

**MEMORANDUM OF UNDERSTANDING  
OF  
THE EASTERN AND SOUTHERN AFRICA ANTI MONEY  
LAUNDERING GROUP  
AS APPROVED BY THE COUNCIL OF MINISTERS  
MOMBASA, KENYA , 2008**

**August 2008**

**MEMORANDUM OF UNDERSTANDING AMONG MEMBER  
GOVERNMENTS OF THE EASTERN AND SOUTHERN AFRICA  
ANTI MONEY LAUNDERING GROUP**

**Considering** the threat posed by the activities of money launderers and the financiers of terrorism;

**Determined** to preserve and maintain social, economic and political stability in the Region;

**Acknowledging** the need for expertise and training to ensure the effective implementation of money laundering and terrorist financing counter-measures and the support of non-member countries and international organisations in sustaining such training programmes;

**Acknowledging** that regional and international co-operation is critical in the fight against money laundering and in combating the financing of terrorism;

**Affirming** the commitment given in various meetings, including those of Commonwealth Heads of Government, and Law and Finance Ministers, to adopt and implement the 40 Recommendations and Special Recommendations for Combating the Financing of Terrorism (the 40 Recommendations plus Special Recommendations) of the Financial Action Task Force (FATF);

**Acknowledging** the need for the development and implementation of national anti-money laundering and anti terrorist financing legislation

in the respective countries in accordance with international anti-money laundering and anti terrorist financing strategies.

**Acknowledging** the need to cooperate with other States in combating money laundering and the financing of terrorism by implementing international instruments relating to the combating of money laundering and the financing of terrorism.

The Governments, party to this Memorandum of Understanding (Memorandum) have reached the following understanding:

#### **I - Objectives**

Member countries of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) agree to:

- (a) adopt and implement the 40 Recommendations plus Special Recommendations of the FATF;
- (b) apply anti-money laundering measures to all serious crimes;
- (c) implement measures to combat the financing of terrorism;  
and
- (d) implement any other measures contained in multilateral agreements and initiatives to which they subscribe for the prevention and control of the laundering of the proceeds

of all serious crimes and the financing of terrorist activities.

## **II - Members**

### 1. Member countries are:

(a) those Commonwealth countries within the Eastern and Southern Africa Region (initial subscribers) which subscribed to this Memorandum either:

(i) by signing this Memorandum at the meeting held in Arusha, Tanzania on 27th August 1999; or,

(ii) within six months thereafter; or,

(b) any country within the region, other than initial subscribers to this Memorandum, whose application for membership of the group is approved.

### 2. ***A country may apply to the Council of Ministers to become a member, provided that only applications made in writing and submitted at least three months prior to a meeting of the Council of Ministers will be considered at that meeting.***

Countries shall be admitted as Members upon approval of their application by three quarters of the Member countries and payment of the initial subscription due in terms of this Memorandum.

3. Countries seeking membership of the ESAAMLG must:
- (a) recognise the need to take action to combat money laundering and the financing of terrorism;
  - (b) recognise the benefits to be gained through the sharing of knowledge and experience;
  - (c) take steps to establish and implement anti money laundering and anti terrorist financing legislation, financial intelligence units, national committees, and other measures based on internationally accepted standards;
  - (d) commit themselves to implementing the decisions of the ESAAMLG, subject to national laws and policies;
  - (e) agree to pay the initial subscription upon signing this Memorandum, and thereafter to pay annual subscriptions as determined by the Council of Ministers; and,
  - (f) acknowledge the need to cooperate with other States in combating money laundering and the financing of terrorism by implementing regional and international instruments relating to the combating of money laundering and the financing of terrorism.

### III - Co-operating and Supporting Nations

1. Co-operating and Supporting Nations are countries which express their technical or financial support for the objectives of the ESAAMLG.
2. Co-operating and Supporting Nations are committed to the mutual evaluation of their progress in implementing the 40 Recommendations plus Special Recommendations of the FATF and will make such contributions to the work and/or resources of the ESAAMLG as are permitted by their respective national laws and policies.
3. Other countries that are not Members of the ESAAMLG may become Co-operating and Supporting Nations. All future Co-operating and Supporting Nations must express their commitment to the support of the ESAAMLG and have undergone a positive mutual evaluation by the FATF or a FATF-style regional body.
4. ***A country may apply to the Council of Ministers to become a Co-operating or Supporting Nation, provided that only applications submitted in writing at least three months prior to a meeting of the Council of Ministers will be considered at that meeting.*** A Country will be considered a Co-operating and Supporting Nation upon approval of its application by three quarters of the Member countries.

#### IV - Observers

1. Observers are:
  - (a) organisations which actively support or otherwise are interested in the objectives of the ESAAMLG;
  - (b) countries within the region which are considering Membership or Countries which are considering becoming Co-operating and Supporting Nations; or,
  - (c) any other country or organisation, after appropriate consultation, invited by the President of the Council of Ministers in consultation with members.
2. Initial observers to the ESAAMLG are the Commonwealth Secretariat, the UN Global Programme Against Money Laundering, the FATF Secretariat, the World Bank, the IMF, Interpol, the World Customs Organisation, the African Development Bank, the SADC Secretariat, the COMESA Secretariat and the EAC Secretariat, East African Development Bank, and the Eastern and Southern Africa Development Bank.
3. ***An organization or a country may apply to the Council of Ministers to become an Observer, provided that only applications submitted in writing at least three months prior to a meeting of the Council of Ministers will be considered at that meeting.*** Organisations or countries, will be admitted as

Observers upon the approval of their applications by three quarters of the Member countries.

## **V - Funding**

1. The activities of the ESAAMLG shall be funded by annual subscriptions from Member countries as decided by the Council of Ministers and by contributions from Co-operating and Supporting Nations or any other source approved by the Council of Ministers.
2. Member countries shall bear the cost of their participation in the activities of the ESAAMLG.
3. The Council of Ministers may determine that Member countries which fail to pay their subscriptions may participate during proceedings of the ESAAMLG, but not vote, or may prescribe any other appropriate measure deemed fit to sanction the affected member country or otherwise.

## **VI - Structure**

The ESAAMLG comprises the:

- (a) Council of Ministers (the Council);
- (b) Task Force of Senior Officials (the Task Force); and,
- (c) Secretariat.

## VII - The Council of Ministers

1. Subject to Article X, the Council of Ministers shall be the key decision making body of the ESAAMLG and consist of at least one ministerial representative or duly authorised alternate from each Member country.
2. The Council of Ministers shall meet at least once a year.
3. The Council of Ministers shall elect a President from among its Member countries for a period of one year.
4. The Council of Ministers may, on the recommendation of the Task Force :
  - (a) approve the Annual Report;
  - (b) approve the Financial Reports for the previous financial year;
  - (c) approve a 3 year rolling Strategic Plan setting out ESAAMLG's goals and objectives, which should be developed every year and endorsed by all Members;
  - (d) approve an Annual Business Plan for the following year;
  - (e) approve the Work Programme for the following year;

- (f) approve a 3 year rolling budget framework aligned with the Strategic Plan, each year;
- (g) establish a Secretariat and appoint the Executive Secretary and where appropriate, the Deputy Executive Secretary, for a 3 year term, subject to a performance agreement;
- (h) where appropriate renew the term of office of the Executive Secretary, and the Deputy Executive Secretary, for a further 3 year term;
- (i) appoint an External Auditor, for a period of two years;
- (j) approve Mutual Evaluation Procedures and adopt Mutual Evaluation Reports on Member countries;
- (k) approve Self Assessment Programme Procedures and adopt Self Assessment Programme Reports on Member countries;
- (l) decide on policy matters including the adoption of any international anti-money laundering and anti-terrorist financing standards;
- (m) approve the admission of new Member countries, Co-operating and Supporting Nations, and Observers;
- (n) take appropriate action with respect to Member countries that do not comply with this Memorandum;

- (o) determine the location of the Secretariat;
- (p) approve such administrative notes or guidelines as may be necessary for the purposes of this MOU;**
- (q) discuss any other business of which written notice has been given to the Secretariat at least three months prior to the meeting of the Council of Ministers; and,
- (r) agree on the date and venue of the next meeting of the Council of Ministers.

#### **VIII - The President and Election of President**

1. The President of the Council of Ministers shall hold office for a term of one year and shall chair meetings of the Council of Ministers.
2. The President of the Council of Ministers shall represent the ESAAMLG at meetings of other intergovernmental groups dealing with anti-money laundering and other occasions determined by the Council of Ministers.
3. In the event that the President of the Council of Ministers is personally unable to perform any official function, the President may delegate certain duties and powers of the President of the Council of Ministers to another Minister of the Member country holding the Presidency.

4. The President of the Council of Ministers may assist the Secretariat of ESAAMLG in the formulation of strategic issues and programmes, the facilitation of ESAAMLG work processes, and by giving guidance to the Secretariat on any matter relating to ESAAMLG activities.
5. The Presidency of the Council of Ministers shall rotate amongst Member Countries according to a schedule agreed by the Council of Ministers provided that no Member Country shall hold the Presidency of the Council of Ministers more than once in a ten-year period, subject to the right of a Member Country to decline to assume the Presidency of the Council of Ministers, in any year.
6. The Member country holding the Presidency of the Council of Ministers in any year, shall host the Council of Ministers Meeting in the year that it assumes the office of President of the Council of Ministers.

#### **IX - The Task Force**

1. Each Member shall be represented in the Task Force by such senior officials as may be appropriate provided that each member shall nominate one senior official as head of delegation.
2. The Task Force shall meet at least twice annually.
3. The Task Force shall be chaired by the Member Country holding the Presidency.

4. For submission to the Council of Ministers, the Task Force shall each year:
  - (a) recommend a draft agenda for the next Meeting;
  - (b) consider the draft Annual Report;
  - (c) consider the Financial Reports;
  - (d) consider a 3 year rolling Strategic Plan setting out ESAAMLG's goals and objectives;
  - (e) consider an Annual Business Plan for the following year;
  - (f) review progress in the implementation of the approved Work Programme;
  - (g) consider the draft Work Programme for the following year;
  - (h) consider a 3 year rolling budget framework aligned with the Strategic Plan;
  - (i) make recommendations for the appointment of an External Auditor;
  - (j) develop, consider and recommend proposals for funding;
  - (k) consider Self and Mutual Evaluation Procedures and Reports on Member countries;

- (l) consider Self Assessment Programme Procedures and Reports on Member countries;
  - (m) make recommendations on policy matters, including the adoption of any revised Recommendations;
  - (n) make recommendations on the admission of new Member countries, Co-operating and supporting Nations, and Observers;
  - (o) recommend candidates for the positions of Executive Secretary and Deputy Executive Secretary, where appropriate; **and,**
  - (p) **recommend the approval of such administrative notes or guidelines as may be necessary for the purposes of this MOU.**
5. The Task Force may, with the consent of the President of the Council of Ministers establish standing working groups to undertake specific tasks, such as the Finance and Audit Committee; and ad hoc groups, as appropriate, to deal with specific issues.

## **X - Procedures at Meetings**

1. A quorum for a meeting of either the Council of Ministers or the Task Force will exist when at least one half of the Member countries are present.
2. All Member countries participate in meetings. Co-operating and Supporting Nations and Observers may attend and participate in meetings, unless Members Countries at a meeting of the Council of Ministers or Task Force decide otherwise.
3. Only Member countries present have the right to vote and each Member country has one vote at a meeting of the Council of Ministers.
4. Notwithstanding the provisions of Article X.2, Observers and Supporting Nations may participate in the discussion of mutual evaluation reports, unless the evaluated Member country objects.
5. Resolutions of the Council of Ministers shall be adopted by three quarters majority of the Member countries present.
6. **Notwithstanding the provisions of clause 5**, the Council of Ministers may, upon request circulated to all members by the President in the manner agreed by the Council, take a decision without convening a meeting of the Council. The decision taken shall be valid as if it was taken at a meeting of the Council, only if two thirds (2/3) of all members have assented to it in writing.

## **XI - The Secretariat**

1. The Secretariat shall perform technical and administrative functions under the direction of the Executive Secretary.
2. The Secretariat shall submit to the Task Force each year:
  - (a) a draft Annual Report;
  - (b) a draft Financial Reports;
  - (c) a draft 3 year rolling Strategic Plan setting out ESAAMLG's goals and objectives;
  - (d) a draft annual Business Plan for the following year;
  - (e) a draft Work Programme for the following year; and,
  - (f) a draft 3 year rolling budget framework aligned with the Strategic Plan.
3. The Secretariat, under supervision of the Chairperson of the Task Force, shall:
  - (a) implement the Work Programme approved by the Council of Ministers;
  - (b) administer the approved budget;

- (c) co-ordinate and participate in mutual evaluations;
- (d) co-ordinate and make technical recommendations on the self-assessment of members, disseminate self-assessment questionnaires, and collate and analyse the responses thereto;
- (e) identify training and technical assistance needs of Member countries and facilitate the provision thereof;
- (f) act as a liaison between the ESAAMLG and third party countries and organisations involved in countering money laundering and terror financing, and related matters;
- (g) monitor anti-money laundering and anti-terrorist financing developments and on authorisation by the Chairperson, participate in activities not included in the Work Programme;
- (h) receive applications on behalf of the Chairperson **or the President;**
- (i) receive notices of intention to withdraw and notify Members accordingly; and,
- (j) discharge any other responsibility assigned by the Task Force or the Council of Ministers.

## **XII- National Committees**

Member countries will, in accordance with applicable domestic law, establish Standing Anti-Money laundering Committees or similar entities, comprising senior representatives of relevant disciplines: Legal and Judicial, Financial and Law Enforcement.

## **XIII- Self Assessment**

Members agree to participate in an ongoing Self Assessment Programme co-ordinated by the Secretariat.

## **XIV - Mutual Evaluation**

Members agree to participate in an ongoing Programme of Mutual Evaluation conducted in accordance with Mutual Evaluation Procedures approved by the Council of Ministers.

## **XV - Languages and Authentic Text**

The official language of the ESAAMLG will be English.

## **XVI - Accounting Period and Accounting Policies**

1. The financial year will be from the first day of April to the 31<sup>st</sup> day of March in the following year.
2. The financial reports of ESAAMLG shall be prepared according to internationally accepted accounting practice.

- 3 The financial affairs of ESAAMLG shall be administered by the Secretariat in terms of the accounting policies as contained in the Financial Regulations prepared by the Finance and Audit Committee.

#### **XVII - Financial Reports**

1. The Accountant will submit to the Task Force, through the Secretariat, financial statements comprising a balance sheet, income and expenditure, cash flow and source and application of funds, with year on year comparisons, by 31 March each year.
2. The External Auditor will carry out an annual audit of the books and accounts of the ESAAMLG, and prepare and submit a report to the Council of Ministers, through the Secretariat, within 3 months of the end of the financial year.

#### **XVIII - Amendment of this Memorandum**

This Memorandum may be amended by consensus of the member countries at the Council of Ministers meeting.

#### **XIX - Entry into Effect**

1. This Memorandum will enter into force when seven Member countries have signed and advised the President that their constitutional requirements have been satisfied.

2. For any country which signs subsequently it will take effect on the date on which that country notifies the President that its constitutional requirements have been satisfied.

#### **XX - Withdrawal**

A withdrawal by a Member or a Co-operating and supporting Nation or an observer will take effect three months after receipt by the Secretariat of written notice of intention to withdraw.

**DONE AT ARUSHA, TANZANIA** on the 27th day of August 1999 in fourteen originals all in the English Language. Each State shall retain the one original.

**IN THE FAITH WHERE OF** the undersigned have placed their signatures at the end of this Memorandum.

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF BOTSWANA**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF KENYA**

**FOR THE GOVERNMENT  
OF THE KINGDOM OF LESOTHO**

**FOR THE GOVERNMENT**

**OF THE REPUBLIC OF MALAWI**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF MAURITIUS**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF MOZAMBIQUE**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF NAMIBIA**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF SOUTH AFRICA**

**FOR THE GOVERNMENT  
OF THE KINGDOM OF SWAZILAND**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF SEYCHELLES**

**FOR THE GOVERNMENT  
OF THE UNITED REPUBLIC OF TANZANIA**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF UGANDA**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF ZAMBIA**

**FOR THE GOVERNMENT  
OF THE REPUBLIC OF ZIMBABWE**