fatf-gafi.org/Members\\_en.htm#OBSERVERS](http://www.fatf-gafi.org/Members_en.htm#OBSERVERS)

<sup>17</sup> The members of the CFATF are: Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Bermuda, the British Virgin Islands, the Cayman Islands, Costa Rica, Dominica, Dominican Republic, Grenada, Haiti, Jamaica, Montserrat, the Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Turks and Caicos Islands, Trinidad and Tobago and Venezuela.

39. Pivotal to the work of the CFATF is the monitoring mechanism of the mutual evaluation programme. In October 2001 in the Dominican Republic, the CFATF Council of Ministers adopted two mutual evaluation reports (Anguilla and Suriname) and it is expected that the evaluation of the rest of the CFATF members will be completed during 2002. Following the 2000 CFATF Council decision to carry out a second round of mutual evaluations, several on-site evaluation visits have taken place using as benchmarks the CFATF and FATF Recommendations as well as the 25 NCCTs criteria. As a follow-up to the mutual evaluations, CFATF members report regularly to the CFATF Plenary on the improvements made in their individual legal/regulatory frameworks to combat money laundering.

### Asia/Pacific Group on Money Laundering

40. The Asia/Pacific Group on Money Laundering (APG), established in 1997, currently consists of twenty five members<sup>18</sup> from South Asia, Southeast and East Asia and the South Pacific. In June 2002, the APG held its fifth annual meeting in Brisbane, Australia. This meeting discussed and adopted five mutual evaluation reports (Malaysia, Thailand, Fiji Islands, Cook Islands (jointly with the OGBS) and Indonesia), and received and adopted progress reports on the mutual evaluations discussed in 2001. The meeting also formally adopted the 8 Special Recommendations on Terrorist Financing, and all APG members have undertaken to implement these Recommendations.

41. The APG continues and has expanded its typologies work in close consultation with the FATF and other regional bodies. A fourth typologies workshop was held in Singapore in October 2001. The APG's Technical Assistance and Training strategy continues to expand with the support of international and regional organisations. As a consequence, the APG Secretariat will act as a focal point, where possible, for the co-ordination of anti-money laundering technical assistance and training in the region. The APG will also continue to work in the areas of underground banking and information sharing through two working groups.

### Council of Europe (PC-R-EV)

42. The Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (PC-R-EV) was established in September 1997 by the Committee of Ministers of the Council of Europe, to conduct self and mutual assessment exercises of the anti-money laundering measures in place in the twenty-five Council of Europe countries which are not members of the Financial Action Task Force.<sup>19</sup> The PC-R-EV is a sub-committee of the European Committee on Crime Problems of the Council of Europe (CDPC).

43. Since the publication of the last FATF Annual Report (2000-2001), the PC-R-EV has formally completed its first round evaluation programme and has started, in accordance with the agreed schedule, the second round of mutual evaluations. At its plenary meeting in December 2001, reports were discussed on Albania, Georgia and Moldova.<sup>20</sup> The PC-R-EV Plenary meeting on 24-28 June 2002 will discuss the first reports of the second round of mutual evaluations. The PC-R-EV has

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<sup>18</sup> The members of the APG are: Australia; Bangladesh; Chinese Taipei; Cook Islands; Fiji Islands; Hong Kong, China; India; Japan; Macau, China; Malaysia; Nepal, New Zealand; Niue; Pakistan; Republic of Indonesia; Republic of Korea; Republic of the Marshall Islands, Republic of Palau, Republic of the Philippines; Samoa; Singapore; Sri Lanka; Thailand; United States of America and Vanuatu.

<sup>19</sup> The membership of the Committee is comprised of the Council of Europe member States which are not members of the FATF: Albania, Andorra, Armenia, Azerbaijan, Bosnia & Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Georgia, Hungary, Latvia, Liechtenstein, Lithuania, Moldova, Malta, Poland, Romania, Russian Federation, San Marino, Slovakia, Slovenia, "The Former Yugoslav Republic of Macedonia" and Ukraine.

<sup>20</sup> Summaries of all adopted PC-R-EV reports carried out in 2001-2002 appear at Annex D.

in place a mechanism for written progress reports to be presented orally to the plenary by all countries one year after their report has been adopted.

44. In April 2002, in co-operation and with the assistance of the Government of Liechtenstein, the PC-R-EV held its fourth Typologies meeting in Vaduz. It also plans to hold the third PC-R-EV training seminar for mutual evaluators in Limasol in November 2002.

#### The Eastern and Southern African Anti–Money Laundering Group (ESAAMLG)

45. The ESAAMLG, an FATF-style body of fourteen countries in the region,<sup>21</sup> was launched at a meeting of Ministers and high level representatives in Arusha, Tanzania, on 26-27 August 1999. A Memorandum of Understanding (MoU), based on the experience of the FATF and other FATF-style regional bodies was agreed. Pending the establishment of a permanent secretariat, an interim Executive Secretary has been appointed. The ESAAMLG held its second meeting of the Task Force of Senior Officials and Ministers in Windhoek, Namibia, in August 2001. A further meeting of Task Force officials took place in Dar es Salaam, Tanzania in March 2002. The ESAAMLG has launched a self-assessment exercise vis-à-vis the Forty Recommendations, which will be completed by August 2002, when the next Ministerial and Task Force of Officials meetings of the ESAAMLG take place in Swaziland.

#### South American Financial Action Task Force (GAFISUD)

46. The GAFISUD, a new FATF-style regional body, was created at a meeting of Ministers in Cartagena, Colombia on 8 December 2000. In the presence of the President of Colombia and the President of FATF, a Memorandum of Understanding was signed by the nine members of the group.<sup>22</sup> The objectives of the above-mentioned MoU are to recognise and to apply the Forty FATF Recommendations and any other recommendations that the GAFISUD may adopt in the future, as well as to establish and make GAFISUD operational. In December 2001, GAFISUD modified its MOU to extend its mandate to include the fight against terrorist financing, and it endorsed the 8 Special Recommendations.

47. The third Plenary and first Council of Authorities meeting of GAFISUD took place in Santiago, Chile, in December 2001. A permanent secretariat, based in Buenos Aires, Argentina, was established. GAFISUD is implementing its mutual evaluation programme. A first GAFISUD seminar for the training of mutual evaluators, funded and supported by Spain, was held in Santa Cruz de la Siena, Bolivia, in September 2001. At the fourth Plenary meeting of GAFISUD in May 2002, the mutual evaluation reports of Colombia and Uruguay were discussed and approved<sup>23</sup>.

48. In conjunction with the CFATF, GAFISUD held its first typologies meeting in April 2002 in Tobago, Trinidad and Tobago. As discussed at the December 2001 meeting, the GAFISUD Secretariat will act as a clearing house for anti-money laundering training/educational efforts in the region.

#### Other initiatives in Africa

49. Following the December 1999 Summit of the Heads of State and Government of the Economic Community of West African States (ECOWAS) in Lomé (Togo), it was decided to establish an Inter-Governmental Action Group against Money Laundering (GIABA: *Groupe Inter-*

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<sup>21</sup> Botswana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.

<sup>22</sup> The members of GAFISUD are: Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Peru, Paraguay and Uruguay.

<sup>23</sup> A summary of the mutual evaluation reports on Colombia and Uruguay is included at Annex E.

*gouvernemental d'Action contre le Blanchiment en Afrique*). The statutes were approved at the ECOWAS Heads of State meeting in Bamako, Mali in December 2000. The provisional headquarters of GIABA are in Dakar, Senegal. A provisional co-ordinator from Senegal has been appointed. However, no agreement has been reached yet on the funding scheme for this Group.

50. An Action Group against Money Laundering in Africa (GABAC: *Groupe d'Action contre le Blanchiment d'Argent en Afrique Centrale*) was created in December 2000, in N'Djamena, Chad, by the Conference of the Heads of State of the Economic and Monetary Community (CEMAC: *Communauté Economique et Monétaire d'Afrique Centrale*). In December 2001, the internal regulation of this group was agreed by the Executive Board of the Central Bank of Central African States (BEAC: *Banque des Etats d'Afrique Centrale*).

### Offshore Group of Banking Supervisors

51. The conditions for membership in the Offshore Group of Banking Supervisors (OGBS)<sup>24</sup> include a requirement that a clear political commitment be made to implement the FATF's Forty Recommendations. The OGBS has continued to be actively involved in international initiatives concerned with international standards of financial regulation and anti-money laundering measures. The OGBS also set up a Working Group to recommend standards/guidelines for trust and company service providers, on which several FATF members are represented.

52. The OGBS has pursued its programme of mutual evaluations in accordance with the procedures followed by the FATF. A first round of evaluations was completed in 2001 with the evaluation of Gibraltar and Mauritius. The mutual evaluation report of Mauritius was discussed and approved at an OGBS meeting in November 2001.<sup>25</sup> The mutual evaluation report on Gibraltar will be discussed at the OGBS meeting in 2002.

## C. CO-OPERATION WITH OTHER INTERNATIONAL ORGANISATIONS

### International Financial Institutions

53. Since July 2000, the FATF has increased its collaboration with the International Monetary Fund (IMF) and World Bank. In April 2001, the Executive Boards of the IMF and the World Bank decided that both institutions should intensify their work in global anti-money laundering efforts leading to the review of supervisory aspects of anti-money laundering policies in the context of the joint IMF/World Bank Financial Sector Assessment (FSAP) and the IMF's Offshore Financial Centre (OFC) initiative. At its September 2001 Plenary meeting, the FATF established a working group to develop a methodology document to guide the assessment of countries' adherence to the FATF Recommendations for the IMF-World Bank joint programme of a Report on the Observance of Standards and Codes (ROSC).

54. In partial response to the events of 11 September 2001, the International Monetary and Financial Committee (IMFC) and Development Committee endorsed, in November 2001, enhanced participation by the IMF and the World Bank in anti-money laundering work. In April 2002, the IMFC and the Development Committee welcomed the progress made by the IMF and the World Bank in implementing this action plan to intensify the work on anti-money laundering (AML) and combating the financing of terrorism (CFT).

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<sup>24</sup> The Membership of the OGBS includes Aruba; Bahamas; Bahrain; Barbados; Bermuda; Cayman Islands; Cyprus; Gibraltar; Guernsey; Hong Kong, China; Isle of Man; Jersey; Labuan; Macau, China; Mauritius; Netherlands Antilles; Panama; Singapore and Vanuatu.

<sup>25</sup> A summary of the mutual evaluation of Mauritius is included at Annex F.

55. The IMF, the World Bank and the FATF have worked closely to develop a comprehensive AMF/CFT methodology. Finally, the IMF and the World Bank have set up a mechanism to co-ordinate the provision of technical assistance to countries to strengthen their economic, financial and legal systems in the area of anti-money laundering and countering the financing of terrorism.

### United Nations Office for Drug Control and Crime Prevention

56. The Global Programme against Money Laundering (GPML) is a technical co-operation and research initiative implemented by the UN Office for Drug Control and Crime Prevention (ODCCP). Its aim is to increase the effectiveness of international action against money laundering through comprehensive technical co-operation services offered to governments. The Programme is carried out in co-operation with other international and regional organisations.

57. In the context of the GPML, the UNODCCP organised a number of anti-money laundering training and technical co-operation initiatives during 2001-2002, in particular in the area of the establishment of financial intelligence units. In terms of research, the GPML is drafting profiles of the states of Central Asia to identify key money laundering problems in the region surrounding Afghanistan. The GPML is also undertaking a major substantive review of the International Money Laundering Information Network (IMoLIN) website and the Anti-Money Laundering Information Database (AMLID), which the GPML co-ordinates on behalf of the United Nations, the FATF, the Commonwealth Secretariat, the Council of Europe, Interpol, the Organisation of American States and the Asia/Pacific Group on Money Laundering.

### Egmont Group

58. In February 2002 the FATF formalised its long association with the Egmont Group of Financial Intelligence Units (FIUs) by granting the Egmont Group observer status. In June 2002, at its annual meeting, the Egmont Group admitted FIUs from 11 jurisdictions as new members: Andorra, Barbados, Canada, Israel, Republic of Korea, the Marshall Islands, Poland, Russia, Singapore, United Arab Emirates, and Vanuatu. This means that there are now 69 FIUs which are members of Egmont<sup>26</sup>, and recognised by them as FIUs. The Group anticipates examining at least nine more candidate FIUs over the coming year.

59. The June 2002 Egmont Plenary also created an internal structure for the Group by establishing the “Egmont Committee”, which will act as a steering group, and will promote the work of the group between Plenary meetings and represent the group externally. The Egmont Group also organised a special meeting of FIUs directly following the FATF extraordinary Plenary in Washington DC on 31 October 2001. The purpose of the meeting was to ensure that there were no impediments to the exchange of information among FIUs in the combat of terrorist financing.

### European Union

60. On 4 December 2001, the European Union adopted the second EU Anti-Money Laundering Directive amending the 1991 European Council Directive on Prevention of the Use of the Financial System for the Purpose of Money Laundering (91/308/EEC). This text greatly widens the range of predicate offences and extends the obligations of the 1991 Directive (in particular, customer identification and obligatory suspicious transaction reporting) to a range of non-financial activities and professions (including, under certain conditions, the legal professions).

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<sup>26</sup> The full list of Egmont recognised FIUs may be found at the following website address: [http://www.fatf-gafi.org/Ctry-orgpages/org-egmont\\_en.htm](http://www.fatf-gafi.org/Ctry-orgpages/org-egmont_en.htm)



## Interpol

61. Interpol is committed to detecting and preventing acts of terrorism through its vital intelligence work. Following the September 11 terrorist attacks in the USA, Interpol urged its national administrations to take measures to record, and, where appropriate, report financial information connected with, arising from, related to or resulting from terrorists transactions and other crimes, including suspicious and large currency transactions and large currency exchanges involving domestic and/or foreign currency. The dissemination of such information is regulated through an Interpol database and/or national databases. In the case of national databases the sharing of information with other Interpol countries is facilitated. The recommendations also regulate the protection, dissemination and request procedure regarding information contained in the Interpol database

62. Interpol has also developed several initiatives aimed at intensifying co-operation between the law enforcement community and the financial institutions. As result of the 1st International conference on Co-operation between Law Enforcement Agencies and Financial and Banking Institutions, host in Lyon on September 2000, 4 Regional Working Groups tasked to identify mutual needs, challenges/obstacles and opportunities for an enhanced co-operation and for the sharing of information were created. The objective of these working groups is also: “to prevent the use of financial systems by terrorists, organised crime and other criminals in order to protect its integrity”. Interpol has also reorganised its structure and resources to address money laundering and other serious crime issues. Finally, the co-operation between Interpol and the FATF was marked by the address of the Secretary-General of Interpol to the FATF Plenary in October 2001, and the visit of the FATF President to Interpol's headquarters in December of the same year.

## The International Organisation of Securities Commissions (IOSCO)

63. At its May 2002 Annual Conference, IOSCO created a task force that will address money laundering issues and other FATF questions, including issues related to customer due diligence and the identity of beneficial owners raised in the review of the FATF Forty Recommendations. IOSCO also confirmed in its Final Communiqué for its May 2002 Conference its strong commitment to combat money laundering and financial crime.

## Organization of American States/Inter-American Commission for Drug Abuse Control (OAS/CICAD)

64. The CICAD continues to actively co-sponsor and co-ordinate a number of training seminars involving anti-money laundering measures. The CICAD is also an advisory member of GAFISUD. In July 2001, the OAS/CICAD Group of Experts to Control Money Laundering met in Lima, Peru to discuss the following topics: legal analysis of the crime of money laundering; typologies; financial intelligence units and the plan of Action of Buenos Aires.<sup>27</sup> The next meeting of the Group of Experts, which will take place in Mexico City on 16-18 July 2002, will consider the revision of the CICAD's Model Regulations concerning laundering offences connected to illicit drug trafficking and other serious offences.

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<sup>27</sup> In December 1995, the Ministers responsible for addressing money laundering in the States of the Western hemisphere met in Buenos Aires where they endorsed a Statement of Principles to combat money laundering and agreed to recommend to their Governments a Plan of Action reflecting this Statement of Principles for adoption and implementation. The Plan of Action specifically provided that the Governments intended to institute on-going assessments of the implementation of the Plan of Action within the framework of the OAS. This and other activities identified in this Plan were remitted to the CICAD for action.

### World Customs Organisation

65. The World Customs Organisation (WCO), an independent intergovernmental body, addresses money laundering through a variety of its activities. At the end of June 2001, the WCO Council Session (General Assembly) agreed to adopt a recommendation on the role of Customs administrations in tackling money laundering and in recovering the proceeds of crime, for Member administrations to consider, adopt and pursue the best practices. The WCO has also provided technical assistance and training on commercial fraud and money laundering in addition to other activities.

### Commonwealth Secretariat

66. In addition to its continued involvement in setting up the ESAAMLG, the Commonwealth Secretariat organised a workshop on combating money laundering for Botswana, Lesotho, Mauritius, Namibia, Seychelles and Swaziland in November 2001. This workshop in Swaziland was one of a series which the Commonwealth Secretariat intends to carry out for other member countries of the ESAAMLG. The Commonwealth Secretariat also organised and conducted various technical assistance and training initiatives with other organisations and countries. Finally, the Commonwealth Secretariat is currently developing model legal provisions and guidelines to implement UN Resolution 1373 and the FATF Special Recommendations on Terrorist Financing.

### Various international anti-money laundering events

67. In addition to the specific anti-terrorist events already mentioned and regular attendance at meetings of other international or regional bodies during 2001-2002, the FATF President accepted a number of invitations to participate in various international anti-money laundering conferences and seminars, including the following events. In September 2001, the FATF President gave a keynote address on the FATF and the fight against money laundering at the 19<sup>th</sup> International Symposium on Economic Crime in Cambridge, United Kingdom. In November 2001, she gave a presentation at the United Nations International Policy Dialogue on Financial Sector Reforms in Response to Globalisation in Berlin, Germany. In June 2002, the President participated in the High Level Conference on preventing and combating terrorism organised by the Organisation for Security and Co-operation in Europe (OSCE) in Lisbon, Portugal. During the period, the FATF Secretariat also participated in several other international events, including the Wolfsberg Group Conference in January 2001 in Switzerland, the ASEAN Regional Forum and Pacific Islands Forum on Terrorist Financing in March 2002 in Honolulu, United States, the Special Session of the Tenth OSCE Economic Forum in May 2002 in Prague, Czech Republic, and the Egmont Group meeting in June 2002 in Monaco.

68. The FATF Secretariat also attended the International Conference on the *hawala* informal value transfer system in Abu Dhabi in May 2002. This conference, which was organised by the Government of the United Arab Emirates and brought together experts and representatives of international and regional bodies and regulatory and law enforcement agencies, agreed to a declaration on *hawala*. Among other issues, the declaration states that countries should adopt the FATF Forty and Eight Special Recommendations in relation to remitters, including *hawaladars* and other alternative remittance providers.

**D. NON-COOPERATIVE COUNTRIES OR TERRITORIES <sup>28</sup>.**

69. Since 1999, the FATF has engaged in substantial work on the problems raised by countries and territories which do not co-operate in the combat of money laundering. The aim of the work is to enhance the level of protection for the world's financial system and to prevent the circumvention of the anti-laundering measures introduced over the last ten years. The work which FATF has undertaken on non-co-operative jurisdictions is fully in line with measures elaborated by the international community to protect the global financial system from money laundering and render it more transparent.

70. For more than three years, the FATF has been working on this initiative, which seeks to ensure effective prevention, detection and repression of money laundering. Four regional review groups (Americas; Asia/Pacific; Europe; Africa and Middle East) meet regularly to prepare the non-cooperative countries and territories (NCCTs) discussions in the Plenary.

71. Throughout the NCCT process, the FATF has sought to ensure its openness, fairness and objectivity. When jurisdictions are considered for review under this initiative, they are notified of this fact, have had the opportunity to respond to the findings of the initial draft reports and later to meet with FATF experts in a face-to-face meeting to discuss any unresolved questions.

72. Two years after the release of the first review of NCCTs, this initiative has triggered significant improvements in anti-money laundering systems throughout the world. The FATF continues to monitor progress as a priority item at each Plenary meeting and encourages further action to remedy the deficiencies identified in the process through public statements.

73. To decide whether a jurisdiction should be removed from the list, the FATF must first be satisfied that the jurisdiction has addressed the deficiencies previously identified by enacting significant legislation and regulations. In assessing progress by NCCTs, the FATF gives particular importance to the relevant aspects of criminal law, financial supervision, customer identification, suspicious transactions reporting and international co-operation. Any new legislation or regulations must not only have been enacted but also have come into effect. Furthermore, the FATF also takes steps to ensure that the jurisdictions concerned are indeed implementing effectively the necessary changes. The FATF has also designed a rigorous monitoring mechanism to ensure sustained efforts in implementation.

74. FATF members continue to express their willingness to provide technical assistance to jurisdictions identified through the NCCT initiative as these jurisdictions attempt to improve their anti-money laundering systems.

75. For those jurisdictions which were identified as non-cooperative in 2000 and in 2001 and which had not made adequate progress, the FATF has a policy to recommend further counter-measures in a gradual, proportionate and flexible manner. The purpose of the counter-measures is to reduce the vulnerability of the international financial system and to increase the world-wide effectiveness of anti-money laundering measures. In December 2001, due to the failure of the Nauru Government to enact by 30 November 2001, appropriate legislative amendments, members of the FATF decided that they would apply counter-measures to Nauru. By enacting significant anti-money laundering legislation in August and September 2001, Russia and the Philippines avoided the application of counter-measures.

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<sup>28</sup> See *FATF Review to Identify Non-Cooperative Countries or Territories: Increasing the Worldwide Effectiveness of Anti-Money Laundering Measures*, 21 June 2002. This report is available at the following website address: [http://www.fatf-gafi.org/NCCT\\_en.htm](http://www.fatf-gafi.org/NCCT_en.htm).

76. The FATF also considered the application of counter-measures to Nigeria, and recommended that its members apply countermeasures to Nigeria as of 31 October 2002, unless its government begins immediate, substantive communications with the FATF and takes concrete steps to address the money laundering deficiencies identified by FATF. The FATF urges Nigeria to place emphasis on the criminalisation of money laundering; the mandatory creation of a suspicious transaction reporting regime; the establishment of proper customer identification requirements; the elimination of excessive bank secrecy; and international co-operation.

77. Following an assessment of additional countries and territories, in September 2001, the FATF identified two new jurisdictions -- Grenada and the Ukraine -- as non-cooperative in the fight against money laundering. Based on the progress they made during the year, Hungary, Israel, Lebanon and St Kitts and Nevis were removed from the list of NCCTs. All the work of the FATF on the non-cooperative jurisdictions in 2001-2002 is reflected in the above-mentioned separate Annual Review.

### III. STRENGTHENING THE REVIEW OF MONEY LAUNDERING METHODS AND COUNTER-MEASURES

78. The annual survey of money laundering methods and countermeasures provides a global overview of trends and techniques and focuses on selected major issues. Since the expansion of the FATF's mandate, terrorist financing methods are also included in this process. However, an important initiative was the ongoing review of the FATF's Forty Recommendations.

#### A. 2001-2002 SURVEY OF MONEY LAUNDERING TRENDS AND TECHNIQUES

79. The purpose of the annual FATF typologies exercise is to bring together experts from the law enforcement and regulatory authorities of FATF member countries to exchange information on significant money laundering cases and operations. It thus provides a critical opportunity for operational experts to identify and describe current money laundering and terrorist financing trends and to comment on the effectiveness of counter-measures. Based on the work of earlier studies and input from FATF member countries, the yearly exercise also examines a series of special topics from the operational perspective. The meeting of experts for FATF-XIII took place in November 2001 in Wellington, New Zealand, chaired by Detective Superintendent Bill Bishop, Police National Crime Manager, and focused on several areas of concern.

80. The 2001-2002 typologies exercise opened with an examination of terrorist financing, a subject that has come to the forefront of FATF work after the September 11<sup>th</sup> terrorist attacks in the United States and the subsequent change in the FATF remit. Despite being a late addition to this year's typologies exercise, FATF members were able to gather substantial material that allowed a productive discussion of methods used for the funding of terrorism and the ways in which terrorist organisations attempt to use formal and informal financial networks. Terrorist funding is generated from both illegal activities and, unlike organised crime, lawful sources; however, the principal techniques and mechanisms used by terrorists to transfer funds or conceal connections to their sources vary little from those used by criminal organisations. The findings of the experts on certain characteristics of financial transactions related to terrorism, were used in the development of guidance specifically designed to assist financial institutions in identifying and reporting such activity.<sup>29</sup>

81. The role that correspondent banking relationships play in facilitating certain money laundering schemes is a complex issue. In looking at this topic in this year's exercise, FATF experts found that there are certain vulnerabilities in such relationships that may be exploited by those

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<sup>29</sup> See the guidance for financial institutions in detecting terrorist financing, which is available at: [http://www.fatf-gafi.org/TerFinance\\_en.htm](http://www.fatf-gafi.org/TerFinance_en.htm).

wishing to access the legitimate financial networks and at the same time conceal their identities or the true nature of their activities. Especially in instances where a respondent bank serves as a correspondent for other financial institutions, there is the risk that the last correspondent bank may not be able to tell on whose behalf it may be carrying out financial transactions. FATF members provided examples of how correspondent relationships may be misused, and the examples appear to show that it is not just a problem for certain jurisdictions. The correspondent banking issues related to customer identification are being considered in the framework of the FATF review of the Forty Recommendations.

82. Private banking has been characterised in the recent past as being particularly vulnerable to laundering by certain high-profile criminals, in particular politically exposed persons (PEPs). Although PEPs were discussed at some length during the typologies exercise, it should be noted that these individuals are not the only ones who may attempt to use private banking services to conceal their illegal financial activities. Vulnerabilities in this sector may be due to inadequate due diligence policies or procedures with regard to high net worth customers. A few experts indicated that there is nevertheless a fundamental difficulty for financial institutions to identify PEPs easily. Various international efforts are beginning to address these issues, particularly the Basel Committee on Banking Supervision, and the FATF is likewise looking at the relevant issues in the review of the Forty Recommendations.

83. Regarding bearer securities and other negotiable instruments, it appears that the general ease of transferability and the ability to conceal ownership are the primary characteristics that make such instruments attractive to money launderers. The use of bearer instruments –bearer and third-party cheques, as well as travellers' cheques, for example – has often been observed as part of large-scale money laundering operations. However, their use in such schemes seems to rely on their lack of traceability rather than an ability to obscure connections between a legal entity and its beneficial owners. As with the two previously mentioned topics, the FATF is examining the role of bearer securities, together with the role of trusts, as part of the review of the Forty Recommendations.

84. As for the follow-up on introduction of the euro,<sup>30</sup> the primary focus of this exercise was to determine whether there were signs that the introduction of the euro in physical form is being used as a mechanism for laundering illegal proceeds. Eurozone members have re-emphasised and enhanced existing anti-money laundering measures to deal with the perceived risk of money laundering during the transition phase (that is, prior to 1 January 2002 and up to mid 2002).

85. Finally, the FATF attempted for the first time to analyse in some detail the relationship between suspicious or unusual transaction reports and money laundering cases. FATF members provided a significant amount of material that shows both the differing approaches of anti-money laundering systems and the different stages of their evolution. This material and the related discussions in Wellington demonstrate that STRs play an instrumental role not only in generating money laundering cases but also in supplementing or linking them to other illegal activities. STRs also seem to serve as a further indicator of gaps in anti-money laundering systems. For example, the FATF experts mentioned the need to extend consistent and mandatory reporting requirements for certain sectors, in particular such non-financial professions as lawyers/notaries and accountants. STRs have an important indirect case support role in helping to define money laundering trends and patterns or in developing guidelines for financial institutions.

## **B. REVIEW OF THE FORTY RECOMMENDATIONS**

86. Money laundering methods and trends have changed over time, often much faster than the actions of governments to deal with the problem. The FATF mutual evaluation and self-assessment

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<sup>30</sup> See the *FATF 1998-1999 Report on Money Laundering Typologies*, 10 February 1999, available through the FATF website at: [http://www.fatf-gafi.org/FATDocs\\_en.htm#Trends](http://www.fatf-gafi.org/FATDocs_en.htm#Trends).

processes have highlighted certain areas where the Recommendations could be strengthened, clarified or refined. Similarly, issues have arisen through the NCCT initiative that reinforce or expand on concepts related to the Forty Recommendations. For these reasons, the FATF decided in October 2000 to begin a comprehensive review of the Recommendations.

87. The review process has advanced considerably. Up to now it has focused on three major areas:

- (a) Customer identification and due diligence, suspicious transaction reporting and regulation and supervision. These are key components of anti-money laundering regimes and the FATF is working to clarify and refine the requirements on important issues such as the due diligence obligations, higher risk customers, simplified measures for lower risk scenarios, the role of financial intelligence units, and the regulation and supervision of institutions.
- (b) Corporate vehicles. FATF typologies exercises have consistently identified difficulties in identifying the ultimate beneficial owners and controllers of corporate vehicles (companies, trusts, foundations etc.). Law enforcement agencies and FIUs, financial regulators, and financial institutions require this information, and the review is examining the risks, obligations, essential requirements, and possible measures, with particular attention being given to bearer shares and trusts.
- (c) Non-financial businesses and professions. Another major issue of concern is the increased use by criminals of professionals and other intermediaries in laundering criminal funds. The FATF is therefore considering extending the Forty Recommendations to: casinos and other gambling businesses, dealers in real estate and high value items, company and trust service providers, lawyers, notaries, accounting professionals and investment advisors.

88. At the end of May 2002 the FATF released a public consultation document, which examines the issues in detail and proposes various options for dealing with them in the context of the revision of the Recommendations.<sup>31</sup> The FATF is inviting all countries, international organisations, the financial sector and other interested parties to express their views on the issues under consideration. The document is open for comment until 31 August 2002.<sup>32</sup> Additionally, the FATF will look at other critical elements of systems for combating money laundering and terrorist financing, such as the scope of the offence of money laundering, international co-operation, and various administrative, resource and co-ordination issues.

89. The FATF has attempted in this review process to allow for the widest possible participation from FATF members, FATF-style regional bodies, other international organisations, non-FATF countries, and the private sector. The consultation with non-FATF countries has so far been primarily in the framework of the FATF-style regional bodies and the OGBS. Additionally, the FATF believes that it is particularly important for the private sector to be involved. Therefore, besides the direct consultation achieved through the document mentioned above, the FATF plans to hold a forum with representatives of the financial sector in the autumn of 2002.

90. With regard to timing, revisions to the Recommendations will be discussed through the remainder of the year in order to be able to make specific proposals to the FATF Plenary by the February 2003 Plenary meeting. It is hoped that the FATF will be able to release the revised Recommendations in the first half of 2003 and begin the process of implementation.

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<sup>31</sup> The public consultation document on the review of the FATF Forty Recommendations may be consulted on the FATF website at: [http://www.fatf-gafi.org/40RecsReview\\_en.htm](http://www.fatf-gafi.org/40RecsReview_en.htm).

<sup>32</sup> Comments should be forwarded to the FATF Secretariat at: [Contact@fatf-gafi.org](mailto:Contact@fatf-gafi.org).

#### IV. IMPROVING MEMBERS' IMPLEMENTATION OF THE FORTY RECOMMENDATIONS

91. FATF members are clearly committed to the discipline of multilateral monitoring and peer review. The mutual evaluation procedure and the annual self-assessment exercise provide the necessary peer pressure for a thorough implementation of the Forty Recommendations. No mutual evaluations of FATF members were undertaken during 2000-2001 but the FATF has continued to focus on monitoring the implementation by its members of the Forty Recommendations on the basis of a self-assessment. The self-assessment exercise consists of a detailed assessment of members' compliance with the Forty Recommendations and a discussion at the final Plenary meeting. The period was also used to continue to carry out mutual evaluations of GCC member States.

##### A. 2001–2002 SELF-ASSESSMENT EXERCISE

92. Within the FATF, the mutual evaluation process was created as the primary measurement of the FATF member countries' progress in implementing anti-money laundering measures. It also serves as the principle means for evaluating the overall effectiveness of national anti-money laundering systems. Given the less frequent nature of mutual evaluations, however, the FATF has traditionally conducted regular self-assessment exercises to establish an annual record of its members' progress in implementing relevant measures. This exercise seeks to determine – based mainly on information provided by each jurisdiction – what measures have been put into place in a particular jurisdiction, and it thus represents a sort of inventory of measures implemented in any given year.

93. More than ten years after the initial issuance of the Forty Recommendations and having undergone two series of mutual evaluations, all FATF members have implemented most, if not all of the Recommendations requiring specific action. This fact was already recognised three years ago when the FATF developed and started a new method for conducting its self-assessment exercise. The objective of the new process was to provide increased focus on those areas where FATF members had not yet fully implemented necessary counter-measures. It was intended to represent the primary means of monitoring progress toward full compliance in the period between the second and third rounds of mutual evaluations.

94. The self-assessment process focuses on the implementation of key legal, financial and international co-operation measures as related to the 28 FATF Recommendations requiring specific action.<sup>33</sup> Although information was gathered on other Recommendations, this material was not used in the assessment process. In the financial area, FATF members were judged on whether they had implemented measures both for banks and for four main categories of non-bank financial institutions (bureaux de change, stockbrokers, insurance companies and money remittance/transfer companies). Combining these five types of financial institutions into a single category has increased the focus on uniform application of anti-money laundering measures in the non-bank financial institution area.

95. With this year's assessment, eleven FATF members have implemented all of the 28 Recommendations requiring specific action. Six additional countries fall short of full compliance by only one Recommendation. More than three-quarters of the FATF membership have fully implemented 24 or more of the 28 key Recommendations. It should be noted that for some of the jurisdictions with lower numbers of Recommendations at full compliance – Argentina, Mexico, and the United States – the issue lies in not applying measures to certain categories of non-bank financial institutions. In the case of the United States, the USA Patriot Act, enacted in October 2001, and a series of implementing regulations, applied an ambitious agenda of measures against money laundering and terrorist financing to financial institutions, including to additional categories of non-

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<sup>33</sup> The Recommendations requiring specific action are: Recommendations 1-5, 7, 8, 10-12, 14-21, 26-29, 32-34, 37, 38 and 40.

bank financial institutions. The United Kingdom has brought into effect a system to license money service businesses, including bureaux de change and money remitters, and to supervise their compliance with United Kingdom anti-money laundering requirements. The level of compliance for individual FATF members, along with notes on each member country's particular situation, is included at Annex C.

96. As part of this year's self-assessment exercise, the FATF agreed in September 2001 to carry out detailed assessment of FATF members against the 25 NCCT Criteria. This process has begun; however, due to the increased attention to terrorist financing issues after September 11<sup>th</sup>, the full analysis of this information has not yet been completed. The FATF will continue this work and will likely be able to consider the situation of individual FATF members vis-à-vis the 25 NCCT Criteria at the first Plenary meeting of FATF-XIV.

## B. MUTUAL EVALUATION FOR GCC MEMBER STATES

97. The Gulf Co-operation Council (GCC) is in the unique position of being a member of FATF but with non-FATF countries as members.<sup>34</sup> Since 1999, GCC members States have made a noticeable effort to evaluate the level of implementation and effectiveness of anti-money laundering systems within the GCC. Five members of the GCC (Bahrain, Kuwait, Oman, Qatar and the United Arab Emirates) have now undergone mutual evaluations.<sup>35</sup> It is expected that the mutual evaluations programme for GCC member States will be completed in 2003.

## CONCLUSION

98. As a consequence of the September 11th terrorist attacks in the United States, the 2001-2002 round of the FATF was marked by significant efforts to address the issue of the financing of terrorism. The expansion of the mandate of the FATF has significantly reshaped its work since then. The FATF nevertheless also focused its work on spreading the anti-money laundering message throughout the world. This task will continue to be the priority of FATF's activities until 2004. FATF-XIII was also marked by the significant progress made in the initiative on non-cooperative countries or territories, the enhanced collaboration with the International Monetary Fund and the World Bank in the fight against money laundering, and the significant advance of the ongoing review of the FATF Forty Recommendations.

99. The issues of the review of the Forty Recommendations, improving members' and non-members' implementation and of the Eight Special Recommendations against terrorist financing and the ongoing work on non-cooperative countries or territories remain challenges which will be pursued during 2002-2003. These essential tasks will be carried out under the Presidency of Germany, which will commence on 1 July 2002.

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<sup>34</sup> Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE).

<sup>35</sup> See Annex G.





**Financial Action Task Force  
on Money Laundering**  
Groupe d'action financière  
sur le blanchiment de capitaux

**Annexes**

## ANNEXES

- ANNEX A *Eight Special Recommendations on Terrorist Financing*
- ANNEX B *Compliance with FATF Eight Special Recommendations: Self-Assessment on Terrorist Financing*
- ANNEX C *Compliance with FATF Forty Recommendations: 2001–2002 Self-Assessment Survey*
- ANNEX D *Summaries of Mutual Evaluations Undertaken by the Council of Europe Select Committee of Experts on Evaluation of Anti-Money Laundering Measures (PC-R-EV)*
- ANNEX E *Summaries of Mutual Evaluations Undertaken by GAFISUD*
- ANNEX F *Summaries of Mutual Evaluations Undertaken by the Offshore Group of Banking Supervisors (OGBS)*
- ANNEX G *Summaries of the Joint FATF / GCC Mutual Evaluations of Gulf Cooperation Council Countries*

# ANNEX A

## THE FATF SPECIAL RECOMMENDATIONS ON TERRORIST FINANCING

Recognising the vital importance of taking action to combat the financing of terrorism, the FATF has agreed these Recommendations, which, when combined with the FATF Forty Recommendations on money laundering, set out the basic framework to detect, prevent and suppress the financing of terrorism and terrorist acts.

### *I. Ratification and implementation of UN instruments*

Each country should take immediate steps to ratify and to implement fully the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.

Countries should also immediately implement the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts, particularly United Nations Security Council Resolution 1373.

### *II. Criminalising the financing of terrorism and associated money laundering*

Each country should criminalise the financing of terrorism, terrorist acts and terrorist organisations. Countries should ensure that such offences are designated as money laundering predicate offences.

### *III. Freezing and confiscating terrorist assets*

Each country should implement measures to freeze without delay funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts.

Each country should also adopt and implement measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations.

### *IV. Reporting suspicious transactions related to terrorism*

If financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organisations, they should be required to report promptly their suspicions to the competent authorities.

### *V. International Co-operation*

Each country should afford another country, on the basis of a treaty, arrangement or other mechanism for mutual legal assistance or information exchange, the greatest possible measure of assistance in connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts and terrorist organisations.

Countries should also take all possible measures to ensure that they do not provide safe havens for individuals charged with the financing of terrorism, terrorist acts or terrorist organisations, and should have procedures in place to extradite, where possible, such individuals.

## *VI. Alternative Remittance*

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

## *VII. Wire transfers*

Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message through the payment chain.

Countries should take measures to ensure that financial institutions, including money remitters, conduct enhanced scrutiny of and monitor for suspicious activity funds transfers which do not contain complete originator information (name, address and account number).

## *VIII. Non-profit organisations*

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

- (i) by terrorist organisations posing as legitimate entities;
- (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
- (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

ANNEX B

Chart (a)

**Self-Assessment against the  
FATF Special Recommendations on  
Terrorist Financing**

*(Special Recommendations 1-7)*

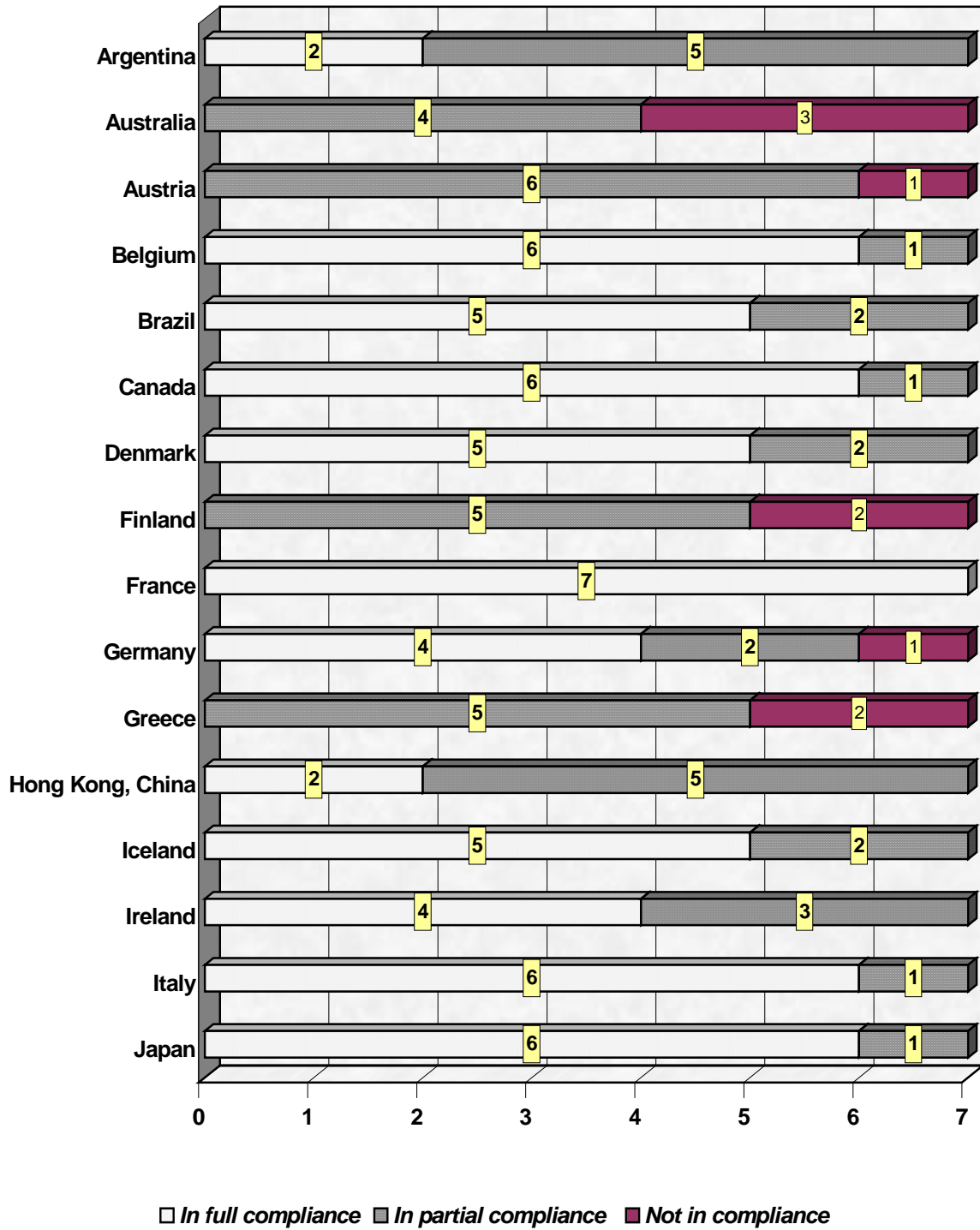
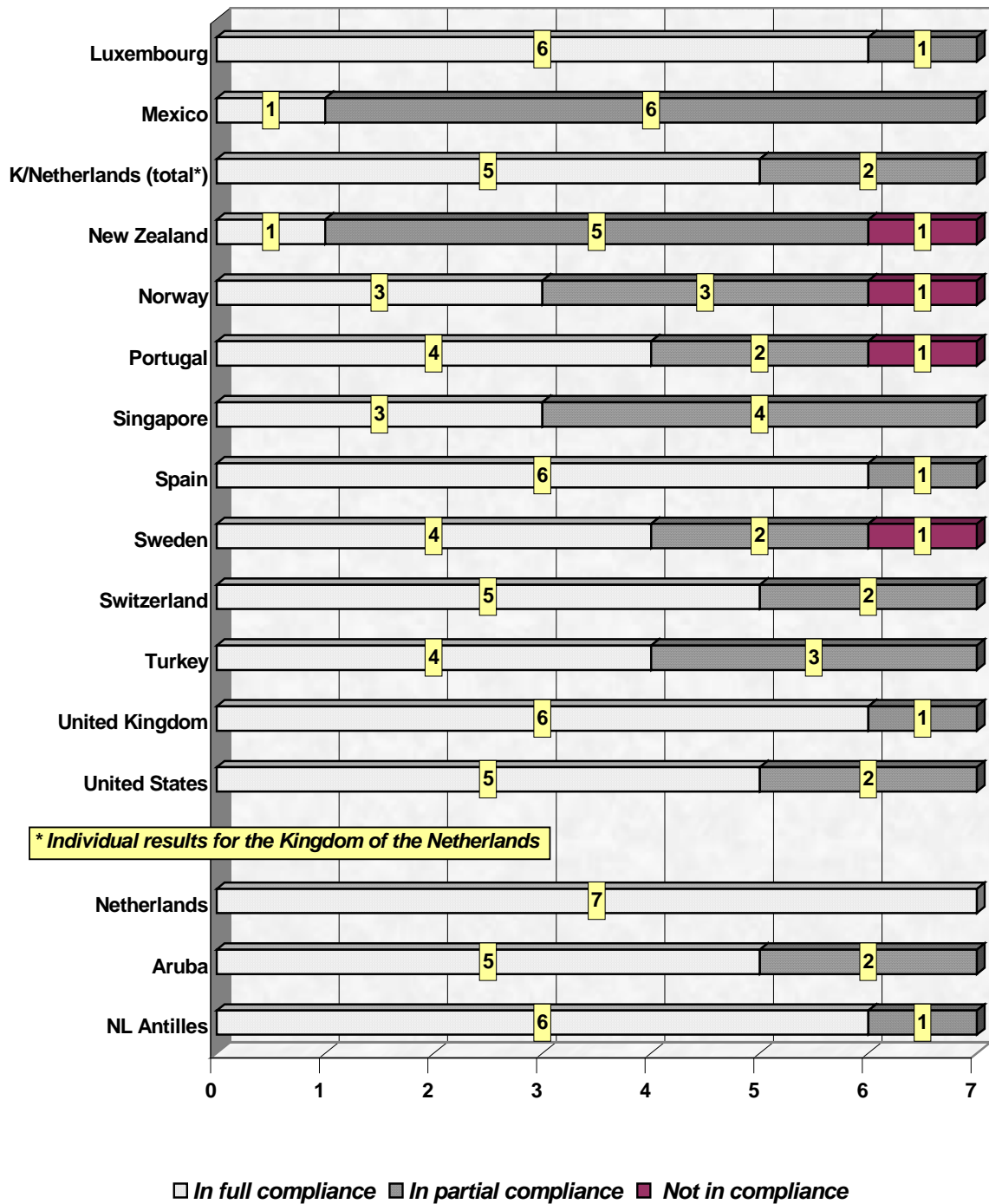


Chart (b)

### Self-Assessment against the FATF Special Recommendations on Terrorist Financing

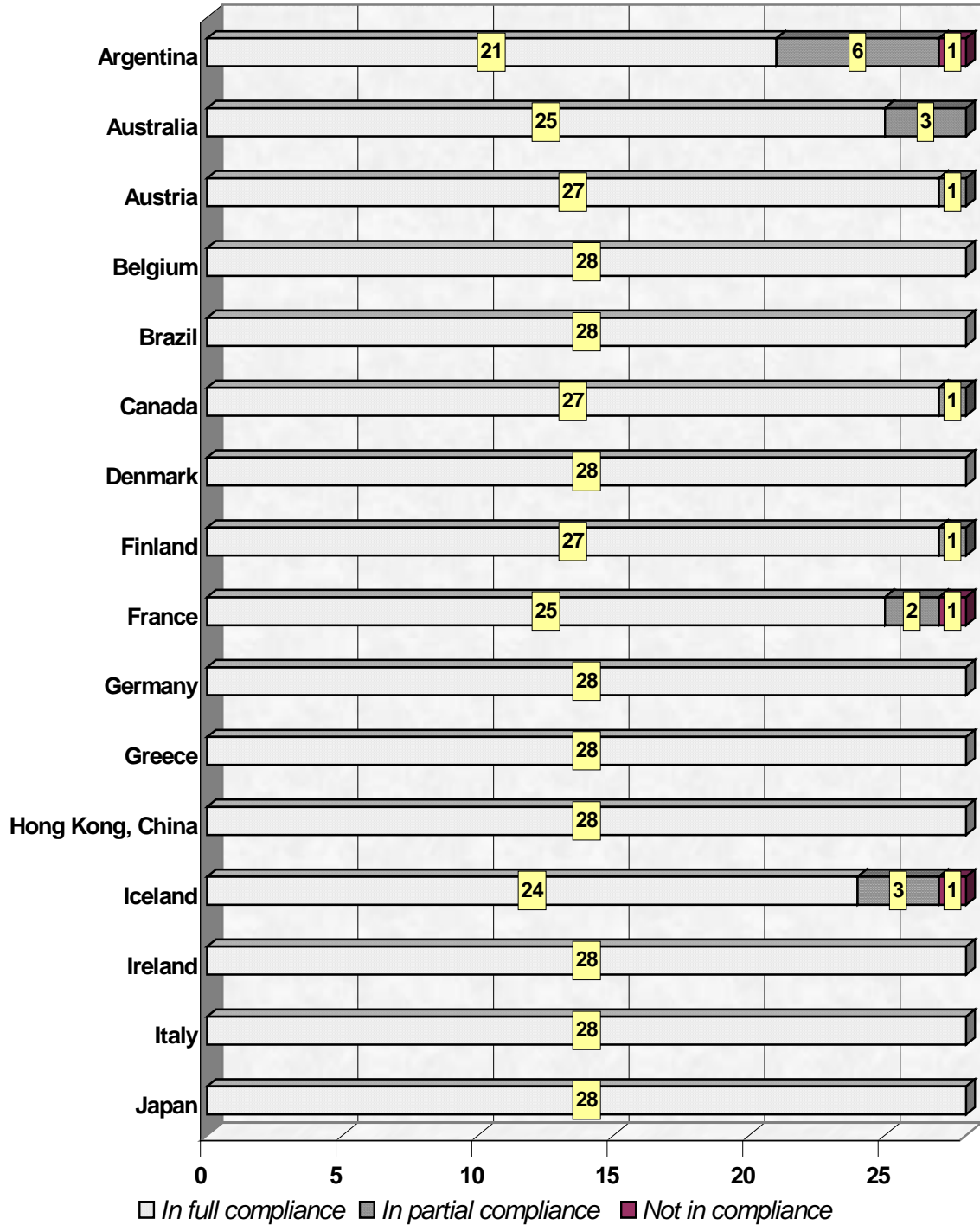
(Special Recommendations 1-7)



ANNEX C

Chart (a)

**Compliance with FATF 40 Recommendations  
2001-2002 Self-Assessment Survey\***  
*(for 28 Recommendations requiring specific action)*



**\*SEE EXPLANATORY NOTE STARTING ON PAGE 3**

Chart (b)

**Compliance with FATF 40 Recommendations  
2001-2002 Self-Assessment Survey\***  
*(for the 28 Recommendations requiring specific action)*



**\*SEE EXPLANATORY NOTE STARTING ON PAGE 3**



## COMPLIANCE WITH THE FATF 40 RECOMMENDATIONS 2001–2002 SELF-ASSESSMENT SURVEY

### Explanatory Note

#### *General*

1. The FATF self-assessment exercise is designed to establish an annual record of FATF members' progress in implementing the Recommendations. It seeks to determine – based mainly on information provided by each jurisdiction – what steps a member jurisdiction has taken to implement the Recommendations during a particular year. However, the self-assessment results should in no way be construed as the measure of the effectiveness of any individual anti-money laundering system. Individual FATF members use data – such as the number of suspicious transaction reports, the amount of assets forfeited, or arrests made – to evaluate the effectiveness of their anti-money laundering systems. Within the FATF, the mutual evaluation process was created as the primary measurement of the FATF member countries' progress in implementing anti-money laundering measures and evaluation of the overall effectiveness of anti-money laundering systems. For a judgement concerning effectiveness, the summaries of the individual mutual evaluations of FATF members should be consulted.<sup>1</sup>

2. The self-assessment process focuses on the implementation of key legal, financial and international co-operation measures as related to the 28 FATF Recommendations requiring specific action.<sup>2</sup> Although information was gathered on other Recommendations, this material was not used in the self-assessment process. In the financial area, FATF members were judged on whether they had implemented measures both for banks and for four main categories of non-bank financial institutions (bureaux de change, stockbrokers, insurance companies and money remittance/transfer companies). Combining these five types of financial institutions into a single category has increased the focus on uniform application of anti-money laundering measures in the non-bank financial institution area.

#### *Notes on Specific Results*

3. The following countries were assessed for 2001-2002 as having fully implemented the 28 FATF Recommendations requiring specific action: **Belgium; Brazil; Denmark; Germany; Greece; Hong Kong, China; Ireland; Italy; Japan, Luxembourg; New Zealand and Norway.**

4. For other FATF members, brief descriptions of the results are as follows:

**Argentina** is in full compliance with 21 Recommendations. It achieves less than full compliance for R. 14, 19, 21, 26 and 28 because current measures only apply to some but not all of the full range of non-bank financial institutions.<sup>3</sup> Argentina is in partial compliance with R. 38 because of limitations in its seizure and confiscation measures. R. 20 has not been implemented yet.

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<sup>1</sup> These summaries can be found in the FATF Annual Reports for the year in which a particular evaluation was conducted. The summaries may also be consulted through the FATF website at the following address: [http://www.fatf-gafi.org/Members\\_en.htm](http://www.fatf-gafi.org/Members_en.htm).

<sup>2</sup> The Recommendations requiring specific action are: Recommendations 1-5, 7, 8, 10-12, 14-21, 26-29, 32-34, 37, 38 and 40. The text of the Forty Recommendations may be consulted at the following website address: [http://www.fatf-gafi.org/40Recs\\_en.htm](http://www.fatf-gafi.org/40Recs_en.htm).

<sup>3</sup> The full range of non-bank financial institutions for the self-assessment process includes bureaux de change, stockbrokers, insurance companies and money remitters/transfer companies.

**Australia** is in full compliance with 25 Recommendations. It is at less than full compliance with R. 19 and 20 because there are no formal obligations imposed on financial institutions regarding these measures, although institutions have voluntarily implemented certain measures in practice.<sup>4</sup> Australia is in partial compliance with R. 7 due to limitations in its ability to confiscate the instrumentalities intended for use in money laundering offences.

**Austria** is in full compliance with 27 Recommendations. It has enacted legislation that will effectively eliminate anonymous passbook savings accounts by July 2002. No new accounts have been permitted since November 2000. While the process for eliminating existing anonymous accounts is underway, the accounts continue to exist – albeit with reduced capability. Austria therefore remains in partial compliance with R. 10.

**Canada** is in full compliance with 27 Recommendations. It enacted comprehensive legislation in 2000, which imposes anti-money laundering obligations on the full range of financial institutions. Since that time, the various implementing regulations have come into force for R. 8, 11, 12, 15, 18- 20, 21, 26 and 28. Canada remains in partial compliance with R. 29 because it has not yet extended certain measures of the Recommendation to bureaux de change or money transmitters. With regard to R. 38, Canada has modified its legislation to permit the enforcement of foreign orders to seize, freeze or confiscate the proceeds of crime; it therefore is in full compliance with this Recommendation.

**Finland** is in full compliance with 27 Recommendations. It has not yet extended certain measures under R. 29 to bureaux de change or money remitters; therefore, it is in partial compliance with this Recommendation.

**France** is in full compliance with 25 Recommendations. It does not have a specific screening requirement for the employees of financial institutions and is thus in partial compliance with R. 19. It has also not yet issued guidelines to financial institutions on suspicious transaction reporting and is therefore not in compliance with R. 28. France is in partial compliance with R. 33 because it may not provide mutual legal assistance when the intentional element of the money laundering offence is negligence.

**Hong Kong, China** is in full compliance with 28 Recommendations. In November 2001, Hong Kong, China issued regulations that require specific screening procedures for the employees of bureaux de change and money remittance agents. At the same time, it extended the provisions of the Recommendation 20 to all categories of non-bank financial institutions.

**Iceland** is in full compliance with 24 Recommendations. The provisions of R. 14, 19 and 28 have not been fully implemented; therefore, Iceland is in partial compliance with these Recommendations. R. 21 has not been implemented yet.

**Japan** is in full compliance with 28 Recommendations. In June 2002, it enacted significant legislation (the *Law on Customer Identification and Retention of Records on Transactions with Customers by Financial Institutions*) which extended preventive anti-money laundering measures to bureaux de change.

**Mexico** is in full compliance with 12 Recommendations. It is in partial compliance with R. 8, 10-12, 14-21, 26, 28 and 29 due to the fact that it has not extended necessary anti-money laundering measures to money remitters<sup>5</sup>. With regard to R. 38, seizure and confiscation measures may only be applied against the actual proceeds or property derived from crime and not property or assets of corresponding value. Mexico is therefore in partial compliance with this Recommendation.

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<sup>4</sup> Australia considers itself to be in full compliance with R. 19 and 20.

<sup>5</sup> On 1 June 2001, the Mexican Congress enacted modifications to its anti-money laundering laws that extend relevant requirements to money transmitters. This new legislation will change Mexico's compliance levels for certain of the FATF Recommendations.

**The Kingdom of the Netherlands** consists of three components (Netherlands, Aruba and Netherlands Antilles). The assessment made for the Kingdom combines the results from the three parts. In this combined assessment, the Kingdom is in full compliance with 24 Recommendations. The results for the individual components are as follows:

- *The Netherlands* is in full compliance with 27 Recommendations. It is in partial compliance with R. 19. To reach full compliance, a law will be enacted that regulates the supervision of money transfer companies by the Central Bank of the Netherlands.
- *Aruba* is in full compliance with 26 Recommendations. It is in partial compliance with R. 21 because it has not extended certain provisions of the Recommendation to all categories of non-bank financial institutions. Aruba is not yet able to exchange information related to suspicious transaction reports, although work is underway to make this possible in the near future. Therefore, R. 32 has not yet been implemented.
- *The Netherlands Antilles* is in full compliance with 26 Recommendations. It is in partial compliance with R. 19 and 29 because it has not extended certain provisions of these Recommendations to money remitters.

**Portugal** is in full compliance with 27 Recommendations. It is in partial compliance with R. 33 because it may not provide mutual legal assistance that involves coercive measures when the intentional element of the money laundering offence is negligence.

**Singapore** is in full compliance with 27 Recommendations. It has not extended the provisions of R. 19 to all categories of non-bank financial institutions and is therefore in partial compliance with this Recommendation.

**Spain** is in full compliance with 26 Recommendations. Suspicious transaction reporting guidelines have not been issued for bureaux de change; therefore, Spain is in partial compliance with R. 28. With regard to R. 38, Spain is in partial compliance because of limitations in its seizure and confiscation measures.

**Sweden** is in full compliance with 26 Recommendations. It has not applied provisions of R. 29 to money transmitters and is therefore in partial compliance with this Recommendation. It is at less than full compliance with R. 19 because there are no formal obligations imposed on financial institutions regarding screening procedures for employees, although institutions do this in practice.

**Switzerland** is in full compliance with 27 Recommendations. It is in partial compliance with R. 1 because it has not yet formally ratified the 1988 UN Convention Against the Illicit Traffic in Narcotics and Psychotropic Substances. It should be noted, however, that the relevant legislative measures to counter money laundering have been enacted into Swiss law.

**Turkey** is in full compliance with 24 Recommendations. It is at less than full compliance with R. 19 because some of the necessary provisions of this Recommendation have not been extended to stockbrokers, insurance companies or money remitters. It is also at less than full compliance with R. 33 because it may not provide mutual legal assistance when the intentional element of the money laundering offence is negligence or “should have known standard”. Turkey has not yet implemented R. 16 and only partially implemented R. 20 (that is some requirements of this Recommendation apply to banks).

The **United Kingdom** is in full compliance with 27 Recommendations. It is in partial compliance with R. 19 because screening procedures for employees of bureaux de change and money remitters have not been implemented. Since last year, the United Kingdom has enacted legislation that extends relevant anti-money laundering measures to bureaux de change and money remitters. These money

service businesses must register with HM Customs and Excise and subjects them to inspections and compliance checks by the agency.

The **United States** is in full compliance with 17 Recommendations. It filed a response to the 2001-2002 self-assessment exercise reporting a series of bold measures to combat money laundering and terrorist financing. These measures have been implemented through a broad legislative and regulatory programme undertaken in response to the September 2001 terrorist attacks on the United States. New measures, some of which go beyond the scope of the self-assessment exercise, include a ban on correspondent accounts with foreign shell banks, imposition of suspicious transaction reporting on additional types of financial institutions, facilitation of information sharing to identify suspected terrorist financing and money laundering, imposition of due diligence requirements for correspondent and private banking accounts for non-US persons, and a requirement that additional types of financial institutions have formal anti-money laundering programmes, among numerous ongoing measures. The US is in partial compliance with R. 8, 10-12, 14, 15, 19-20, 26 and 29 due to the fact that it has not extended full anti-money laundering measures to insurance companies. Additionally with regard to R. 14, 15, 28 and 29, the United States has not yet imposed all necessary obligations on bureaux de change and money transmitters.

## ANNEX D

### SUMMARIES OF MUTUAL EVALUATIONS UNDERTAKEN BY THE COUNCIL OF EUROPE SELECT COMMITTEE OF EXPERTS ON EVALUATION OF ANTI-MONEY LAUNDERING MEASURES (PC-R-EV)

#### *Albania*

1. A PC-R-EV team of examiners, accompanied by a colleague from the Financial Action Task Force (FATF), visited Albania between 12-15 December 2000.
2. It is only in recent years that Albania has been open to the outside world. The opening of its national borders led to unprecedented cross border movement of commodities, persons and capital, which in themselves helped to create an environment conducive to crime.
3. The law enforcement and criminal justice systems function under difficult economic and social conditions, which developed during the transition from a socialist and strongly centralised economy to a capitalist, free market economy. The transition has been accompanied by rising criminality, particularly organised crime (which is known to be involved *inter alia* in money laundering). Social and economic tensions reached their peak in 1997 with large scale trading frauds (the so-called “pyramid schemes”). Their collapse caused multiple losses from which social unrest and a general breakdown of law and order resulted. From these events a profound distrust of the banking, financial and tax systems took hold. This distrust is still strong. Corruption is endemic and is thought to permeate most institutions.
4. The banking and financial system remains underdeveloped. Cash accounts for 90-95% of transactions. It was accepted that control over inward investment generally, notably in the privatisation process, is weak. Company formation in Albania is straightforward, both for foreign and local residents.
5. The main proceeds generating crimes include: smuggling; trafficking in drugs, arms, aliens and stolen vehicles; organised prostitution; extortion; bribery and corruption; and kidnapping. Economic and financial crime (including tax evasion and financial fraud generally) is increasing.
6. Albania is vulnerable to money laundering, firstly, at the placement stage – where controls on foreign exchange are very weak. Foreign exchange transactions take place openly on the streets. Secondly, organised crime profits are regularly moved abroad for layering, either through the financial system (often appearing as payments for goods and services from abroad) or by cash smuggling. Thirdly, criminal proceeds, both domestic and foreign, can be integrated into the Albanian economy, through the purchase of real estate and business investment.
7. The Albanian authorities are thus seeking to create an anti-money laundering system against a background of an underused financial system, in an environment where corruption is rife and organised crime is very strong. Efforts to tackle money laundering cannot be made in isolation from other important national priorities being pursued to fight corruption and organised crime and to develop the financial sector. In particular, all related initiatives to fight corruption are critical in the anti-money laundering context, and are encouraged by the examiners. They are vital for the long-term fight against money laundering.
8. With such an underused financial sector more strenuous efforts to fight money laundering in the immediate future need to be taken on the law enforcement side. To support this, the Albanian repressive regime needs to be robust enough to pursue and obtain convictions for money laundering and to ensure that major confiscation orders can be obtained against organised criminals. Equally all national initiatives to promote wider use of the financial system should be high priorities in the financial sector.

9. The Albanian authorities recognised at an early stage their vulnerabilities to money laundering and first passed some general requirements for banks in the Banking Law of 1998, including the lifting of banking confidentiality where suspicion of money laundering exists (though it was unclear whether any reports had ever been made to the authorities under this provision). Subsequently the Law on the Prevention of Money Laundering (Law N°8610) was passed on 17.05.00 and came into force on 06.12.00, shortly before the on-site visit. Its passage is welcomed as a necessary first step towards an anti-money laundering regime. However the Albanian authorities still have a very long way to go before an operational anti-money laundering regime can be said to be in place.

10. It was unclear to the examiners how far Law N°8610 was drafted as a result of a real analysis of the present money laundering situation in Albania. Law N°8610 covers a wide range of institutions. A number of the subjects covered have only a small significance currently in the Albanian anti-money laundering strategy, given the underdevelopment generally of the financial sector.

11. Law N°8610 creates a structure for the protection of the financial system based on a regime which includes: some customer identification rules; suspicious/unusual transaction reporting in respect of a range of natural and legal persons; reporting of cash transactions with a range of different reporting thresholds for various operations; and the creation of a “Responsible Authority”, which will receive, analyse and process reported information.

12. So far as customer identification is concerned, provisions in Law N°8610 do not create a legal obligation to identify customers prior to establishing business relations. General client identification requirements need to be introduced to cover this<sup>1</sup>. The examiners were advised by the Bank of Albania that in their opinion anonymous accounts were not allowed, but no specific legal provisions prohibit such accounts. This should be rectified. The law also needs amending to provide for record retention after account closure.

13. The judicial status and position of the “Responsible Authority” was still to be determined at the time of the on-site visit. While the law had been brought into force, it was not operational. Subjects of the law did not know where reports were to be sent. Making the law operational<sup>2</sup> through the urgent creation of the “Responsible Authority”, as the Albanian FIU, is vital for the credibility of their national anti-money laundering strategy. Awareness raising in respect of the new obligations in the law within the financial sector needs to be actively pursued in a way that encourages an understanding of why the law is necessary. Building the support, trust and confidence of the financial sector will be fundamental in making the law operational. Detailed guidelines need to be prepared by the supervisory authorities, in conjunction with the subjects of the law, and the “Responsible Authority”, setting out best practice in ensuring compliance with the anti-money laundering legislation, and setting out guidance on suspicious and unusual transactions. At the very least the preventive system which is being put into place needs to provide financial institutions with the capability of identifying quickly where the financial system (and the banks in particular) is presently used for inward and outward transmission of criminal proceeds.

14. Training programmes for the financial sector should be put in place as a matter of urgency. Existing supervisory bodies should thereafter implement supervision programmes to ensure that subjects comply with the requirements of Law N°8610. The Albanian authorities should also consider what, if any, new supervisory structures are required (particularly if and when casinos are introduced).

15. It should also be a priority on the financial side to eliminate illegal foreign exchange operations and to ensure that there is a rigorous authorisation regime in place for exchange houses,

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<sup>1</sup> The Albanian authorities at the time of the adoption of the Report indicated that there were current Regulations in existence which the examiners have not seen.

<sup>2</sup> The examiners were advised at the time of the adoption of the Report that the Responsible Authority became operational in August 2001.

which is effective in guarding against criminal infiltration. A requirement to identify the sources of capital would be appropriate in this context. The foreign exchange offices should also be subject to active supervision to ensure compliance with Law N°8610.

16. Greater emphasis is required generally on investigating the sources of money when examining new business proposals. A review of the controls on company formation is recommended.

17. On the legal side immediate priorities should be the completion of the process of ratification of the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (the Strasbourg Convention), which was signed on 04.04.00, and ratification (which was understood to be forthcoming) of the 1988 UN Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention)<sup>3</sup>.

18. At present the legal provision, which was pointed to in the criminal context, is found in Article 287 of the Criminal Code of 1995. This is a pre-existing provision, which was drafted at a time when the Albanian experience of money laundering was very limited. Nonetheless approximately 27 money laundering investigations were reported as having been undertaken using this provision and two money laundering cases are before the courts, but have not been concluded. The Albanian authorities recognise the limitations of Article 287 for money laundering prosecution and are drafting a new money laundering criminal offence. This initiative is supported by the examiners. In the process of becoming full parties to the Strasbourg and Vienna Conventions there should be enacted a separate, modern criminal provision dealing specifically with money laundering, which needs to meet all the requirements of Articles 1 and 6 of the Strasbourg Convention<sup>4</sup>.

19. The Albanian authorities pointed to several articles in the Criminal Code and Criminal Procedure Code which cover confiscation and provisional measures. It appears that in all criminal offences confiscation can be considered as a supplementary punishment. The regime appears to be basically discretionary. In the absence of statistical information about the extent of its use it is difficult to make a meaningful judgement about how far confiscation is a real priority at present. The examiners were encouraged to note, however, that the prosecutors seemed engaged with this issue. There were real concerns, though, as to precisely how far the provisional measures regime (which should preserve the position in advance of confiscation) is really effective. Some parts, at least, seem clearly based on the seizure of items which will be of evidential value only. The provisional measures regime should therefore be reviewed urgently. Legislative provisions need to be robust enough to enable prosecutors and investigators to identify and trace, at an early enough stage to avoid assets being dissipated, all property which is liable to confiscation, including both instrumentalities and proceeds (with the wide definition provided for in the Strasbourg Convention) and to prevent any dealing in, transfer or disposal of such property. Likewise the confiscation regime should be swiftly reviewed. It would help to make it clear that confiscation applies mandatorily to laundered proceeds and consideration should also be given to further strengthening the regime to establish more mandatory elements. The system needs to be capable of confiscating both proceeds (with the wide meaning attached to it by the Strasbourg Convention) and instrumentalities. Value confiscation should be provided for where proceeds are no longer available. The Albanian authorities indicated that the issue of the reversal of the burden of proof in establishing (post conviction) what are unlawful proceeds was being considered. The examiners welcome this.

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<sup>3</sup> The examiners were advised at the time of the adoption of the Report that the Albanian Parliament has ratified both Conventions. Instruments of ratification in respect of the Strasbourg Convention were deposited on 31.10.01, and that Convention will enter into force on 01.02.02.

<sup>4</sup> It is understood that since the on-site visit a new Article 286a has been added to the Criminal Code and which came into effect on 13.3.2001. It separately criminalises money laundering on an all crimes basis. The basic offence carries a maximum sentence of 10 years, and where there are aggravating features, a sentence of 15 years can be imposed.

20. It is necessary to ensure that Albania can grant and receive effective and timely international co-operation in all areas and especially in relation to the tracing, seizing, freezing and confiscation of the proceeds of crime. At the time of ratification of the Strasbourg Convention it would assist if legislation clearly sets out how international co-operation can be provided in the execution of provisional measures on behalf of a requesting state and which procedure should be adopted for enforcing foreign confiscation orders. The Albanian authorities frankly admitted that they need close, simple and fast international co-operation. The setting up of the Responsible Authority, as the FIU, will be critical to achieving this aim. It would be helpful if it is explicitly empowered to co-operate with other FIUs. The FIU should be capable of meeting the criteria for membership of the Egmont Group in due course.

21. The greater emphasis which needs to be placed on law enforcement generally in the fight against money laundering firstly needs to be reflected in quick decisions on the location of the “Responsible Authority” and its proper resourcing, in terms both of personnel and IT. It needs sufficient powers to require supplementary information from all relevant subjects of the law. Its powers to freeze bank accounts need much further clarification, and articulation.

22. On the law enforcement side, at present, the Department for Economic and Financial Crime in the Criminal Police appears to be at the core of the fight against money laundering. It was responsible for 2 money laundering investigations which are before the courts. It had not itself received any orders from the Public Prosecutor to commence money laundering investigations. Nonetheless the Public Prosecutors referred to around 27 other money laundering investigations, with which they had been involved.

23. The examiners concluded, notwithstanding the hard work of the Department for Economic and Financial Crime, that the present law enforcement response is fragmented, that available police powers are weak, that real co-ordination appears to be lacking and resources are spread thinly.

24. The examiners consider that further work needs to be done to ensure that financial investigation of criminal proceeds generally can be efficiently pursued by properly trained investigators in the whole range of proceeds generating offences. More joint working between police and prosecutors on cases and the development of a shared understanding between them of what is required evidentially in money laundering cases is also necessary. Prosecutors and investigators and other relevant parties need to give consideration together to the level of proof that is required for money laundering prosecutions. The development of joint guidance (or charging standards) would assist. A joint seminar primarily between prosecutors and investigators might assist this process.

25. Police powers need revisiting. The Albanian authorities should urgently consider legislating to enable investigators to have available to them a broad range of special investigative techniques, including controlled delivery of cash or other criminal proceeds. Once these techniques are available on a formal legal basis they need to be used proactively in the detection of money laundering. Law enforcement concerns on banking secrecy at the investigation stage should be identified precisely, examined systematically and unnecessary obstacles should be removed.

26. The need for Customs to detect cash money laundering is crucial. They need to become wholly engaged with and effective in the anti-money laundering fight. In order to play a leading role their officers need to be properly trained in money laundering techniques and investigation. They need to make regular reports of their suspicions of money laundering. If all the Customs are obliged to do under Law N°8610 is to report evidence of money laundering, this is quite inadequate.

27. Responsibility for co-ordinating the anti-money laundering fight was planned, at the time of the on-site visit, to be vested in the Ministry of Finance. The FIU will no doubt take a leadership role on this at a day-to-day working level. However a permanent co-ordination body needs creating at the strategic level, chaired at a suitably senior level, including all the main players in the anti-money laundering regime. Urgent tasks for such a body include the development of a common understanding



of the money laundering problem in Albania, agreement on how money laundering is undertaken and how it needs tackling. Thereafter an interagency action plan should be created and monitored.

28. By building on what has been started, and addressing these issues urgently, Albania can make progress towards creating an anti-money laundering system which will meet international standards. However the size of the task should not be underestimated.

### *Georgia*

1. A PC-R-EV team of examiners, accompanied by colleagues from the Financial Action Task Force (FATF) visited Georgia between 23 and 26 October 2000.

2. The main areas generating illegal proceeds and seriously jeopardising the economic development of Georgia are corruption, fraud and tax evasion as well as smuggling in goods (petroleum, alcohol, tobacco).

3. Georgia is very vulnerable to money laundering in all three stages. At present there are very serious deficiencies in the anti-money laundering system in all sectors – legal, financial and law enforcement. A lot of improvements should be introduced especially in the legal and financial sectors before international standards and requirements can be met. The most important step to be introduced urgently is the adoption of a comprehensive anti-money laundering preventive law meeting the FATF standards. It is also crucial that a preventive system becomes operational rapidly.

4. The economy is heavily cash based (80% of transactions are performed in cash). A very serious problem for the country is tax collection as there is no reliable, centralised system of control of registration of activities subject to taxes (according to different sources more than 60% of the Georgian economy is grey economy). The examiners had the impression that there is a lack of awareness of money laundering issues by the Georgian authorities. No studies have been carried out as regards money-laundering typologies in Georgia. Therefore, the examiners recommend that the organisation of a/several seminar(s) gathering all relevant authorities to develop a greater understanding of the typologies of money laundering in Georgia should be envisaged.

5. On the legal side, Georgia has signed and ratified the UN Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention). The Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (the Strasbourg Convention) has not been signed by Georgia. Since 1<sup>st</sup> January 2000 a new Criminal Code is in force which contains a separate offence called “Legalisation of illicit income” (Article 194). To date there have been no investigations or prosecutions for money laundering. Article 194 has adopted the “all crimes” approach and also covers “self laundering”; this is welcomed by the examiners. However, the examiners recommend that the definition of money laundering be revisited – the exact scope of the predicate illegal activity should be delineated without abandoning the all-crimes approach and the mental element of the money laundering provision be clearly identified. Consideration should also be given to the introduction, as defined by the Strasbourg Convention, to the concept of negligent money laundering.

6. The examiners consider that the seizure and confiscation regime should be reviewed and brought up to internationally accepted standards. Seizure should be considered as a genuine investigative and conservative measure which should be used under judicial control, not necessitating prior intervention of the court. In the view of the examiners, the confiscation procedure should conform to the requirements of the Strasbourg Convention – with the introduction of the possibility of confiscating instrumentalities and proceeds, and if they have been altered into another kind of property, the corresponding value may be confiscated.

7. The legal basis for international co-operation is indeed of a relatively satisfactory level, even if improvements could still be made to make it really comprehensive. The examiners recommend the

speedy signature and ratification of Convention N°141, as well as the ratification of the European Convention on Extradition, in order to reinforce the international co-operation capabilities of Georgia. Georgian authorities should also devote attention to the introduction of the necessary amendments to the legislation in order to provide for the possibility to give effect to a foreign confiscation request, a foreign confiscation decision or asset sharing request as well as equivalent value seizure and confiscation at foreign request. The examiners recommend that the Georgian authorities, when establishing a reporting system around a FIU, should not omit to invest it with the necessary legal capacity to enter into effective and direct co-operation with its counterpart elsewhere.

8. As regards financial issues, the examiners recommend that concrete and rapid actions should be undertaken by the Georgian authorities in the following areas:

- a. establishment of a general regulation stating the obligation of banks and financial institutions to report unusual and suspicious transactions to an investigative unit, which may investigate them without any constraint derived from banking secrecy rules;
- b. establishment of a general binding obligation to identify customers in financial services and the beneficial owner of the funds placed or utilised in banking and financial operations as well as the obligation of record keeping in respect of the opening of accounts and performing of financial transactions;
- c. establishment and active enforcement of strict rules as regards the licensing of banks, exchange offices and insurance companies;
- d. amendment of the legislation so as to alleviate strict banking secrecy as one of the conditions *sine qua non* for the successful implementation of a comprehensive anti-money laundering policy;
- e. establishment of a clear timetable for the conversion of existing anonymous accounts into normal accounts subject to the usual customer identification requirements;
- f. strengthening of the role and responsibility of the supervisory authorities as a prerequisite for any efficient anti-money laundering system.

9. The examiners consider as a positive aspect the fact that all segments of law enforcement can be mobilised in the fight against money laundering, however there seems to be a lack of co-ordination and exchange of information between them. Moreover, a systematic approach focused on money laundering is clearly lacking. Therefore, the creation of a Financial Intelligence Unit answering to the Egmont definition is of crucial importance. Experience in other countries has shown that a multidisciplinary composition of the FIU is advisable. The FIU should be equipped with the necessary legal and material resources, including direct and full access to financial information, and provided it with a status conducive to a relation of trust with the financial sector.

10. By pursuing these recommendations urgently, the Georgian authorities would progress rapidly the creation of an effective preventive and repressive system against the money laundering phenomenon which meets international standards.

### *Moldova*

1. A team of expert evaluators from PC-R-EV, accompanied by colleagues from the Financial Action Task Force (FATF), visited Moldova from 20 to 23 June 2000.

2. Moldova, a country in the south-east of Europe that has borders with Romania and Ukraine, is currently undergoing a grave economic and political crisis, which has prompted the development of a parallel economy and many different types of trafficking. The establishment in the east of the country

of a self-proclaimed republic - Transnistria - has also given rise to substantial problems over the past ten years or so. Crime, in particular organised and economic crime, is steadily rising and developing in an alarming manner. The Moldovan authorities estimate criminal organisations' income at over half the total income in the national economy. This income comes mainly from trafficking in drugs, arms and oil products, prostitution, theft of assets belonging either to the state or to private individuals, smuggling tobacco or alcohol, bank and financial fraud and tax evasion. The losses incurred through economic offences in 1999 was 142.3 million Moldovan lei<sup>5</sup>. The Moldovan authorities believe that a large proportion of this income is laundered through the official financial system and through the infiltration of entire sectors of the economy by criminal organisations. Numerous financial frauds are perpetrated through often fraudulently established bogus companies, whose economic activities are fictitious but which are financially very active. These companies are used not only for tax evasion, but also to launder money.

3. Moldova is confronted with every aspect of the money laundering problem (placement, layering and integration). Cash transactions are still very common and some of the people interviewed said that large sums of money enter the country uncontrolled. Moreover, the fragility of the banking and financial system - caused by the difficult economic situation - and the very small number of inspections carried out by the supervisory bodies, give little encouragement to banking and financial institutions to verify in a satisfactory manner the origin of their clients' funds.

4. The measures taken by the Moldovan authorities seem to be very limited. Indeed, money laundering has not been made a criminal offence and there are very few preventive measures. Only the Law on Financial Institutions contains a provision prohibiting banks from laundering money or other "assets". However, the National Bank (BNM) has not introduced any type of sanction that might act as a deterrent in this field<sup>6</sup>. Moreover, obligations to either identify clients or know them well and so prevent money laundering are seldom in place or complied with, whereas a BNM regulation requires banks to make appropriate enquiries about clients' identity when they open an account. It should be pointed out that such requirements are not imposed on other financial sectors such as bureaux de change and stockbrokers. Some government authorities, for example the Ministry of the Interior, the Ministry of Finance and the Ministry of Justice, are nevertheless aware of the country's openness to money laundering and seem determined to set up appropriate machinery to deal with the problem. In this context, it should be noted that Parliament has drafted a bill on the prevention and combating of money laundering and adopted it after a first reading. The Ministry of the Interior has also drafted an amendment to the existing Criminal Code to make money laundering a criminal offence, in keeping with the same principles as those set out in the draft legislation. Article 266 of the new draft Criminal Code also makes money laundering a criminal offence; this text is at the second reading stage in Parliament. Lastly, the national programme for combating organised crime, corruption and nepotism provides for the stepping up of anti-money laundering measures, in particular by increasing control over banking and financial activities and setting up machinery for implementing the law on money laundering once it has been enacted.

5. Moldova has ratified the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which took effect in respect of Moldova on 16 May 1995. However, although Moldova signed the Council of Europe 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime in May 1997, it has not yet ratified it. On the other hand, the 1957 Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters have been ratified and came into force in respect of Moldova on 31 December 1997 and 5 May 1998 respectively. Moldova is also a party to several regional and bilateral treaties (with Black

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<sup>5</sup> Moldovan lei is worth approximately USD 0.08 or FRF 0.60.

<sup>6</sup> During preliminary discussions prior to the plenary meeting, the BNM held that it had already applied, on several occasions, sanctions against banks for failure to implement Article 23 of the Law on Financial Institutions. Those sanctions were, in the main, written warnings, but also, on some occasions, prohibition to perform certain transactions, and, once, a fine of lei 3 million. The BNM clarified that pecuniary sanctions are difficult to impose, because of the fragile nature of the banking system.

Sea countries) on co-operation in combating organised crime and/or drug trafficking, as well as to regional and bilateral treaties (with CIS countries) on mutual assistance in criminal matters. Although the ratification of a number of international treaties is a step in the right direction, it is nonetheless evident that the absence of an appropriate legal framework for combating laundering, of a specific offence of laundering and of provisions relating to the seizure and confiscation of the proceeds of laundering, sets real limits on the implementation of international co-operation to combat money laundering in Moldova. In view of the obstacles raised by banking confidentiality during national investigations, it would be very surprising if Moldova could satisfactorily meet foreign requests for information held by banks, and which could be used in a foreign judicial procedure.

6 In the absence of a specific offence of laundering and of legal provisions relating to prevention, the only legal provision currently in force in this field (but which, according to the evaluators, is not enforced in practice) is Article 23 of the Law on Financial Institutions of 1 January 1996, which prohibits banks from “concealing, converting or transferring money or other known proceeds of criminal activities with a view to disguising their illegal origin or helping any other party involved in such activities to escape the legal consequences of his or her acts”. The public prosecutor’s office has said that it does its best to prosecute cases of money laundering under the existing laws against smuggling, tax evasion and corruption, for example. However, as the situation is so serious, the government has decided to prepare draft anti-money laundering legislation<sup>7</sup>. At this stage it mainly contains a list of definitions, but does not manage to make the terms used readily comprehensible. The experts’ general impression is that the obligations imposed by this text are not clear and that the distribution of tasks to the various central government bodies is difficult to understand. It is consequently not easy to see how this text will operate in practice, especially given that the setting up of a financial intelligence unit is no longer envisaged. The evaluators recommend that failure to report suspicious transactions be made an offence. If not, the obligation to report such offences may remain a dead letter.

7. As money laundering as such is not officially a criminal offence in Moldova, the confiscation and interim measures actually concern other offences, particularly economic offences. Article 155 of the Code of Criminal Procedure obliges the investigating authority to seize a prosecuted person’s assets if required for the purposes of a civil action, i.e. when there is damage to be made good, or when subsequent confiscation is possible under the criminal law provisions applicable to the prosecuted offence. This provision applies to the accused person’s assets of every kind, which may be seized only when criminal proceedings have been opened and the suspect has been formally indicted. There must also be no doubt that the property seized actually belongs to the accused, who must be a natural person, as the property of legal entities cannot be seized under Article 155 of the Code of Criminal Procedure. The evaluators consider that this system is not satisfactory and therefore recommend that Moldova adopt appropriate procedural instruments so that it is possible to order seizure at the very start of the investigation. Article 33 of the Criminal Code provides for confiscation of property belonging to a convicted person which derives from crime or was used, or intended for use, to commit the crime, as well as income from the criminal use of property or assets. Confiscation is possible only when specific provision is made for it among the penalties for the offence concerned. The assets thus confiscated become the property of the state by virtue of Article 70 of the Code of Criminal Procedure. Confiscation is supposed to be mandatory in respect of offences involving pecuniary damage. However, these provisions also have their limits. It would, in particular, be necessary to make confiscation an additional measure to the main penalty and ensure that it is aimed at confiscating assets and property recognised as having been laundered. The evaluators recommend that the Moldovan authorities ensure that appropriate steps are taken to make it possible to confiscate assets of equivalent value and to confiscate property held by third parties.

8. As far as prevention is concerned, other than Article 23 of the Law on Financial Institutions, there are no binding obligations on financial institutions, or even banks, aimed at devising a co-ordinated anti-money laundering policy. Article 23 of this law requires banks to report to the

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<sup>7</sup> On 15 November 2001 Moldova passed a law on the Prevention and Repression of Money Laundering.

relevant authorities any information that comes to their attention concerning the illegal origins of money or assets. According to the evaluators, however, this is not enforced. Other regulations introduced by the *Banca Nationala a Moldovei* (BNM), mainly to meet prudential requirements, entail formalities concerning the opening and closing of bank accounts and significant shareholdings in the capital of Moldovan banks. In a non-binding document (known as “the handbook for in-house checks”), the BNM has also invited banks to adopt an anti-money laundering policy. The handbook, which was produced in October 1998, lays down the official procedure for in-house checks. These measures do not constitute an adequate basis for combating money laundering, nor are they in conformity with international standards. The evaluators noted a lack of vigilance and collaboration by Moldova’s banking and financial institutions in the combating of money laundering, which depends just as much on the behaviour of the financial institutions themselves as on the not very receptive attitude of the BNM. This is highly regrettable. The evaluators therefore recommend that the Moldovan Parliament, which is responsible for supervising the BNM, take urgent steps to ensure that the National Bank attaches proper importance to the combating of money laundering and makes use of its powers to impose penalties for laundering within the banking system, *inter alia* through application, in a more satisfactory manner, of Article 23 of the Law on Financial Institutions. The experts consequently recommend that a real obligation to report suspicious transactions be introduced, not only for banks, but also for the whole financial sector (including currency exchange offices, pawnbrokers and investment companies) and that a financial intelligence unit able to deal with these data be set up as rapidly as possible so that criminal proceedings can be instituted.

9. Institutions outside the banking and financial sectors (currency exchange offices, pawnbrokers, investment companies, financial market operators, savings and loans associations, lottery and gaming establishments and insurance companies) all have supervisory authorities, but it seems that no supervisory authority has carried out practical checks on money laundering. The experts therefore recommend that these sectors should also be subjected to elementary anti-laundering measures (obligation to identify customers, keeping of documents relating to transactions and customer identification, reporting of suspicious transactions, preparation of an internal programme against laundering), whether these are based on the anti-money laundering legislation now being drawn up (when it comes into force) or on provisions to be adopted by the supervisory authorities themselves and whose application they would be responsible for monitoring. This recommendation relates especially to currency exchange offices, pawnbrokers and investment companies, which currently seem very susceptible to money laundering.

10. The law-enforcement agencies have a fairly wide range of investigative means at their disposal under Law N° 45/1994 on investigative operations. They include searches, surveillance, telephone tapping, interception of communications, undercover operations/ infiltration and the use of informers. As money laundering is not yet officially a criminal offence, these measures are aimed not against money laundering itself but rather against economic crime in general. In practice, however, it appears that a large number of investigations are frustrated because of the reluctance of the banking sector to co-operate. Banks cite bank confidentiality to justify their refusal to provide requested information. They cannot be obliged to divulge information until the Public Prosecutor has officially opened a criminal investigation and this can only be done if there is a sound case, for which financial information held by banks is often necessary. The evaluators recommend that effective collaboration be established among the various law enforcement authorities, but also between these authorities and the other state institutions which should play a part in combating laundering, *inter alia* the BNM, the CNVM and the company registration authority.

11. The evaluators are also convinced that it is absolutely necessary to instil greater responsibility into the various institutions or persons involved in combating money laundering, starting with the public agencies and also extending to public officials (including notaries) and the private sector (including the banks), so that the checks provided for at every stage are effectively carried out, ensuring that the entire anti-laundering system does not rely on the law enforcement bodies. In fact, unless such an approach is taken, any regulatory action may prove completely ineffective. The experts also believe that it is essential to set up machinery to co-ordinate the activities of the various

institutions and persons with a role in combating money laundering, including the law enforcement authorities but also extending to the authorities responsible for supervising the banking and financial sectors.

12. The evaluators believe that it is in the Moldovan authorities' interest to review existing legislation so as to identify possible sources of difficulty and study ways of removing these difficulties. They recommend that the Moldovan authorities obtain an expert legal opinion on the draft legislation on the prevention and combating of money-laundering, as it does not, as it stands, provide the necessary basis for effectively countering money laundering. In particular, its field of application ought to be clarified by the definition of laundering that ought to be set out in the Criminal Code.

13. In short, the evaluators note that Moldova is at the moment completely open to money laundering. Unless the Moldovan authorities decide to apply the measures already in place in respect of banks and to finalise and very speedily adopt the texts intended to make laundering a criminal offence and to set up an appropriate anti-laundering system, as well as to remove the obstacles currently standing in the way of criminal investigations (including banking confidentiality), money laundering, and financial crime in the broader sense, may well become a very serious impediment to the country's economic development.

## ANNEX E

### SUMMARIES OF MUTUAL EVALUATIONS UNDERTAKEN BY GAFISUD

#### *Colombia*

1. Colombia's comprehensive anti-money laundering system basically meets all 40 FATF Recommendations, is currently in the consolidated phase and continues to advance in projects intended to improve the system.
2. The money laundering scene in Colombia is characterised by a strong presence of highly profitable criminal activities (drug dealing, subversion, kidnapping for ransom, tax evasion and smuggling), the effects of which have led the country to respond to these threats through regulatory policies and institutional actions involving plentiful human and financial resources to fight them.
3. In the struggle against these crimes, mainly drug dealing, the money laundering prevention and law-enforcement policies represent a significant complement, but not the main instrument, because it is believed that most of the laundering transactions take place in the international financial circles. Furthermore, in the struggle against money laundering several circumstances come together that involve multiple relationships, such as the links of the subversion - drug dealing - kidnapping axis.
4. The operational and financial legal system of Colombia consists in a comprehensive body of related laws and regulations. The core is the establishment of money laundering as an autonomous crime, and a list of preceding or underlying crimes that comprises generic crimes that involve as many as 59 types of offences. It should be noted that money laundering is punishable even where the preceding underlying crime may have been perpetrated in a foreign country and that punishment includes, alongside with imprisonment, the possibility of revoking the legal status as a body corporate of the entities involved.
5. The following crimes are established as ancillary criminal types to complete the enforcement system: failure by the employees and directors of financial entities to exercise proper control; failure by private individuals to report money laundering, drug trafficking and unlawful enrichment offences; acting as figurehead (i.e., lending one's name for the acquisition of assets with money generated by drug trafficking); and the unlawful enrichment of private individuals.
6. A novel type brought into the Colombia system is the Action for the extinction of the *dominium*. This judicial proceeding concludes in a sentence that allows terminating the right of fee simple ownership and forfeiture to the State as a result of the unlawfulness of the activity from which that right emanates. This action is established as a complement of the money laundering felony and allows the prosecutor to go after the assets acquired with unlawful resources, irrespective of the results of the criminal action.
7. The Office of the Attorney General of the Nation plays a central role in the investigation and in the probable cause proceedings. The Office's efforts against money laundering and for implementation of the action to terminate the right of fee simple ownership converges on the Attorney General's Office Central Unit, which has become highly specialised and has achieved significant quantitative results with the support of the agencies that participate in the judicial police duties. An area to be improved is the continuing and increased training, accompanied by better technological means for asset investigation.
8. The financial system rests on the Money Laundering Prevention Integrated System (*Sistema Integrado para la Prevención del Lavado de Activos - SIPLA*) to be applied by all the supervised entities, in addition to the ordinary control procedures developed for financial supervision by the relevant Superintendent Offices and entities responsible for money laundering control. The private sector has played a proactive role in the implementation of preventive rules and co-operation with the public sector in the development of anti-money laundering policies.

9. We should also highlight the prevention policy developed by Banco República, in its capacity as central bank and foreign exchange market regulator, and the control of cross-border inflow and outflow carried out by the National Tax and Customs Office (*Dirección de Impuestos y Aduanas Nacionales* - DIAN).

10. The Financial Information and Analysis Unit, created in 1999, collects all the information and alert warnings from the prevention system. Its specialised, high-tech function has led it to develop extremely useful tools for money laundering prevention and control.

11. Concerning the issues where improvement is recommended, it would be advisable to:

- Study a formula to allow definition of preceding offences in relation to a category encompassing all serious crimes
- Continue the process to improve the quality of the mandatory reporting of suspicious operations, offering some kind of general feedback to the obligated entities,
- Develop the existing plans to strengthen the trust and cooperative sector,
- Support the reinforcement of the Extinction of the *dominium* and Money Laundering Unit of the Office of the Attorney General of the Nation,
- Improve the consolidated information levels of the anti. money laundering system,
- Consolidate the Inter-Institutional Co-ordination Commission on Money Laundering, through the creation of an operating body under the authority of said Commission,
- Consider the factors impacting the increase of circulating cash and the resulting reduction in the use of the banking system.
- Prioritise the implementation of money laundering prevention measures applied to casinos and gambling.

### *Uruguay*

1. Uruguay has a comprehensive system against money laundering which meets international standards and is currently undergoing a consolidation phase with special emphasis on training public and private agents.

2. The money laundering scene in Uruguay is peculiar in that there are no major profitable criminal activities within Uruguayan territory. There could be a potential risk of money laundering as a result of the country's role as regional financial market, and strong share in offshore operations, both by financial brokerage institutions and businesses with special corporate purposes.

3. The Uruguayan legal system includes a body of laws and regulations under which the country complies with most of the standards set out in the Forty Recommendations produced by the Financial Action Task Force against money laundering (FATF), adopted in December 2000 by GAFISUD in the Memorandum of Understanding under which the group was organised.

4. The system's enforcement system is built around the enactment of money laundering as a criminal offence. Thus, money laundering constitutes a criminal offence by its own right, with a list of related preceding or underlying crimes that includes felonies (drug dealing and related offences, administrative corruption, terrorism, smuggling involving more than US\$ 20,000, illegal trade of arms, explosives, ammunition or materials intended for production thereof; illegal trade of organs, tissues and medicines; illegal traffic of men, women and children; extortion, kidnapping; procuring, illegal trade of nuclear substances; illegal trading in works of art, animals or toxic matter). A notable feature is that money laundering is punishable even when the preceding underlying offence may have been perpetrated in a foreign country.



5. The system's instruments include confiscation or seizure, with the possibility of expropriating, attaching or garnishing any products or instruments used or intended for use in laundering-related activities. These instruments, however, find a major hurdle where the assets involved are real estate, because the property registration system of Uruguay does not allow to search for properties by their owner's name.

6. The office of the Attorney General and the Police operate by prompt reporting to thwart criminal activities. Uruguay's policy towards the development of an enforcement system, places special emphasis on the training and education of judges and public prosecutors regarding money laundering legislation and the related financial facts. Similarly, one of the goals of the Uruguayan policy in the struggle against money laundering is the technical training of the police force in the field of asset investigation.

7. The money-laundering prevention system is based on the participation of all Ministries and public agencies which have responsibilities over this issue: the Deputy Secretary to the President of the Republic, whose Deputy Secretary chairs the National Drug Board; the Money Laundering Training Centre; the Ministry of Economy and Finance and the Uruguayan Central Bank that control the superintendent offices that supervise all sectors and the Financial Analysis and Information Unit (UIAF); the Police under authority of the Ministry of Home Affairs and the Coast Guard Service under the authority of the Ministry of Defence.

8. Notwithstanding the National Drug Board's authority as the highest ranking agency responsible for the anti-money laundering policy, the Training Centre is the co-ordinating forum, an encounter forum, and advisor on the money laundering prevention general policy intended to draw together all of the above institutions and the office of the Attorney General, allowing as well participation of the private sector.

9. The private sector has developed self-regulating measures to implement laundering prevention procedures. Thus, the Codes of Conduct approved in 1997 by the Uruguayan Banks' Association and the Chamber of Financial Entities, further approved in 2001 by Money Exchange Houses and the Code of Conduct adopted by the Stock Exchange in 2002.

10. The prevention system created by law establishes, for the entities involved, the obligation to have their own mechanisms to know their clients and for the preparation of inside detection programs. The system's elements are the obligation to demand client identification, to maintain the information, the obligation to notify the operations and identify their clients making cash transactions for more than US\$ 10,000, to have an enforcement officer, and to develop staff training programs.

11. The Financial Information and Analysis Unit collects all the information and alert warnings from the prevention system. Organised as an administrative and financial analysis office, it is located in the Superintendence of Financial Brokers and its operation is funded by the Central Bank and supported by Central Bank personnel. The programs that the Unit is currently developing are specially focused on making the best use of the data base, which still shows shortcomings, particularly with respect to transactions related to offshore activities.

12. In the field of international co-operation we should highlight Uruguay's adoption of the Vienna Convention of 1988. In the regional scenario, the country's signing of the South American Agreement on narcotic and psychotropic drugs; the Mercosur Protocol on Preventive Measures; the Mutual Legal Assistance in Criminal Matters (MERCOSUR); the Cooperation Agreement between the Central Banks of the Mercosur States for the Prevention and Repression of Manoeuvres Intended to Legitimise Assets Originating in Illegal Activities and the Inter-American Convention of Mutual Legal Assistance in Criminal Matters, Nassau, 1992. In December 2000, Uruguay signed the Memorandum setting out the organisation of GAFISUD and has offered its training Centre for the group's activities.

13. The above notwithstanding, and regarding co-operation requests received to fight against corruption and money laundering offences, it has not been possible to measure the effectiveness of said Agreements or Conventions as a result of the material absence of statistical data about the requests where co-operation has been effectively provided.

14. Lastly, it should be noted that the absence of judicial cases on money laundering is closely related to the deficient operation and the almost non-existent reporting of suspicious transactions. These weaknesses occur within the framework of novel anti-laundering legislation, the recent creation of the UIAF and, also, the newly implemented activity of training public and private players.

15. Concerning the issues where improvement is recommended, it would be advisable to:

- Study whether it is timely to add fraud to the list of offences preceding money laundering,
- Make the legal changes required to guarantee that obligated subjects will be released of liability where they report suspicious transactions,
- Issue suspicious activity guides to be distributed among subjects involved in the preventive system and to go ahead with the plans to develop crime definition workshops for the enforcement officers,
- Maintain and build up the UIAF's human and technical resources and expand investigation resources through greater access to sources of relevant police-like information,
- Provide the police with asset investigation experts and money laundering survey techniques,
- Develop existing plans to educate judges and public prosecutors,
- Study whether it is timely to implement regulatory measures to include casinos as obligated subjects, as well as the difficulties that may be involved in the limited information on real estate as far as investigation is concerned.

## ANNEX F

### SUMMARIES OF MUTUAL EVALUATIONS UNDERTAKEN BY THE OFFSHORE GROUP OF BANKING SUPERVISORS (OGBS)

#### *Mauritius*

6.1 Mauritius has a range of legislation governing the domestic and offshore financial services industry but legislation dealing with money laundering specifically is in its infancy. In the past legislation has regulated banks and other financial institutions on a prudential basis. However, new legislation, namely Economic Crime and Anti-Money Laundering Act 2000 (ECAML Act) and the Dangerous Drugs Act 2000 have been introduced to combat money laundering. However, legislation relating to international co-operation needs to be reviewed to ensure compliance with FATF Recommendation 38. At the time of the visit no Extradition Act was in place and the team was told that the Vienna Convention could not be ratified until this had been done.

It is noted that since the evaluation took place the Evaluation Team had been informed that the Government has deposited its instrument of ratification in respect of the Vienna Convention with the office of the United Nations Secretary General on 6<sup>th</sup> March 2001. Accordingly, the Convention was due to come into force for Mauritius on 4<sup>th</sup> June 2001.

6.2 The Head of ECO is the Director. The constitution of Mauritius was recently amended to enable the Director to be given security of tenure and absolute independence. The ECO is empowered to investigate economic offences, receive suspicious transaction reports and investigate them, analyse and disseminate to other law enforcement agencies information relating to suspicious transactions and ensure co-ordination and co-operation (domestically and internationally) in preventing, detecting and suppressing money laundering and economic offences. In addition to investigating reported suspicious transaction cases, the Director of the ECO may initiate investigations in any suspicious transaction or any economic crime offence autonomously. Police officers and other public officers are seconded into the ECO and work entirely at the direction of the ECO but bring to the unit their expertise in their various disciplines. The ECO is very much in its infancy and needs the support of the Mauritius authorities and the industry in order to gain their confidence and respect, and serious consideration should be given to the appointment of a public relations executive to promote the image of the ECO positively on a continuous basis.

6.3 The regulation of the finance industry is currently fragmented into banking and non-banking sectors, with responsibilities divided amongst separate regulatory bodies, namely, the Central Bank and the MOBAA, the Controller of Insurance and the Stock Exchange Commission. Recognising this factor, the Government is setting up a Financial Services Commission which will be responsible for the licensing, regulation and supervision of non-banking financial services initially and, at a later stage, to integrate the Financial Services Commission with the Bank of Mauritius, the supervisory authority of the banking sector, in a move to a single unified regulatory authority for the whole financial services in Mauritius.

In the meantime, there are provisions in the ECAML Act 2000 for tackling money laundering threats and for the involvement of different regulatory bodies e.g. lodging of reports of suspicious transactions with the Central Bank. The Bank can further refer the matter to the appropriate bodies regulating the financial institutions who can take appropriate action under their relevant legislation. (Sections 22(1) and 21(6) respectively). However, the Evaluation Team considers that strengthening and improving co-operation between different regulatory bodies should be developed in the short term.

6.4 Money laundering guidance notes were issued to the finance industry during the visit of the Evaluation Team and these were issued as a consultation document. In order to ensure full compliance with FATF Recommendation 19 it is essential that every effort is now placed on the training and awareness of all employees in the finance sector to ensure that they all understand the threats of money

laundering and what action should be taken when suspicious transactions occur in their area of activity. In the short term, the Central Bank should take the initiative in developing training programmes for the finance sector and co-ordinating them amongst the other regulatory bodies.

6.5 The evaluators consider that, in taking forward the recommendations in this report, the authorities in Mauritius will have in place the foundation for the necessary legislation and supporting infrastructure to enable them to tackle the threats of money laundering and in developing training and awareness programmes.

6.6 Although the evidence of suspicious transaction reporting was low due to the short time that regulated entities had been required to make reports, those Associations and representatives of the Finance sector who met with the Evaluation Team showed a commitment to setting up procedures and training staff. It essential however, that a single mechanism be established for reporting which in the Teams view should be by direct reporting to the ECO (FATF Recommendation 15).

## ANNEX G

### SUMMARIES OF JOINT FATF/GCC MUTUAL EVALUATIONS OF THE GULF COOPERATION COUNCIL COUNTRIES

#### *United Arab Emirates<sup>1</sup>*

1. The UAE is an important financial centre with strong links not only to the region but also to other financial centres in Europe, Asia and North America. The financial sector is modern and outward looking. UAE authorities do not see a significant money laundering problem affecting their country. The domestic crime level is low, although some significant fraud cases have occurred. Only a few cases of money laundering have been detected so far most of which have been associated with either narcotics trafficking or financial fraud schemes. The UAE government nevertheless recognises the need to implement an effective anti-money laundering system to protect its financial sector from potential money laundering, and it is taking firm steps to put relevant measures in place.

2. At the time of the FATF mutual evaluation (which took place in February 2001), the UAE had developed and significantly implemented the framework for its anti-money laundering system, although certain of its aspects needed be clarified and strengthened. The Ministries of Finance and Industry, Interior, Justice, and Economy and Commerce, along with the Customs Council and the Central Bank, were and continue to be the primary forces behind the UAE Government effort. A National Anti-Money Laundering Committee, under the Chairmanship of the Central Bank, has been established with representatives from most of the key law enforcement authorities, regulatory bodies and private sector. The Committee has had a dynamic role in implementing the most recently adopted measures. During the mutual evaluation, these officials expressed a strong willingness to take additional action to improve the current system and close any loopholes.

3. Through Article 407 of the Penal Code, UAE had criminalised money laundering. The offence covered possession and concealment of property obtained as the result of any crime, though it did not include the conversion or transfer of such property. The new anti-money laundering law (22 January 2002) adds those missing elements to the definition of the money laundering offence.

4. At the time of the mutual evaluation, confiscation laws that applied to money laundering were included in general provisions of Article 82 of the Penal Code and thus applied to all offences. However, UAE law did not permit the confiscation of property of equal value, nor did it permit the confiscation of substitute assets. The UAE could not apply confiscation in the full range of circumstances as envisaged by FATF Recommendation 7. Confiscation provisions also had not yet been used with respect to violations of the money laundering offence. With enactment of the new anti-money laundering law in January 2002, confiscation of property of equal value is now permitted. The freezing or seizing of possible criminal proceeds is possible with regard to STRs, and the authority to do this rests with the Central Bank. There is authority to seize or freeze assets in relation to other types of criminal investigations.

5. UAE anti-money laundering measures applicable to the financial sector have been implemented as a series of administrative requirements through a Central Bank circular. Complete customer identification rules are contained in Circular N° 24/2000 and apply to all financial institutions under the jurisdiction of the Central Bank. The Circular provides the procedures to be followed for the identification of natural and juridical persons, the types of documents to be presented, and rules on what customer records must be maintained on file at the institution. At the time of the mutual evaluation, the Circular also provided identification rules for occasional customers (i.e., non-account holders) whereby those individuals conducting transactions over AED 200,000 [USD 54,454] had to be identified, and relevant records must then be maintained for the purpose of reconstructing transactions. The evaluators expressed concern about the high threshold level of this provision and for some others in the Circular. In subsequent changes to the regulation, the UAE has lowered the

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<sup>1</sup> This summary reflects the situation in the UAE at the time of the on-site visit from 19 to 21 February 2001.

threshold to AED 40,000 [USD 10,900] for financial institutions and AED 2,000 [USD 545 for other entities].

6. Other provisions of Circular No 24/2000 call for customer records to be maintained for a minimum of five years and further require that they be periodically updated as long as the account is open. Financial institutions are required to file suspicious transaction reports, and the Central Bank has provided guidelines on types of transactions that could constitute money laundering. The number of suspicious transaction reports received up to the time of the evaluation had been very low in comparison to the relative size of the financial sector of the UAE; however, the UAE authorities indicated that some 206 reports had been filed by the end of 2001. The Central Bank has the authority to impose administrative sanctions on institutions that fail to comply with banking regulations, including relevant anti-money laundering rules, although no cases of this have occurred in respect of money laundering rules up to now.

7. UAE anti-money laundering rules apply to all financial institutions under the supervisory authority of the Central Bank and include money exchanges / money remitters as well. One other key category of non-bank financial institutions – insurance companies – falls under the regulatory oversight of the Ministry of Economy and Commerce. The anti-money laundering provisions of Circular N° 24/2000 do not therefore apply to this sector. At the time of the evaluation, no specific anti-money laundering requirements had yet been imposed on insurance businesses; however, the UAE Ministry of Economy and Commerce has since established direct anti-money laundering obligations on the insurance sector, including customer identification, suspicious transaction reporting, etc.

8. Given the importance of the UAE gold market, the UAE should also consider the possibility of establishing a direct requirement on gold and jewellery dealers to identify customers, maintain records, report suspicious transactions and follow any other rules deemed necessary to prevent their misuse by money launderers. The UAE should therefore also consider including gold shipments as part of a comprehensive cross-border reporting system. More education and training is urged within the industry and also with the competent investigative authorities as to how the gold industry might be misused to launder funds and the role it plays within alternative remittance systems.

9. In the operational area, the UAE had created a procedure for investigating and prosecuting money laundering by the time of the evaluation; however, it has yet to show any successful prosecutions. The AMLSCU has been established for receiving STRs from the financial sector. The unit was originally an integrated part of the Central Bank's compliance examination process and lacked direct access to relevant non-financial related information. Since the evaluation, the unit has been established as an independent authority under the Central Bank and has more direct access to non-financial information. In January 2002, the unit applied to join the Egmont Group of FIUs.

10. Law enforcement authorities responsible for investigating money laundering are closely associated with the Ministry of Interior's anti-narcotics agency. Therefore, in the past, there has been an emphasis on the connection between narcotics trafficking and money laundering. Today UAE authorities are making an effort to build an anti-money laundering system that focuses on the illegal proceeds of serious crime. Trade related money laundering based on fraud, smuggling, and alternative remittance systems poses a particular vulnerability. The UAE has increased training in these areas and improved co-ordination among the Ministries of Interior and Economy and Commerce, along with UAE customs authorities. Since the evaluation, a declaration obligation has been introduced regarding the importation of cash (for passengers, postal shipments and courier companies) with a threshold of AED 40,000 [USD 10,900], and procedures have been agreed and implemented with regard to determining beneficial owners of foreign legal entities (juridical persons) and joint venture companies desiring to set up operations in UAE free trade zones.

11. With regard to international co-operation, the UAE has signed and ratified the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and it has entered into series of bilateral agreements on mutual legal assistance. UAE officials have stated that, even

without formal agreements, it can offer legal assistance on the basis of reciprocity with the requesting state, and it has done so in the past. Officials also emphasised their readiness to sign bilateral judicial co-operation agreements. At the operational level, there were originally no provisions at the time of the evaluation that permitted the exchange of STR information between FIUs. Such exchanges were only possible on the basis of reciprocity, although no requests had been received at the time of the mutual evaluation visit. Legislation enacted in January 2002 provides a more concrete basis for honouring foreign legal assistance requests and also expand the possibility of exchanging STRs and related material with foreign counterpart agencies.

12. At the time of the mutual evaluation, the United Arab Emirates had taken several of the necessary steps to deal with money laundering; however, there remained a few areas requiring further action. UAE authorities were advised by the evaluators that the country needed to modify the legislation then in effect to bring its money laundering offence up to adequate standards. On 22 January 2002, the UAE enacted Federal Law No (4) 2002 regarding Criminalisation of Money Laundering, which addresses many of the deficiencies identified by the FATF evaluators. It extended direct anti-money laundering requirements to the insurance sector, and eventually similar obligations could be imposed on the UAE gold market. Most of the other elements of a comprehensive anti-money laundering system have now been put into place. The UAE should therefore focus on effectively implementing all elements of its system and on working closely with other jurisdictions to ensure that the UAE is not used as a way station for money laundering.

### *Qatar<sup>2</sup>*

1. Qatar is a relatively small jurisdiction both in terms of its population and in terms of its financial sector. It has generally a low level of crime, especially with regard to those criminal activities likely to generate proceeds needing to be laundered. Given these factors, it would appear that the money laundering risk in Qatar is not high at present.

2. A number of anti-money laundering measures have been implemented in Qatar, in particular by the Qatar Central Bank (QCB). However, at the time of the evaluation the legislative basis for such measures, as well as regulations and practices, needed to be reinforced in order to ensure that Qatar has the necessary means for an effective anti-money laundering system. Qatari ministers and their officials showed a high level of commitment to addressing the issue of money laundering during the mutual evaluation visit. They expressed their willingness to co-operate with the FATF to enact necessary legislation and thus strengthen the Qatari anti-money laundering system.

3. Anti-money laundering measures when Qatar was evaluated applied to the financial sector through regulations and executive instructions of the QCB and the Department of Commercial Affairs (DCA) of the Ministry of Finance, Economy and Commerce. While some anti-money laundering measures for financial institutions under the supervisory authority of the QCB have been in place since 1994, current measures were implemented in 1999 with the issue of QCB Circular N° 33/1999. The measures included in the Circular cover many of the necessary preventive measures including customer identification, record keeping, suspicious transaction reporting, and requirements for internal controls and training.

4. There is at present no criminal offence of money laundering under Qatari law. Consequently, no relevant prosecutions have taken place. Qatari officials have recognised this deficiency and have thus developed draft legislation that will create such an offence, as well as provide for a sounder and more comprehensive legal basis for preventive measures involving the financial sector. The proposed text gives a broad definition to money laundering and targets criminal funds regardless of the specific underlying offence. Establishment of a separate money laundering offence as indicated in this proposal will be most welcome once the law passed.

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<sup>2</sup> This summary reflects the situation in Qatar at the time of the on-site visit from 21 to 23 May 2001.

5. Existing confiscation provisions are contained in Article 43 of the Narcotic Drugs Law and under a general provision in the Penal Code. The provisions do not give a full range of possibilities for confiscation. With regard to freezing or seizing funds or property, the QCB is the only authority with the power to take such an action; therefore, once again the measures are inadequate. Improved measures have been included in the text of the draft law. However, Qatar should review its current powers to freeze, seize, or confiscate the proceeds of crime, along with the text of the proposed anti-money laundering law to ensure that this issue is properly addressed.

6. At the time of the mutual evaluation, the primary anti-money laundering measures applicable to the financial sector were based on requirements imposed by the QCB as indicated above. While banks, finance companies, investment companies and money exchanges were subject to these measures, other non-bank financial institutions, such as insurance companies and the Doha Securities Market, were not. The DCA has implemented certain anti-money laundering measures regarding insurance and securities, although those for securities are less comprehensive than those contained in QCB regulations. The draft law should resolve this problem by including insurance and securities.

7. Anonymous accounts, and accounts with fictitious names are not permitted for financial institutions under the supervision of the QCB, and this prohibition will be contained in the new legislation under consideration. Current QCB regulations impose the obligation on financial institutions to identify their customers, both natural persons and legal entities. The same limitations apply regarding non-bank financial institutions mentioned above. The draft law will extend the obligation to all financial institutions; however, it will still need to be modified to include provisions requiring identification of the beneficial owner. Record keeping provisions are generally adequate.

8. The obligation to report suspicious transactions extends to all financial institutions under the supervision of the QCB. Similar requirements have been established for insurance companies and securities through regulations issued by the Ministry of Finance, Economy and Commerce. The current QCB reporting requirement is weak in that it requires reporting only when the institution detects “crimes or money laundering attempts” rather than suspicion of money laundering. Provisions in the draft law would deal with these concerns.

9. With regard to international co-operation on money laundering, Qatar has taken the first step in signing and ratifying the Vienna Convention. Moreover, it may provide assistance on the basis of reciprocity even without a treaty. The proposed legislation will further clarify this area by granting explicit powers to honour requests dealing with confiscation or provisional measures. Provisions regarding exchange of information between the anti-money laundering Committee and foreign counterpart FIUs must still be in the form of rogatory commissions if they are requesting suspicious transaction information. Such requirements may serve as an obstacle to useful co-operation among FIUs, and consideration should therefore be given to modifying these provisions to permit direct exchanges between the Committee and foreign counterpart FIUs.

10. In general, Qatar has taken several of the necessary steps to address the problem of money laundering; however, additional steps and further refinement of existing requirements are needed. The proposed comprehensive anti-money laundering legislation is an important step in the right direction, and its development before this mutual evaluation demonstrates a longer-term political commitment to perfect the anti-money laundering system in Qatar. The money laundering risks appear to be small at present as stated above, which may be partly attributed to the low level of criminal activity that might be expected to generate illegal proceeds. Nevertheless, Qatar should enact and implement comprehensive anti-money laundering legislation and establish any additional necessary regulations and guidelines to ensure that its financial system is not misused by money launderers in the future.