



ESAMLG
1999 10 2009
Arusha to Maseru

10 YEAR REPORT



EASTERN AND
SOUTHERN AFRICA
ANTI MONEY
LAUNDERING GROUP

FROM ARUSHA TO
MASERU
ESAAMLG AT TEN

1999-2009

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Acronyms

AML/CFT	Anti-Money Laundering/Combating the Financing of Terrorism
COMESA	Common Market for Eastern and Southern Africa
ESAAMLG	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSRBs	FATF Style Regional Bodies
IAIS	International Association of Insurance Supervisors
IOSCO	International Organisation of Securities Commissions
ML	Money Laundering
MOU	Memorandum of Understanding
SADC	Southern African Development Community
TF	Terrorist Financing
UN	United Nations

Foreword by the President of the Council of Ministers



The Kingdom of Lesotho was most delighted to host the 18th ESAAMLG Task Force of Senior Officials and the 9th Council of Ministers meetings in Maseru, Lesotho, from 17 – 21 August 2009. This was a special occasion for ESAAMLG as it marked the 10th Anniversary of the organization since it was launched in Arusha, Tanzania, in August 1999. The participation of distinguished delegations from all the 14 member countries reaffirmed the commitment of the Group to fight money laundering and terrorist financing in the Eastern and Southern African Region. This was a loud and clear political statement in support of the ESAAMLG and what it stands for. The political will of all member Governments remains pivotal in advancing the work of ESAAMLG, especially as it embarks on the second decade of its activities. The Kingdom of Lesotho was honored to take over the Presidency of ESAAMLG at this point in time.

In ten years, ESAAMLG has travelled an eventful journey, which is relived in this report: “FROM ARUSHA TO MASERU: ESAAMLG AT TEN (1999-2009)”. On behalf of the Kingdom of Lesotho, I am pleased to introduce this special report, which gives an insight into the work of the organization, its achievements and the challenges ahead. Indeed, the continued existence of ESAAMLG is testimony to the validity of its creation and the continuing desire of all member countries to effectively use it to rid our region of the scourge of money laundering and terrorist financing.

From its formative years (2000-2005), ESAAMLG has evolved into a mature, viable and more inclusive organization in our region. It operates in the global context, cooperating and collaborating with similar regional groups as well as other related international bodies, including the Financial Action Task Force (FATF), the World Bank and the International Monetary Fund. ESAAMLG, which started with a membership of 9, has now expanded to 14 member countries. The admission of the Union of the Comoros as an observer State was received by the Group as a harbinger to broader regional membership. It is our expectation that the Comoros will soon join ESAAMLG as a full fledged member. Meanwhile, the Group continues its efforts to reach out to other countries in the region to join our organization. These include Angola, the Democratic Republic of Congo, Madagascar, Burundi and Rwanda. An all inclusive Eastern and Southern African membership of ESAAMLG can go a long way towards sealing off the usually porous borders in the region.

Going forward, ESAAMLG will base its work on the second three-year Strategic Plan approved by the Council of Ministers in August 2008. The First Strategic Plan (2005-2008), aimed at making ESAAMLG function as a fully fledged FATF Style Regional Body (FSRB) and supporting the development and implementation of Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) systems at national level. The Second Strategic Plan (2009-2012), which builds on the first Plan, aims at capitalizing on the gains made so far for enhancing the robustness of ESAAMLG as regional body to eradicate money laundering and terrorist financing in the Eastern and Southern African Region. The Kingdom of Lesotho and indeed, the rest of our member countries, are satisfied with the achievements of ESAAMLG in its first ten years of existence. Challenges still remain, but we are convinced that the prevailing political commitment and dedication in our region bode well for the success of ESAAMLG in the period ahead.

Honourable Timothy Thahane
Minister of Finance

Kingdom of Lesotho & President of ESAAMLG 2009-2010



Preface by the Executive Secretary

The report: "FROM ARUSHA TO MASERU: ESAAMLG AT TEN (1999-2009)", appropriately describes the long journey our Group, as well as the region covered by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) have travelled over ten years. With 14 member countries and growing, this is quite a leap from the initial nine signatories at the launch in Arusha, Tanzania, in August 1999. Current member countries of ESAAMLG are: Botswana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe. Mention should also be made of the Union of the Comoros, which has an observer status in the Group, but it is being encouraged to join as a full member. The Presidency of the Group rotates among member countries, starting with Tanzania (2000-02), presidencies have been held as follows: Namibia (2002-2003); Uganda (2003-04); Mauritius (2004-05); Zambia (2005-06); Zimbabwe (2006-07); Botswana (2007-08); Kenya (2008-09); and The Kingdom of Lesotho (2009-10).

By signing the ESAAMLG Memorandum of Understanding, member countries endorsed the 40 Recommendations of the Financial Action Task Force (FATF) and affirmed the commitment to implement the international standards to combat money laundering at a national level. Following the terrorist attack on the US in September 2001, ESAAMLG expanded its mandate to include the combating of the financing of terrorism. Member countries approved the incorporation of the new mandate into the programme of ESAAMLG. The Ten-Year Report gives an insight into the work undertaken by ESAAMLG to combat money laundering and terrorist financing in the Eastern and Southern African region since it was launched. It focuses on the progress made, challenges and the way forward.

This report has been compiled against the backdrop of the realities in our region as well as related global developments. The report describes the work undertaken by the Group, highlighting the salient features of the growth of ESAAMLG in its ten-year journey, including:

- Progress made in developing a work programme, to enable ESAAMLG to undertake the core functions of a FATF Style Regional Body (FSRB). This has globalized the Group's operations, allowing for close cooperation and collaboration with the FATF.
- Building on modalities and the culture of consultations developed during its formative years (2000-05), ESAAMLG has implemented core activities of an FSRB, including conducting training for key stakeholders in the fight against money laundering and the financing of terrorism.
- Capacity to implement the core functions of the Group has been developed to facilitate AML/CFT evaluation process of member countries and research on money laundering typologies. A section of this Ten-Year Report is devoted to money laundering and terrorist financing typologies, which are studies that look at methods, techniques and trends that are used by either criminals to launder proceeds of crime or terrorists to fund terrorist activities. The Typologies exercises, therefore, are one of the most important "pillars of detecting and combating money laundering and terrorist financing. ESAAMLG seeks to consolidate its typologies work programme in the years ahead.
- Development of a comprehensive work programme. The three-year planning strategy,

which sets out clear objectives and implementation time-line, has had salutary results for ESAAMLG. The First Strategic Plan (2005-08) saw ESAAMLG advance to function as a fully fledged FSRB. Member countries were encouraged to develop and implement national AML/CFT strategies, meet standards for mutual evaluation and develop comprehensive post evaluation implementation plans. Achievements of the First Strategic Plan include better focus on issues of development of AML/CFT systems and identification of regional priorities in their implementation at meetings of the Task Force of Senior Officials meetings.

In the ten years under review, ESAAMLG has made tangible progress towards meeting the goals of combating money laundering and financing of terrorism. The Secretariat, based in Dar es Salaam, Tanzania, has endeavoured to meet most of the goals in accordance with benchmarks established at the working meetings of the Task Force of Senior Officials, followed by those of the Council of Ministers. The Second Strategic Plan (2009-12) is already on stream and builds on the achievements made in the First Strategic Plan. Under the Second Strategic Plan, ESAAMLG envisages a result-oriented, strong and dynamic regional body. It involves consolidating and sustaining the collective efforts to combat money laundering and financing of terrorism. All member countries are required to ensure effective implementation of AML/CFT standards.

The road ahead, is filled with challenges calling for urgent and collective action. The political will demonstrated by all the 14 member countries in support of our work, give the Group and the Secretariat confidence that much more would be achieved during the second decade of ESAAMLG.

I would like to thank the Presidents of Council of Ministers for the leadership that they have brought to ESAAMLG during their respective presidency. I would also like to thank the Chairmen of the Task Force of Senior officials, members of the Task Force of Senior Officials, members of the Working Groups, the cooperating partners of ESAAMLG and the staff of the Secretariat for their continued support.

Eliawony J. Kisanga
Executive Secretary

Introduction

The Eastern and Southern Africa Anti-Money Laundering Group was launched on 27th August 1999 at a meeting of eastern and southern African ministers held in Arusha, Tanzania. The meeting was attended by nine member countries from the region namely, Botswana, Kenya, Mauritius, Mozambique, South Africa, Tanzania, Uganda, Zambia and Zimbabwe. The meeting was a culmination of consultations that had taken place since 1995 on the need to develop a regional mechanism to co-operate in the implementation of AML programmes. These initiatives were supported by the FATF, the Commonwealth Secretariat, the UK and US Governments and the United Nations Office on Drugs and Crimes (UNODC).

The Arusha launch meeting was hosted by the Government of Tanzania and was also attended by representatives from: the East Africa Community Secretariat, the UK and US Governments, the World Bank and IMF, the President of the FATF, the Executive Secretary of the FATF and representatives of the Commonwealth Secretariat and of the UNODC.

The UK Government and the Commonwealth Secretariat facilitated the organization of the launch meeting working closely with the Government of Tanzania.

The launch meeting in Arusha

The 1999 Arusha meeting deliberated on the threats of money laundering facing the region and the need to address this threat in a comprehensive manner. Prior consultations had taken place in various meetings, including those of Commonwealth Heads of Government, and Law and Finance Ministers, to adopt and implement the 40 Recommendations of the FATF for combating money laundering.



From Arusha to Maseru ESAAMLG at Ten

It was agreed at the meeting that given the threat of cross border crime and money laundering facing the region there was a need to cooperate with other States in combating money laundering by implementing anti-money laundering international instruments.

The meeting therefore adopted a Memorandum of Understanding (MOU) as an instrument that would enable them to forge the process of cooperation for implementing the FATF recommendations.

Objectives of the MOU

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

- (a) adopt and implement the 40 Recommendations of the FATF;
- (b) apply anti-money laundering measures to all serious crimes; and
- (c) 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.

It was agreed that the Group would be guided by a Council of Ministers composed of Ministers of Finance, Law and Law Enforcement of each of the member countries. The detailed work of the Group would be conducted through a Task Force of Senior Officials from the three sectors: finance, law and law enforcement. This work would be supported by a small secretariat.

At national level, it was agreed that member countries would form National Multi-Disciplinary Committees drawn from the above mentioned three sectors.

The launch meeting also agreed that each of the 14 initial member countries would have to sign the MOU establishing the Group and the Group would become operational when seven of the fourteen initial members sign the MOU.

The Evolution of ESAAMLG

By April 2000 seven out of the fourteen countries had signed the MOU and the Group began its work by holding the first meeting of the Task Force of Senior Officials in Dar-es-Salaam, Tanzania. Tanzania as the host country for the Secretariat chaired the meeting.

This meeting was followed by the second meeting of the Task Force of Senior Officials and the first meeting of the Council of Ministers held in Windhoek, Namibia in August 2001. The Presidency of the Group was passed on from Tanzania to Namibia for the year 2001-02. Since then the Presidency has been held as follows: Swaziland (2002-03), Uganda (2003-04), Mauritius (2004-05), Zambia (2005-06), Zimbabwe (2006-07), Botswana (2007-08) and Kenya (2008-09). The Presidency will be passed on to the Kingdom of Lesotho for the period 2009-10.

Following the terrorist attacks on the US in September 2001 the FATF extended its work to cover the combating of financing of terrorism and urged countries across the world to develop programmes for combating the financing of terrorism. The ESAAMLG deliberated on these developments and at its Council of Ministers meeting in Swaziland in August 2002 it was agreed that combating of financing of terrorism should also be included in the work programme for the Group. Accordingly, the MOU was revised to incorporate this new mandate.

Since the launch of ESAAMLG a lot of progress has been made by the organisation in developing a work programme that has enabled it to undertake the core functions of a FATF Style Regional Body (FSRB). The ESAAMLG operates in a global context in which other regional groups like itself collaborate with the FATF. ESAAMLG therefore, like the FATF, monitors the implementation of the FATF 40+9 Recommendations in the region and undertakes research on money laundering and terrorist financing threats.



The period from 2000 to August 2005 can be described as formative years for the organisation. Apart from developing modalities for undertaking work in this area and building the culture of consultations the organisation undertook a number of core activities of an FSRB. Awareness raising on issues of money laundering and terrorist financing was one of the key activities undertaken by the Group and within member countries themselves. A number of training events for key stakeholders such as prosecutors, investigators and financial sector experts were held. The organisation was also popularised in member countries whenever Task Force meetings were held.

ESAAMLG had to quickly embark on developing capacity to implement the core functions of the Group that is, undertaking evaluations of member countries AML/CFT systems and researching on money laundering typologies. A number of regional experts were trained to undertake mutual evaluation exercises using the 2002 FATF Methodology. Mutual evaluation reports of Namibia, Malawi and Lesotho were adopted at the Swaziland extra-ordinary Council of Ministers meeting in October 2005. The first ESAAMLG Mutual Evaluation Procedures were also agreed at that meeting.

In 2004, it was realised that ESAAMLG needed to develop a coherent strategy with clearly set objectives on what it intended to achieve in order to function effectively as an FSRB. The Council of Ministers, therefore, mandated the Secretariat to develop a three year Strategic Plan which sets out the strategic objectives of the organisation and how they would be realised.

The First Strategic Plan was approved by the Council of Ministers at its meeting in Livingstone, Zambia in August 2005. It was developed to enable ESAAMLG to focus on developing itself as a fully fledged FSRB. The plan had seven key strategic objectives -

- Member countries will develop and implement national AML/ CFT strategies.
- Member countries implement AML/CFT measures, meeting international standards in accordance with their national strategies and informed, *inter alia*, by mutual evaluations and Financial Sector Assessment Programme reports.
- Member countries will develop the capacity of institutions and AML/CFT practitioners.
- The ESAAMLG Secretariat will provide guidance and disseminate knowledge on latest AML /CFT developments, emerging risks and other lessons learned to members, regional stakeholders and FATF.
- ESAAMLG Member Countries will establish regional priorities for implementing FATF recommendations.
- ESAAMLG members will encourage non-ESAAMLG members in the region to cooperate in the global fight against money laundering and the financing of terrorism and to join ESAAMLG.
- A sustainable and efficient ESAAMLG Secretariat.

One of the major outcomes of implementation of the strategy was to have the ESAAMLG focused as fast as possible on engaging in substantive discussion of development of AML/CFT issues in the meetings of the Task Force of Senior Officials and development of regional priorities in the implementation of the AML/CFT systems. It was also the intention of the strategy that the Council of Ministers meetings should concentrate on strategic issues and decisions that will drive forward the process of AML/CFT at national and regional levels.

The global AML/CFT standards have also evolved since the adoption of the 2005-2008 Strategic Plan. The FATF has consistently revised the 2004 Methodology for Assessing Compliance with the FATF 40+9 Recommendations. Further, recognising the particular problems faced by low capacity countries, the FATF issued in February 2008 the "*Guidance on Capacity Building for Mutual Evaluations and Implementation of the FATF Standards within Low Capacity Countries*". The primary purpose of the FATF Guidance, which is to support low capacity countries in implementing the FATF Standards in a manner reflecting their national institutional systems, is consistent with the ML/FT risks they face and takes account of their limited resources. The Guidance will assist member countries to develop and review their national AML/CFT strategies.

At Group level, 10 out of the 14 member countries have been evaluated under the 2004 FATF Methodology while the Kingdom of Lesotho has undergone a Development Strategy Implementation Assessment. Technical assistance needs for the effective implementation of the core Recommendations of the FATF have also been identified.

The capacity of institutions and AML/CFT practitioners in countries has been significantly enhanced since the adoption of the first Strategic Plan. About 119 evaluators have been trained so far.



The ESAAMLG, in collaboration with the supporting nations and organisations, has organised training for investigators, prosecutors and law enforcement agents in the region.

ESAAMLG welcomed the Union of the Comoros as an observer at the March 2008 Task Force meeting.

At the August 2006 Council of Ministers meeting in Harare, the Council agreed that ESAAMLG will apply for FATF Associate Membership at an appropriate date to be determined in consultation with the Secretariat. Associate membership status will provide better opportunities for ESAAMLG and ESAAMLG member jurisdictions to participate in FATF activities including active participation in developing new AML/CFT standards and having access to plenary meetings, conference, training and participation in consultation processes with the FATF.

In order to qualify as an Associate Member of the FATF, ESAAMLG must, *inter alia*, have in place mechanisms to ensure actual and effective implementation of the FATF standards within the body's membership. This is mostly achieved through the mutual evaluation exercise and close monitoring of the follow up actions.

In addition, to qualify as an Associate Member, one of the core functions of the ESAAMLG must include conducting regional level research and analysis of ML/TF methods and trends, in particular typologies exercises. To meet this requirement, a Typologies Working Group has been established and it is currently undertaking a number of typologies studies. Further typologies work will be undertaken by the ESAAMLG during the period of implementing the second Strategic Plan.

One of the major expected outcomes of the implementation of the 2005-2008 Strategy was to have focused discussion on substantive AML/CFT issues in the meetings of the Task Force of Senior Officials. This was in order to help shape ESAAMLG meetings enabling the Council of Ministers to concentrate on strategic issues and decisions that will push forward the process of AML/CFT at national level. These expected outcomes have been successfully achieved to a large extent and going forward, the new Strategic Plan aims at consolidating this approach.

The second Strategic Plan of the ESAAMLG has been developed against this background. The new Plan, which is result-oriented, builds on the 2005- 2008 Strategic Plan; it also takes into account regional and international developments described above.

The Second Strategic Plan envisages developing "*A strong and dynamic FATF Style Regional Body committed to eradicate money laundering and terrorist financing in the Eastern and Southern African region.*" This vision will be realised through consolidating and sustaining *the combined efforts to combat money laundering and terrorist financing in the Eastern and Southern African region through effective implementation of AML/CFT standards in all ESAAMLG member countries.*

The strategic objectives of the 2009-2012 Second Strategic Plan are:

1. Development and review of implementation of national AML/CFT strategies
2. Sustaining the evaluation and monitoring of ESAAMLG members' compliance with the international standards against money laundering and terrorist financing
3. Undertake research and analysis exercises to better understand money laundering and terrorist financing risks and vulnerabilities in the region and effectively contribute to regional and international AML/CFT policy formulation
4. Expansion of ESAAMLG membership

5. Strengthening regional cooperation among member countries
6. Strengthening ESAAMLG cooperation and participation in AML/CFT global environment
7. Consolidating regional AML/CFT capacity building, training and awareness raising programmes
8. Sustaining the provision of AML/CFT advisory services to member countries
9. Consolidating the sustainability and efficiency of the Secretariat

Core Programmes of ESAAMLG

Mutual Evaluations

Introduction

Mutual evaluations form part of the core activities undertaken by the ESAAMLG. Under this process the ESAAMLG monitors the implementation of the FATF 40+9 recommendations in its member jurisdiction and assesses the overall effectiveness of AML/CFT systems.

The FATF and the International AML/CFT standards

The Financial Action Task Force (the FATF) is an inter-governmental policy-making body which currently comprises 32 member jurisdictions and two regional organisations (the European Commission and the Gulf Co-operation Council). It was established in 1989 by the Group of Seven (G-7) Summit in Paris to examine and develop measures to combat money laundering. The FATF issued its first set of international anti-money laundering (AML) standards, the "*The Forty Recommendations on Money Laundering*", in 1990. Constant evolution in money laundering methods, techniques and trends led the FATF to revise these international standards in 1996 and 2003.

The FATF standards builds upon a number of United Nations (UN) conventions and resolutions, including the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the 2000 UN Convention against Transnational Organised Crime, that promote international cooperation in preventing and containing drug trafficking, domestic and cross border organised crime, corruption and the financing of terrorism. It also takes account of all the financial supervisory standards namely, the Basel Core Principles on Banking Supervision; the Objectives and Principles for Securities Regulation of the International Organisation of Securities Commissions (IOSCO) and the Insurance Supervisory Principles issued by the International Association of Insurance Supervisors (IAIS). These contain fundamental principles pertaining to know your customer (KYC) rules; record keeping procedures, risk management procedures and other due diligence requirements that sustain an effective AML/CFT framework.

In brief, to put in place an effective AML/CFT system the FATF 40+9 Recommendations require an adequate legal and institutional framework which should include:

- Laws that create money laundering offences and provide for the freezing, seizing and confiscation of assets of money launderers;
- Requirements for the financial sector of the economy to undertake customer identification, due diligence and to keep and maintain records;
- The requirement to report suspicious transactions;
- Supervision and regulation of financial institutions (banking and non-banking) and designated non-financial businesses and professions (casinos, dealers in precious metals and stones, real estate agents lawyers and accountants and trust and company service providers) to ensure compliance with AML requirements; and

- Gateways for international cooperation

The FATF standards have been widely recognised and endorsed by the UN, the International Monetary Fund and the World Bank as well as by over 180 jurisdictions around the world. International and regional organisations that are involved in combating money laundering and terrorist financing collaborate with the FATF in the fight against money laundering and terrorist financing. The major partners of the FATF are the FATF- style regional bodies (FSRBs), including the ESAAMLG, which play a central role in their respective region by bringing together jurisdictions that are committed to implement the FATF standards and participate in the mutual evaluation process.

ESAAMLG members formally adopted the FATF 40+9 recommendations when they signed the ESAAMLG Memorandum of Understanding in Arusha, Tanzania in August 1999. They also agreed to participate in mutual evaluations (Art. XIV ESAAMLG MOU) and are evaluated in turn in accordance with the ESAAMLG Mutual Evaluation Schedule as approved by the Council of Ministers.

Mutual evaluation process

The scope and purpose of mutual evaluations are to assess the AML/CFT legal framework to determine whether the necessary laws, regulations or other measures required under the FATF standards have been adopted and implemented. At the same time ensure that the overall system and mechanism in place to combat money laundering and terrorist financing are effective. Mutual evaluations are conducted in accordance with Mutual Evaluation Procedures approved by the Council of Ministers and are based on the FATF 40+9 recommendations adopted by the ESAAMLG under its MOU. Through its Mutual Evaluation Procedures¹ ESAAMLG has also endorsed the FATF AML/CFT Methodology of 2004 (as amended from time to time), used for conducting mutual evaluations and the FATF AML/CFT Handbook for Countries and Assessors 2004 which provides guidance and instructions on assessments.



ESAAMLG Assessors during the onsite visit in the United Republic of Tanzania 26 January-06 February 2009

¹ The ESAAMLG Mutual Evaluation Procedures endorsing the FATF 2004 Methodology were first adopted in October in 2005 and a revised version was adopted in August 2008.

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The mutual evaluation process, which consists of two major parts- an onsite visit and the discussion and adoption of the mutual evaluation report takes at least nine months to complete. The onsite visit is usually conducted by a team of four to six experts in the legal, financial and law enforcement sectors from other member governments or from ESAAMLG supporting nations as well as observer organisations and two to three members of the ESAAMLG Secretariat. In the process, the team undertakes an onsite visit to the country and prepares a draft report which provides an assessment of the extent to which the evaluated country has implemented an effective AML/CFT system, identifies deficiencies and makes recommendations on how to improve the system. Mutual evaluation reports are discussed at the ESAAMLG Task Force of Senior Officials and adopted by the Council of Ministers.

The First round of mutual evaluation under the FATF 2004 Methodology

ESAAMLG started its first round of mutual evaluations under the FATF 2004 Methodology with the assessment of Uganda in February 2005. Since then 10 out of the 14 member countries have been evaluated while 9 reports have been discussed and adopted. ESAAMLG is expected to complete this round of mutual evaluations by August 2011. Under this round of evaluations, ESAAMLG member countries have been assessed by ESAAMLG and in some cases by the World Bank or the IMF under the Financial Sector Assessment Programme (FSAP). A joint evaluation with the FATF was also undertaken.

Table 1: ESAAMLG Schedule of mutual evaluations

	Member country	AML/CFT ME conducted by	Date of onsite visit	Adoption of MER
1	Botswana	World Bank	February 2007	August 2007
2	Kenya	ESAAMLG	April 2010	August 2011
3	Lesotho	ESAAMLG	November 2010	August 2011
4	Malawi	World Bank	February/March 2008	August 2008
5	Mauritius	IMF	September 2007	August 2008
6	Mozambique	ESAAMLG	September 2009	August 2010
7	Namibia	World Bank	July 2005	August 2007
8	Seychelles	ESAAMLG	November 2006	August 2008
9	South Africa	Joint ESAAMLG/ FATF	August 2008	August 2009
10	Swaziland	ESAAMLG	November/December 2009	August 2010
11	Tanzania	ESAAMLG	January/February 2009	August 2009
12	Uganda	World Bank	February 2005	August 2007
13	Zambia	ESAAMLG	November 2007	August 2008
14	Zimbabwe	ESAAMLG	May 2006	August 2007

In accordance with the ESAAMLG Mutual Evaluation Procedures, following their adoption by the Council of Ministers mutual evaluation reports are published on the ESAAMLG website unless the assessed jurisdiction objects. The ESAAMLG has discussed and adopted eight mutual evaluation reports (Botswana, Malawi, Mauritius, Namibia, Seychelles, Uganda, Zambia and Zimbabwe). Out of the eight reports, seven have so far been published on the ESAAMLG website (Botswana, Malawi, Mauritius, Namibia, Seychelles, Uganda and Zimbabwe).

The sharing of mutual evaluation reports ensures consistency and transparency in the application of the FATF standards globally. In the recent years the FATF has been encouraging FSRBs to publish

their mutual evaluation reports as soon as they are adopted at their respective plenary meetings. The trend amongst the majority of the FSRBs is towards the automatic publication of mutual evaluation reports within two months of their adoption. The ESAAMLG has adopted revised procedures that lead into the automatic publication of mutual evaluation reports once they are adopted by the Council of Ministers.

Under the ESAAMLG procedures, ESAAMLG members must submit an annual report to the ESAAMLG in the year following the adoption of their report. The annual report must indicate the progress made since the evaluation and in particular must underscore developments which have taken place in areas where the evaluation recommended that the AML/CFT system need to be improved.

Lessons learned

The mutual evaluations conducted thus far have provided valuable insight into the difficulties faced by ESAAMLG members (mostly developing nations with cash based economies) in implementing the AML/CFT standards. Obtaining and sustaining political will among ESAAMLG members is the major underlying factor that impedes the implementation of the AML/CFT legal and institutional framework. Some of the ESAAMLG members still have to enact AML/CFT legislation. Evaluations have further shown that insufficient material and human resources have negatively affected the effective implementation of the AML/CFT standards. Other challenges include inadequate technological support and scarce resources for establishing key institutions. For example, very few members have been able to establish Financial Intelligence Units for receiving, analysing and disseminating financial information. In addition, rolling out regular onsite inspection programmes of reporting entities for ensuring compliance with AML/CFT requirements is posing a significant challenge to some members as this is a resource intensive exercise.

In recognition of the problems faced by developing nations, the FATF issued in February 2008 Guidance on Capacity Building for Mutual Evaluations and Implementation of the FATF Standards within Low Capacity Countries. The Guidance identifies a number of principles and specific mechanisms and procedures that may be used to ensure effective prioritisation and implementation of the FATF AML standards taking into account a country's specific structural peculiarities and vulnerabilities. The FATF has identified core and key recommendations that represent priority areas for building up national AML/CFT frameworks in a phased manner.

The "core" FATF recommendations include criminalisation of money laundering and terrorist financing (R.1 and SR11), customer due diligence and record keeping (R.5 and R.10); and suspicious transaction reporting (R.13 and SR14) while the "key" recommendations are provisional measures and confiscation (R.3), financial institution secrecy laws (R.4), the FIU (R. 26), supervision and regulation of financial institutions (R.23), international cooperation (R.35, SRV), mutual legal assistance (R36), other forms of cooperation (R.40), and ratification and implementation of UN Instruments (SRI).

Tables 2 and 3 below summarise the level of compliance against the core and key FATF recommendations in the region based on the results of mutual evaluations conducted so far.

Table 2: Level of compliance against the core recommendations

Core Recommendations	Ratings (%) ² :			
	Compliant	Largely Compliant	Partially Compliant	Non-Compliant
R.1		22.2	55.6	22.2
R.5			55.6	44.4
R.10	11.1	33.3	44.4	11.1
R.13		11.1	44.4	44.4
SR II		22.2	44.4	33.3
SR IV		22.2	33.3	44.4

Table 3: Level of compliance against the key recommendations in the region

Key Recommendations	Ratings (%) ² :			
	Compliant	Largely Compliant	Partially Compliant	Non-Compliant
R.3	11.1	11.1	66.7	11.1
R.4	55.6	11.1	33.3	
R.23			77.8	22.2
R.26		22.2	33.3	44.4
R.35		33.3	44.4	44.4
R.36		55.6	33.3	11.1
R.40	11.1	22.2	66.7	
SR I		11.1	44.4	44.4
SR III			11.1	88.9
SR V		22.2	33.3	44.4

Recommendations 4 has the highest level of compliance (66.7 per cent of the member countries have been rated compliant or largely compliant) followed by Recommendation 36 (55.6 % have been rated largely compliant) while all member countries have been rated partially compliant or non-compliant against Recommendations 5, 23 and Special Recommendation III. Over seventy (70) percent of the member countries have been rated partially compliant or non-compliant against most of the remaining core and key recommendations.

Conclusion

Despite what has been achieved so far, a substantial amount of work is still required in the region to ensure that the FATF recommendations are effectively implemented by all member countries. ESAAMLG will conclude its first round of mutual evaluations under the FATF Methodology 2004 by August 2011. Going forward, the Group will be more focused on promoting post evaluation implementation of the FATF standards. To this end, the ESAAMLG is in the process of reviewing its Mutual Evaluation Procedures to adopt a more comprehensive and result-oriented approach that endeavours to support member countries in enhancing compliance with the FATF standards.

² Under the FATF Methodology 2004, for each recommendation there are four possible levels of compliance which are defined below. These ratings are based on the essential criteria set out under each recommendation in the Methodology. Recommendations may also be rated non-applicable.

Typologies

ESAAMLG TYPOLOGIES

Introduction

Money laundering and terrorist financing typologies keep on changing as new counter-measures are put in place by government authorities and private sector stakeholders. A typologies study looks at methods, techniques and trends used by either criminals to launder proceeds of crime or terrorists to fund terrorist activities. Typologies can be carried out in a particular economic sector, region or worldwide. Typologies exercise is therefore one of the most important pillars of detecting and combating money laundering and terrorist financing.

The FATF has produced a number of typologies studies since its formation. The findings of the reports are used by the FATF policy-makers to improve effectiveness of the AML/CFT standards, shared amongst members and globally with other jurisdictions and FSRBs, including other international organisations with interest in AML/CFT work. The advent of FSRBs in various regions of the world necessitated a similar approach of studying ML/TF typologies at regional level, for use by member countries and other interested parties to develop and implement effective AML/CFT programmes.

This section of the Ten Year Report highlights typologies achievements of ESAAMLG since establishment in 1999. The section covers the rationale for conducting typologies studies, ESAAMLG Typologies Working Group, completed and current typologies studies, and concludes with a way forward on future typologies.

Importance of Typologies

Typologies studies in the ESAAMLG region are still at a nascent stage. In the last five years, one of the key features of the work of ESAAMLG has been the growing capacity to conduct typologies exercises. The FATF requires all its FSRBs to have capacity to undertake regional existing and emerging ML/TF vulnerabilities and share such typologies reports amongst its membership and globally. The 2005-2008 and 2009-2011 ESAAMLG Strategic Plans put typologies as one of the core components of the work of the Group in combating money laundering and terrorist financing.

Specifically, the 2009-2011 Strategic Plan commits the organisation to “*Undertake research and analysis exercises to better understand money laundering and terrorist financing risks and vulnerabilities in the region and effectively contribute to regional and international AML/CFT policy formulation*”. The purpose of ESAAMLG typologies work can be listed as follows:

- i) To share ML/TF knowledge amongst ESAAMLG member countries’ law enforcement agencies, regulatory and supervisory bodies and other relevant bodies.
- ii) To provide knowledge base to ESAAMLG member countries for informed decisions on AML/CFT policy matters.
- iii) To equip ESAAMLG Secretariat to make informed contributions to the FATF and other international AML/CFT standard-setting institutions to take into account peculiar implementation challenges facing the region.

ESAAMLG fully recognizes the particular significance of identifying specific ML/TF risks in

order to provide the necessary guidance to member countries to consider when developing and implementing their own national AML/CFT programmes.

Typologies Working Group

ESAAMLG typologies initiatives started as far back as in 2004 with a series of typologies seminar workshops such as those held in Kenya, Mauritius, and Tanzania. At the 2005 Meetings in Harare, Zimbabwe ESAAMLG Council of Ministers approved a decision of the Task Force of Senior Officials to set up Typologies Working Group (TWG) to organise and manage typologies work of the Group. Before the formation of the TWG, the meeting of Senior Officials of Task Force held in Arusha, Tanzania, ESAAMLG identified a broad range of ML/TF vulnerabilities and threats from lists submitted by member countries from which future ML/TF typologies can be conducted. In no particular order of risk level, the following were identified as possible future ML/TF typologies:

- i) Alternative remittance systems.
- ii) Corruption.
- iii) Cross-border cash couriers.
- iv) Cross-border stock theft and cattle rustling.
- v) Exchange control violations and bureaux de change.
- vi) Financial fraud schemes.
- vii) Minerals and precious stones.
- viii) Motor vehicles dealing and motor vehicle smuggling.
- ix) Non Profit Organisations.
- x) Small arms smuggling.
- xi) Stock markets.
- xii) Trafficking in humans and drugs.
- xiii) Transfer pricing (over-and under-pricing).

Although relatively new to ESAAMLG, typologies exercises have attracted a large number of specialized officials in the area of organised crime, money laundering and terrorist financing from member countries, Observer Organisations and Supporting Nations. This was demonstrated by the participation of more than 40 expert officials in the discussions of the Typologies Working Group during the August 2008 Meetings held in Mombasa, Kenya.

Composition and role of Typologies Working Group

ESAAMLG TWG comprises expert officials from member countries, led by a chairperson elected from among member countries for a period of two years. Officials from Observer Organisations and Supporting Nations can also be members of the TWG. The TWG organises ESAAMLG typologies activities, identifies and submits typologies study proposals for consideration and approval by ESAAMLG Plenary.

Once a typologies study is approved, the TWG establishes a Project Team comprising not more than five expert officials chosen from member countries. The Project Team is led by a chairperson, who becomes a facilitator between the Project Team and ESAAMLG Secretariat. The Secretariat monitors progress made, provides expert advice and logistical support to the Project Team and the Typologies Working Group.

The normal working arrangement is for the Project Team to interact electronically and meet in the margins of ESAAMLG meetings every year. When required, the Project Team can meet at any time convenient for completion of typologies study. The chairpersons of TWG and Project Team together present work progress of Project Team to ESAAMLG Plenary on a regular basis. On average, a typologies study project takes about 18 months from the period of approval to completion. The Project Team is responsible for the actual analysis of information to identify existing and emerging regional ML/TF typologies and produce a final typologies report for approval by Council of Ministers.

Completed Typologies

ESAAMLG has so far produced two typologies studies. They contain a description of key existing and emerging regional ML/TF risks; findings and conclusions for each of the completed typologies studies and make recommendations on actions to remedy identified weaknesses. Both typologies reports contain sanitised case examples to protect true identities of individuals involved and so as not jeopardize cases where investigations and prosecutions have not been concluded. The case examples were submitted by member countries to Project Teams for analysis.

Cash Couriers

The typologies study on cash courier was born out of a joint FATF-ESAAMLG Plenary held in Cape Town, South Africa, in 2005. As a follow up to a presentation made by Zimbabwe officials on cash couriers, other ESAAMLG member countries agreed to submit their country-specific cash courier experiences to the ESAAMLG Secretariat. At the August 2005 meetings held in Harare, Zimbabwe, ESAAMLG approved its maiden typologies study titled *“Cash Courier Money Laundering Vulnerabilities within ESAAMLG Region¹”*.

The FATF defines a cash courier as an individual who physically transports, mails, ships, or causes to be physically transported, mailed, or shipped currency or monetary instruments. It is noteworthy, though, that the cash courier definition provided above excludes individuals engaged in money remittances as licensed business operations. This study adopts the FATF definition of cash courier as the scope of reference. The typologies study intended to:

- i) Identify prevalence of cash courier-based money laundering and terrorist financing risks within ESAAMLG.
- ii) Examine adequacy of regulatory measures in place, if any.
- iii) Produce cash courier typologies report reflective of ML/TF vulnerabilities and propose counter-measures.

The typologies study assessed compliance level by ESAAMLG member countries with the FATF Special Recommendation IX on cash couriers.

¹ A full cash courier report is available on ESAAMLG website.

Box 1. Requirements of FATF Special Recommendation IX on Cash Courier

1. Countries should have measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments, including a declaration system or other disclosure obligation.
2. Countries should ensure that their competent authorities have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering, or that are falsely declared or disclosed.
3. Countries should ensure that effective, proportionate and dissuasive sanctions are available to deal with persons who make false declaration(s) or disclosure(s). In cases where the currency or bearer negotiable instruments are related to terrorist financing or money laundering, countries should also adopt measures, including legislative ones consistent with Recommendation 3² and Special Recommendation III³, which would enable the confiscation of such currency or instruments.

The Project Team analysed detailed questionnaire responses received from ESAAMLG 14 member countries on current cash courier interdiction practices. The questionnaire covered legislative instruments, institutional arrangements, preventative measures and international cooperation relating to combating cash couriers. Law enforcement agencies, financial intelligence units, revenue authorities and banking/regulatory authorities were identified as sources of information for the study.

Case Studies:

The case studies in Box 2 show existence of money laundering vulnerabilities related to cash couriers.

Box 2. Case studies.

On 07 June 2008, four Angolan nationals were taken in by Customs Officials at Hosea Kutako International Airport for hiding USD153.064 in their luggage and were arrested on charges of contravening the Exchange Control Act and Regulations. One of the cash couriers was charged with bribery as he tried to bribe the official on duty to turn a blind eye. The cash couriers explained that they were going to Dubai to buy cars, as confirmed by their travel tickets. The cash couriers explained that they didn't know that leaving Namibia with foreign currency without seeking the necessary approvals from the Treasury and through declaration/disclosure systems was a criminal offence. They further indicated that even if they knew, in their mind the money is so insignificant to warrant the approval of the authorities.

They pleaded guilty to all charges and were convicted for violating Namibia's Exchange Control Act and Regulations for failure to declare foreign currency in their possession. They were sentenced as follows:

- i) Accused 1 – Count 1: Failure to declare foreign currency – N\$20.000.00 or two years imprisonment. Count 2: Bribery – N\$10.000.00 or one year imprisonment.

- ii) Accused 2, 3 and 4: failure to declare foreign currency – N\$20.000.00 or two years imprisonment.

The money found on the Accused was forfeited to the State for violation of Exchange Control Act and Regulations.

Source: Namibia

Case 1.

On August 2006, USD 30, 000 was seized by South African Customs Officials at O.R Tambo International Airport. The money was concealed within a bible and destined for Brazil by air. The money was intended to pay for drugs. The money was forfeited to the state in terms of exchange control regulations.

Case 2.

August 2006, a South African national was arrested at Sao Paulo International Airport, Brazil in possession of US\$.52, 000. Apparently the person was sent by two persons to courier the money. The money was wrapped in black plastic bags, covered with socks and carried on her body to pay for drugs. The money was forfeited to the state in terms of exchange control regulations.

Case 3.

April 2001, a South African national was arrested in possession of South African currency, ZAR R1, 2 million hidden on his body while crossing South Africa-Swaziland border. The money was forfeited to the state in terms of exchange control regulations

Source: South Africa.

Case 1.

On 7 March 2004 seventy (70) individuals were arrested at Manyame Air Base in Harare. The accused were en route to Equatorial Guinea to stage a coup d'état. One of the arrested individuals was accompanied by two Weapon Inspectors. Sixty seven (67) men on board a Boeing 727 arrived at Harare International Airport and taxied to Manyame Air Base to collect weapons. The three (3) men were arrested in the hanger where the weapons were stored, before loading. US\$108 000, 00 was found hidden in briefcase. The team leader was sentenced to 7 years, aircraft crew 16 months and 67 accomplices 12 months in jail.

Case 2.

On 20 January 2006 a Zimbabwean national was arrested at the Beitbridge Border Post after he was found in possession of, Zimbabwean currency, Z\$1 669 860 000, concealed in his monarch bag which was not declared upon exit and this was in violation of the Exchange Control Act. The person was arrested on the South African side of the Border, by the South African Authorities. He was later taken to Court at Beitbridge where he was fined Z\$400 000.00. The money was forfeited to the State.

Source: Zimbabwe.

Findings

Overall, the typologies study found that the current legislative, institutional arrangements, Financial Institutions (FIs) and Designated Non Businesses and Professionals (DNFBPs) preventative measures and international cooperation measures are inadequate to effectively deter cash couriers and combat associated ML/TF vulnerabilities. The key findings of the typologies report are set out in Box 3.

Box 3: Key Findings

- A large number of ESAAMLG member countries have inadequate legislative framework to combat cash couriers and the associated ML/TF risks. While most ESAAMLG member countries have legislation against money laundering, few countries have criminalized the financing of terrorism. However, the study found that a large number of ESAAMLG member countries have legal measures to freeze, seize and confiscate illegal cash found in possession of cash couriers. Cash courier based money laundering takes various forms within the ESAAMLG region. These include major regional financial centres as destination for cash couriers, connection between cash smuggling and currency counterfeit, connections between currency smuggling and casino operations, use of cash couriers to support bureaux de change operations, and cash couriers preferred by criminal groups to transport proceeds of crime.
- In most member countries of ESAAMLG, regulatory/supervisory bodies do not have AML/CFT mandate. In the member countries where such mandate is extended, AML/CFT requirements cover only banking institutions while excluding other Financial Institutions (FIs) and Designated Non Businesses and Professionals (DNFBPs), falling short of the FATF requirements. In addition, where regulatory/supervisory bodies have AML/CFT powers, they prefer to pursue exchange control violations instead of ML/TF offences.
- Owing to lack of enabling legal instruments and measures, most member countries do not have dedicated institutions or unit within established institutions and the capacity to effectively address ML/TF vulnerabilities of cash couriers. These include customs agencies, law enforcement agencies, tax authorities, financial intelligence units, banking and financial regulatory/supervisory institutions.
- Customs agencies in all member countries use either declaration or disclosure systems at ports of entry and exit, albeit at varying levels of application. These systems require travelers to declare or disclose cash/other monetary instruments in their possession to customs officials when entering and leaving a country, making it an offence for failure to do so and specify applicable sanctions.
- Most ESAAMLG member countries do not have operational financial intelligence unit (FIU) in place. An FIU is a national centre for receiving, analyzing suspicious transaction reports and disseminating financial intelligence to law enforcement agencies for further ML/TF investigation and possible prosecution. Only Malawi, Mauritius, Namibia, South Africa and Zimbabwe have functioning FIU. As a result, there is a low level of suspicious transaction reports filed that are related to cash couriers or that could be used to identify, investigate and prosecute cash couriers-based ML/TF cases.

- The cash-intensive nature of ESAAMLG economies in addition to vast, weak and porous borders render border control check points ineffective as cash couriers use various alternative routes. Furthermore, the general lack of modern equipment and technology in detecting cash couriers, coupled with a small number of member countries outsourcing customs inspections to private firms for loading and sealing of cargo containers, make ESAAMLG ports of entry and exit very attractive to illegal cash couriers.
- Only two member countries of ESAAMLG perform analysis of tax returns that could also be used to identify, investigate and prosecute cash courier proceeds and possible ML/TF cases. When suspicion of possible ML/TF related to cash courier proceeds are found, such information is exchanged with local financial intelligence unit for further analysis and possible referral for investigation by relevant law enforcement agencies. Only one member country has its tax authority mandated to look for money laundering and terrorist financing transactions in the course of conducting tax assessments and audits and such findings are reported to national FIU.
- There are no effective and structured platforms for exchange of information and cooperation relating to cash courier proceeds, ML/TF amongst domestic agencies, and with their foreign counterparts within the region and the rest of the world.
- All the institutions of ESAAMLG member countries have inadequate human, financial and technical capacity to combat cash couriers and the associated ML/TF risks.

Recommendations

The report recommends key counter-measures to address the identified ML/TF vulnerabilities. These are set out in Box 3. It is important that member countries take into account these recommendations when devising and implementing the necessary measures to address ML/TF vulnerabilities related to cash couriers.

Box 3: Key Recommendations.

- ESAAMLG member countries without laws criminalising illegal physical transportation of currency and other negotiable instruments, money laundering and terrorist financing should do so as a matter of urgency. Those member countries already with the necessary legal instruments and measures should implement them effectively.
- ESAAMLG member countries should put in place all the necessary institutional arrangements with sufficient capacity to address cash courier proceeds and the associated ML/TF vulnerabilities and threats.
- Effective coordination of information sharing and cooperation at domestic, regional and international levels should be streamlined to facilitate effective detection and combating of cash courier-based money laundering and terrorist financing.
- Necessary steps to provide adequate training and improved awareness raising programmes for competent authorities and private sector stakeholders across the ESAAMLG region should be prioritised.

Links between Money Laundering and Corruption

Box 4. Views on effects of corruption.

"It is widely acknowledged that corruption impoverishes communities, and threatens the safety and security of many for the benefit of only a few. A country's potential to attract Foreign Direct Investment (FDI) and more critically to develop can be significantly impaired, making it less able to provide basic services to uphold the rights of its citizens."²

Corruption damages trust in systems that affect people's daily lives and is a major obstacle to the achievement of the United Nations' Millennium Development Goals (MDGs), whose primary aim is to reduce poverty"³.

At a joint FATF/ESAAMLG Plenary held in Cape Town, South Africa, in 2005 a project proposal to conduct an in-depth study on impediments of corruption on effective implementation of anti-money laundering systems in the ESAAMLG region was approved. The Council of Ministers approved *"An assessment of the links between corruption and the implementation of anti-money laundering strategies and measures in the ESAAMLG region"* as the study topic. The purpose of the research study was to analyse the links between corruption and the implementation of AML measures in the ESAAMLG region and recommend how ESAAMLG member countries could improve their counter-measures to corruption and money laundering. The outcome of the research study was also intended to supplement similar studies in other FATF regions, notably the corruption and anti-money laundering report by the APG/FATF Joint Project Group released in September 2007.⁵

Methodology

Since this was an extensive study that required dedicated personnel with specialised research and analysis expertise, ESAAMLG contracted an independent researcher⁶ who worked closely with ESAAMLG Anti-Corruption Working Group. The Project Team worked electronically and also met regularly in the margins of ESAAMLG meetings. The Project Team analysed detailed questionnaires completed by 12 of the 14 member countries and gleaned mutual evaluation reports of ESAAMLG member countries, data secured through desktop research and interviews with contact persons suggested by the ESAAMLG. It further reviewed national legislations of corruption and money laundering of member countries, including status of implementing key conventions such as the United Nations Convention Against Trans-national Organised Crime (2000), the United Nations Convention Against Corruption (2003), the African Union Convention on Preventing and Combating Corruption (2003) and the FATF 40 + 9 Recommendations. The final report was approved in August 2008 at the Mombasa Meetings held in Kenya.

² This view is shared by analysts and international organisations alike

³ <http://www.unodc.org/unodc/en/corruption/index.html>

⁴ A full report is available on ESAAMLG website.

⁵ The report was prepared for the Joint Project Group by David Chaikin and Jason Sharman, and is accessible on the FATF website as FATF/PLEN (2007) 37

⁶ Charles Goredema is the Head of Organised Crime and Money Laundering Programme at the Institute of Security Studies, Cape Town, South Africa.

Case Studies

Box 5: Case Study 1

Country A prohibits exchanges of foreign currency on the street, i.e. between individuals other than through authorized outlets and businesses. A young woman, J was intercepted and arrested by the police after a transaction in which she had exchanged about USD5 000 with a businessman, Dido. Dido was a member of the advisory panel of the central bank, from which all new currency was distributed. She received a large amount of money in the local currency. The money was in brand-new notes, in denominations that were not yet in general circulation.

In her explanation to the court, the accused named the businessman as the other party to the transaction to whom she had sold the foreign currency. She also explained to the court that Dido had sent several text messages to her cell phone, pleading with her not to implicate him. She offered to surrender the phone to substantiate the claim. The court considered it to be unnecessary to note the messages. The court accepted that the local currency received by her had all been seized by the police. The court sentenced her to several years in jail. The businessman was absolved of any culpability. By the time that J appeared in court, the police had surrendered the seized money to the central bank and kept no record of the serial numbers of the notes.

(Source: Court record, December 2007)

Observation: While the business executive gained foreign currency in the illicit transaction, his influence and connections saved him from prosecution.

Box 6: Case Study 2.

The UM Bank was incorporated in May 1995. In less than three years the bank's license was revoked after it became known that it had a low capital ratio and inadequate liquidity to meet the claims of depositors and other liabilities. Police investigations subsequently revealed that many illegal activities had been committed.

1. Fraud: CSC bills

Following its commercialisation (a prelude to privatisation), a statutory corporation, the CSC contracted the bank to raise funds on its behalf on the local money market. This was to be done through the flotation of CSC bills. The CSC required \$413 million. The government issued guarantees to the value of \$855.16 million to be used as security during the flotation of the bills. The bank raised the amount required by the CSC and remitted it. Thereafter the bank sold further bills worth \$1.263 billion on the local money market, and converted the entire amount to its own use. The founder and Chief Executive of the UM Bank, **RMB**, was found to have been at the centre of the illicit activities, assisted by five associates. **RMB** died on 21 February 1999 before he could stand trial. It is not clear to this date how much of the converted money was recovered.

2. Conversion of depositors' funds

Various persons and institutions deposited funds with the bank during its short life. Upon cancellation of its license the bank owed \$1, 558 billion to depositors, which it was not in a position to repay. Some bank documents and computers could not be traced. Charges were laid against **RMB** and his accomplices in terms of the Serious Offences (Confiscation of Proceeds) Act, but he died before he could stand trial.

The investigation was transferred from the police to a government-appointed special investigator, in terms of the Prevention of Corruption Act. The central bank Governor was appointed as the special investigator. The Act did not clarify or structure the relationship between the investigator and the police, who had been investigating the case. After a while it became clear that the investigation did not go far in the hands of the special investigator. It was common cause that the appointing Minister had a cordial relationship with **RMB**, and was substantially indebted to the UMB.

3. Money laundering

In the short life of the UM Bank, **RMB** opened and operated several personal accounts with the following foreign banks:

Botswana:	First National Bank
France:	Bank Soci�t� General
Germany:	West Deutsche Landesbank
Luxembourg:	Hypo Bank
South Africa:	Nedbank, Amalgamated Banks of South Africa (ABSA), First National Bank
United Kingdom:	Midland Bank plc, National Westminster Bank plc
United States:	Marine Midland Bank (New York), Merrill Lynch Bank (New York)

Sometimes acting through his lawyer, **GS**, **RMB** externalised at least USD21 million in violation of exchange control legislation. **GS**, a senior partner in a law firm, was on the board of the UMB and a signatory to the bank's account at the DT Bank. The firm acted as corporate secretaries for the UMB and as legal advisers to both the UMB and the RB group of companies. The main business specialties of the group were tobacco and gold marketing. **GS** disappeared from the country soon after the death of **RMB**, by which time he had already been charged with violating the Prevention of Corruption Act and the Companies Act. It was later discovered that **GS** also operated a foreign bank account in England. None of the foreign funds were repatriated

Observation: The case study highlights the manner in which corruption can nullify a dedicated investigation even in a relatively clear-cut case of money laundering.

Box 7: Case Study 4.

A case involving a former president was concluded in the English civil courts in May 2007. It broadly illustrates the particular risk raised by PEPs. The ex-President was accused of abusing a facility established to support his country's state security agencies by siphoning up to \$52 million from the ministry of finance to an account held in a London bank. The account also held funds for the use of the country's security agents. The director of security intelligence was the sole signatory to the London account. Part of the money was subsequently transferred to a company registered in the country from where the funds came in the first place, which company was run by the former president's associates.

The court found that the main participants in the fraud were the former President; the director of security intelligence; the director of loans and investments in the Ministry of Finance; and the country's ambassador to the United States. The account was not operated in the name of any of them, but they all benefited, with the president being the main beneficiary.⁷

⁷ More details of the case can be read in the civil judgment, cited as *Attorney General of Zambia v Cave Malik and others* [2007] EWHC 952 (Ch).

Observation: The case study illustrates a case of direct manipulation of legitimate systems by public officials, who would be classified in terms of UNCAC as Politically Exposed Persons (PEPs). A feature of the case was the climate of fear, which pervaded the Ministry of Finance and the Department of the Auditor-General, where the fraud and corrupt transfers could have been picked up and stopped. The primary fear was of the loss of livelihood if dismissed on account of exposing apparent corruption in the absence of social security for the unemployed in the country concerned. It could also have been the fear of physical reprisals – in some cases of a life-threatening nature.

Findings:

A summary of the findings of the research study are set out in Box 8.

Box 8: Summary of key findings

- Significant measures that could reduce money laundering exist in all the member countries, but as some member countries have not yet adopted the necessary national legislation, the implementation of measures that specifically target money laundering across the region is uneven.
- There is a general low rate of successful prosecutions for money laundering cases, and documentation of statistics on requests for mutual legal assistance, extradition and confiscation of proceeds of corruption and money laundering, which in turn makes it difficult for government authorities to measure effectiveness of measures in place.
- Corruption is regarded as a serious offence, which contributes to money laundering in all member countries. The connection between corruption and money laundering does not appear to have impacted on the legislative or institutional frameworks to combat the two vices. Specifically, in most member countries, corruption and money laundering are investigated by agencies that are separate, distinct and have little interaction. This results in a regrettable dissipation of resources and unhealthy competition.
- Financial, human and communication resources allocated to anti-corruption and anti-money laundering interventions in most member countries are inadequate, and affect effective implementation of both anti-corruption and anti-money laundering measures.
- While most member countries do not have comprehensive and documented national AML strategies, several have anti-corruption strategies which regrettably do not consider the vulnerability such strategies could be exposed to corruption.
- Although most member countries are State Parties to United Nations Convention Against Corruption that obliges to legislate for enhance due diligence on transactions involving domestic and foreign Politically Exposed Persons (PEPs), only one member country of ESAAMLG has this obligation into its AML legislation.
- The absence of laws to facilitate access to information that could indicate the accumulation of resources by corrupt means or inadequacies in the implementation of measures against corruption and money laundering appear to blunt the effectiveness and success of measures to combat both corruption and money laundering.

Recommendations:

Accordingly the research study makes the following recommendations. It is important that member countries take stock of these recommendations when adopting and implementing counter-measures against corruption and money laundering.

Box 5: summary of recommendations

- Each member country should take stock of the status of implementation of AML measures and move with greater urgency to plug in any identified gaps in implementation. Specifically, countries that did not ratify the relevant international instruments in time should accede to them and implement them. Countries that already have ratified them should effectively implement commitments made.
- Member countries should adopt comprehensive AML strategies, taking into account their obligations in terms of the relevant international instruments and as members of the ESAAMLG. In particular, each member country should create the necessary legislative and administrative framework to facilitate the application of enhanced scrutiny of commercial financial transactions linked to politically exposed persons (PEPs).
- Each country should legislate to facilitate access to information that could indicate the accumulation of resources by corrupt means. In particular, countries with unexplained wealth legislation should identify bottlenecks impeding its implementation and take remedial action to clear them. Countries without such legislation should consider creating it.
- In order to negate the impact of corruption on combating money laundering, member countries should consider adopting legislative and institutional frameworks to formalize collaboration between the agencies responsible for investigating corruption and money laundering. This is likely to optimise the use of scarce resources and limit competition for cases.
- Member countries should establish reliable documentation and retention systems for data on incoming and outgoing requests for mutual legal assistance and extradition, and confiscations of proceeds of corruption and money laundering in cases with trans-national dimensions.
- Member countries should create the necessary legislative and administrative framework to facilitate non-conviction based asset forfeiture. This should include the establishment of dedicated structures for the management and disposal of recovered assets.
- Member countries should enable the agencies mandated to combat corruption and money laundering to be autonomous in terms of structure and operations. Autonomy should be understood to mean the provision of adequate resources and freedom from undue influences. At the same time, the agencies mandated to combat corruption and money laundering should be accountable to the public, specifically through legislative and judicial institutions.
- Each member countries should undertake a more country- specific expansive research on the specific links between corruption and money laundering considering that the typologies of links between corruption and money laundering adverted to above are of a general nature, that each country will be affected in a different way, depending on the stage reached in constructing an AML regime, that the current study did not go beyond the main structures in the public sector and that the private sector is not covered by this study.

Current Typologies Studies

At the August 2008 meetings held in Mombasa, Kenya, the Council of Ministers approved two new typologies studies on money laundering risks posed by drug trafficking and human trafficking. The existing literature gleaned showed that drug trafficking and human trafficking are generating huge proceeds that go undetected, due mainly to the generally low levels of AML/CFT implementation in the region. This makes the region a low-risk-high premium destination for generating proceeds of crime and laundering them with relative ease. None of the literature reviewed show how the proceeds are being laundered in the region. Consequently, *“Money Laundering vulnerabilities related to drug trafficking”* and *“Money Laundering vulnerabilities related to human trafficking”* typologies studies were approved to look into the methods and trends of laundering proceeds generated from trafficking in humans and drugs. Two Project Teams were set up to conduct analysis of information gathered from member countries on the two vices. It is expected that both typologies studies will be completed by August 2010.

Conclusion

Typologies studies are invaluable in understanding existing and emerging ML/TF risks and putting in place effective AML/CFT programmes. The challenge for member countries is to take into account the findings and recommendations of typologies studies when developing and implementing national AML/CFT measures. In consolidating its typologies programme, ESAAMLG intends to partner with the FATF and other FSRBs to carry out joint typologies studies for the benefit of the region.

Training and Capacity Building

Mutual evaluation/Assessment Trainings

AML/CFT Evaluations and Assessments Training are designed to equip future assessors from the ESAAMLG membership with the tools and knowledge to conduct an AML/CFT evaluation or assessment. The ESAAMLG secretariat has, in collaboration with the World Bank, organised, managed and delivered three mutual evaluations training under the FATF 2004 Methodology.

As a result of these trainings, ESAAMLG now has a pool of over 115 trained evaluators from the region to enable it to successfully conduct and sustain its mutual evaluation programme.

Pre-evaluation seminars

The ESAAMLG Secretariat also organises pre-mutual evaluation trainings for the benefit of member countries that will undergo AML/CFT assessments. The objectives of these trainings are to ensure that member countries -

- familiarise themselves with the mutual evaluation process, including key deadlines, practical/logistical issues and the fundamental role of a coordinator in ensuring an efficient evaluation;
- understand the need for a detailed and comprehensive mutual evaluation questionnaire that will pave the way to a fruitful and constructive evaluation process; and
- prepare a draft plan for the mutual evaluation exercise, including identifying relevant public agency stakeholders and agencies responsible for completing the mutual evaluation questionnaire.



Participants at the Pre-Evaluation Seminar for the Republic of Mozambique 10-12 June 2009, Maputo Mozambique

It is expected that the AML/CFT Evaluations and Assessments Trainings and pre-evaluation trainings have consolidated ESAAMLG's efforts to propagate a better understanding of the international AML/CFT standards in the ESAAMLG region.

ESAAMLG has also organised and participated in a number of capacity building and awareness raising programmes. Two capacity enhancement trainings for investigators and prosecutors have been conducted jointly with the Commonwealth Secretariat and the Office of Technical Assistance-Financial Enforcement of the United States Treasury.

Achievements of ESAAMLG

Since the adoption of its First Strategic Plan in 2005 ESAAMLG has made significant progress towards achieving its mission to combat money laundering and terrorist financing in the Eastern and Southern African region. In March 2008, the Group conducted a review of the implementation of its Strategic plan which indicated that a number of initiatives have been undertaken by the Group at a regional level and by individual member countries at national level to build up a framework for mutual support in the fight against money laundering and terrorist financing. The Secretariat has also made steady progress to secure its sustainability.

An efficient and sustainable Secretariat

One of the major outcomes of implementation of the Strategy was to have the ESAAMLG focused as fast as possible in engaging in substantive discussion of development AML/CFT in the meetings of the Task Force of Senior Officials and development of regional priorities in the implementation of the AML/CFT systems. It was also the intention of the strategy that the Council of Ministers meetings should concentrate on strategic issues and decisions that will drive forward the process of AML/CFT at national level.

To achieve the foregoing as a first step it was necessary to develop an efficient and sustainable Secretariat as early as possible.



The Secretariat Team: First row (bottom from left to right):

Yotsna Lalji- Venketasawmy, Dr. Eliawony Kisanga, Amina Mwenda

Second row (from left to right): Jane Sailo, Paul Mfungahema, Noel Temu Third row (from left to right): Fernie Kweka, Joseph Jagada, Phineas Moloto

At the time when the Strategic Plan was approved the Secretariat was a weak institution with very limited capacity to effectively implement its work programme. In particular, it had very limited

technical staff capacity and for the objectives of the Strategic Plan to be fully realised the staff capacity needed to be improved. One of the key activities that was immediately undertaken in order to address objective 7 of the Strategy i.e. developing “a sustainable and efficient ESAAMLG Secretariat” was to undertake an “*Efficiency Scrutiny*” of the Secretariat and to determine the minimum resources and staff complement that would enable the Secretariat to undertake the critical tasks that an FSRB is meant to carry out. The recommendations of the report of the scrutiny are currently being implemented. The technical capacity of its Secretariat has increased through the implementation of the recommendations, namely, the South African Financial Intelligence Centre has seconded a member of its staff to the Secretariat while with the sponsorship of the Commonwealth Secretariat a legal adviser has been appointed. The Secretariat is in the process of recruiting a Law Enforcement Expert to further strengthen its technical capacity. The financial resources to support the work programme of the Secretariat have also been enhanced following the approval of the Council of Ministers to increase the budget of the Secretariat and members subscriptions

National AML/CFT Strategies and mutual evaluations

The First Strategic Plan acknowledged that each member country has unique circumstances and constitutional frameworks and so cannot take identical measures to achieve the required international standard. Going forward, it was agreed that developing and implementing individual country AML/CFT strategies and implementation programmes would be the responsibility of each member country. It was expected that all 14 members would have satisfactory strategies that would be implemented within the first year of this 3-year ESAAMLG strategy. Unfortunately, while member countries have been reporting regularly at Task Force meetings on the progress in the development of National strategies no country has submitted to the Secretariat a finalised and approved National AML/CFT strategy for publication on the ESAAMLG website.

In the face of difficulties faced by member countries, ESAAMLG is currently reviewing its approach towards developing national AML/CFT strategies. Going forward, the Group will now be more focused on promoting post evaluation implementation of the FATF standards. To this end, the ESAAMLG is in the process of reviewing its Mutual Evaluation Procedures to adopt a more comprehensive and result-oriented approach that endeavours to support member countries in enhancing compliance with the FATF standards in the post-evaluation stage.. The development of national strategies would be considered in this context and will be linked to the mutual evaluation exercise.

The programme of mutual evaluation of national anti money laundering systems – a process key to the implementation of the FATF recommendations, has also gained a steady momentum. Ten out of the 14 member countries have been evaluated and it is the aim of the Group to finish this first round of evaluation under the 2004 FATF Methodology by August 2011.

Capacity building

There is a global shortage of skills in the field of AML/CFT including within developed countries. With the exception of South Africa and Mauritius the skill base of ESAAMLG AML/CFT practitioners is not surprisingly also perceived as low. This lack of regional capacity is a major drawback to successfully implementing regional AML/CFT strategies and programmes. Three general observations can be made to set the context:

- ESAAMLG members are at various stages of development that can be broadly categorised as advanced, moderately advanced and less advanced.
- National institutions and practitioners require a range of skills that broadly fall into five main categories – strategy development / programme management; legislative / regulatory; financial; law enforcement and judicial; and specialist (such as forensic accountancy and expertise in mutual legal assistance).

The ESAAMLG secretariat should continue to develop regional capacities in each of the broad skill categories identified above as part of the mutual evaluation process. Specifically it should organise training for individuals that will be involved in the mutual evaluation process that, coupled with the experience of taking part in a mutual evaluation, will provide a solid foundation for those who might subsequently be involved with the implementation and operation of AML/CFT systems. It is envisaged that trained evaluation experts will be able to provide basic training to colleagues in country.

Strengthening the regional network

ESAAMLG provides a mutually supportive network for harmonisation and synergy of efforts to combat money laundering and the financing of terrorism. It comprises a homogenous geographical group and should remain that way. There are four countries in the region that are not currently members of ESAAMLG – Angola, the Democratic Republic of Congo, Madagascar and the Union of Comoros.

Under the First Strategic Plan it was agreed that there would be mutual benefits to these countries joining the group. Bringing these four countries into the ESAAMLG would strengthen the existing regional network, increase synergy and reduce risks to member countries by eliminating potential hiding places for the proceeds of crime in neighbouring countries.

The Union of Comoros has been admitted as an Observer and attended its first meeting as an observer member country at the August 2008 Meeting. Through its outreach programme, the Secretariat is working closely with potential member countries including Angola, the Democratic Republic of Congo, Madagascar, Burundi and Rwanda to become members of the Group.

The World Customs Organisation was also reminded of its position as an initial Observer after it had applied to become a member. Other Observers who were reminded of their observer status were the East African Community, SADC and Interpol.

On balance, there has been some progress in achieving the objectives of the strategy by each of the above stakeholders. Much, however, is left to be done in order for the expected results of each strategic objective to be realised. This is a major challenge that ESAAMLG and ESAAMLG Secretariat will need to address in the coming years. The Second Strategic Plan consolidates the activities and initiatives undertaken under the previous Strategic Plan 2005-2008. It indicates the strategic direction which the ESAAMLG will pursue to attain its objectives and carry out its functions as an FATF Style Regional Body.

Implementation of AML/CFT in Member Countries

COUNTRY REPORTS

The Kingdom of Lesotho

Introduction

1. Lesotho is landlocked and is completely surrounded by the Republic of South Africa; it has a total land area of just over 30,355 square kilometres. Lesotho Population estimates from 2006 census indicated that there were more than 1,880 600 inhabitants. Majority of the population lives in rural areas. Official languages spoken are English and Sesotho.
2. The main products of Lesotho are mohair, wool and diamonds. The products manufactured are textiles and clothing which are exported to USA under the Africa Growth Opportunity Act "AGOA".
3. Lesotho has been a Constitutional Monarchy since becoming independent from the former Protectorate of Basutoland in 1966, which was under British Government. The King is the Head of State and the Prime Minister is Head of Government.
4. The value of currency in Lesotho (the Loti) is pegged to the South African Rand under terms of the Common Monetary Area (CMA) agreement.
5. Lesotho is a developing country with limited domestic markets. Her economic performance depends on export orientated industries and is thus influenced by global trends, commodity prices, capital and aid flow.

Overview of the financial sector

6. There are three commercial banks in Lesotho all of which are owned by South African Banks. There is also one other bank, the Post Bank owned by the Government of Lesotho.
7. Lesotho has the Central Bank (CBL), which is responsible for overseeing and safeguarding the stability, integrity and efficiency of the banking industry. Under the Financial Institutions Act, 1999, all financial institutions have been provided with the Financial Institutions (Anti-Money Laundering) Guidelines to ensure adherence to the practices of monitoring and reporting money laundering or criminal activities, in particular suspicious transactions. The reports are lodged with the Central Bank and the Police who conduct investigations. Financial institutions are also required to abide by know your customer (KYC) principles.
8. There are five insurance companies, twelve insurance brokers and more than two hundred agents in Lesotho. The insurance companies provide both short term and long term insurance. They also provide small loans to their policy holders. They also arrange reinsurance where necessary.

9. Money lenders on the other hand are 114 and are licensed under Money lenders Order 1989. There is also one Bureau de Change and one money transfer service provider both of which are licensed under Financial Institutions (Ancillary Financial Service Providers) (Licensing Requirements) Regulations, 2003.

National AML/CFT Initiatives

10. The National Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Task Team has developed the AML/CFT Strategy. The AML/CFT strategic plan seeks to indicate clearly how Lesotho intends to implement measures to combat money laundering and financing of terrorism in line with internationally accepted standards. The strategy seeks to consolidate the Financial Action Task Force Forty Recommendations and Nine Special Recommendations on Terrorist Financing through legislation and other legally binding measures.
11. In November 2007 Parliament passed the Money Laundering and Proceeds of Crime Act. The Act was published officially in April 2008 and came into effect on April 2009. The Act which seeks to criminalise money laundering and terrorist financing also provides for confiscation of all proceeds of crime and further establishes two important institutions: the Anti-Money Laundering Authority (AMLA) and the Financial Intelligence Unit (FIU). Pursuant to the Act the Directorate on Corruption and Economic Offences, which is already operational, shall be the Anti-Money Laundering Authority. The FIU is not yet operational and consultations are underway to make it operational.
12. On the other hand, the National Task Team was initiated in 1999. It comprises all relevant agencies on AML/CFT. Its objective was to develop a policy which would see the enactment of Anti-Money Laundering law, which is already in place. It is anticipated that the Team will be a forum to discuss AML/CFT implementation aspects, in line with international standards especially, aligning ourselves with FATF Recommendations.

International AML/CFT Initiatives

13. Following Lesotho's took to combat the scourge of money laundering and terrorist financing, the Government of the United States has played a major role in offering training on the fundamentals of money laundering and terrorist financing. The Government of USA, thorough US Treasury, has offered to setup the FIU, the apex of AML/CFT. ESAAMLG, in conjunction with cooperating partners, has also offered training workshops to the officials of Lesotho on AML/CFT. Mention should also be made of Mutual Evaluation and Development Strategy Implementation undertaken by ESAAMLG to see Lesotho going forward in the implementation of AML/CFT measures.
14. Lesotho joined and signed ESAAMLG Memorandum of Understanding in August 2003 and was mutually evaluated in July 2004 using the 2003 FATF Methodology. In July 2006, Lesotho underwent a Development Strategy Implementation Assessment which would enable it identify developmental needs for the implementation of AML/CFT regime. Another mutual evaluation is scheduled for November 2010 using the FATF 2004 methodology.

Future AML/CFT Developments

15. Lesotho's aim is to have full functional AML/CFT regime based on the National AML/CFT Strategy and taking cognizance of recommendations of assessments made, to have a successful Anti-Money Laundering Authority and FIU which meet international standards.

Conclusion

16. Lesotho's main challenge in the successful implementation of the AML/CFT regime emanates mainly from lack of capacity-both in financial and human resources. Nonetheless, with the political support and determination by the Government on the matter, some of these challenges are already being addressed, paving the way to full implementation of the regime.

The Kingdom of Swaziland



The emergence of terror attacks in the late 1990s forced Swaziland to promulgate the Money Laundering (Prevention) Act, 2001 (MLP Act). The promulgation of this Act was meant to beef up Swaziland's Anti-Money Laundering regime. In a nutshell, the MLP Act criminalizes money laundering; creates a duty to report Suspicious Transactions; makes the Central Bank of Swaziland a supervisory authority; and make the Director of Public Prosecutions the competent authority for prosecuting money laundering offences. There

are other Acts which were promulgated to assist the Money Laundering (Prevention) Act, 2001. These included the Serious Offences (Confiscation of Proceeds) Act, 2001; the Mutual Assistance (Criminal Matters) Act, 2001; and the Suppression of Terrorism Act, 2008.

Soon after the promulgation of the MLP Act, Swaziland set up the National Task Force on Anti-Money Laundering. It has representatives from the Ministry of Finance, Attorney General's Chambers, Anti-Corruption Commission, Central Bank of Swaziland, Swaziland Law Society, Police, Tax Authorities, Director of Public Prosecutions and the Swaziland Bankers Association. The MLP Act is being amended to include other stakeholders in the Task Force such as Estate Agents and Micro-lenders. The Task Force is a policy-making organ of the country in general on anti-money laundering issues and the combating of the financing of terrorism. The Task Force has also recently produced the country's Anti-Money Laundering Strategic Plan.

The Central Bank of Swaziland also issued in 2002 Anti-Money Laundering Guidelines to banking institutions. These guidelines entailed the implementation of the Know Your Customer (KYC) policy and the submission of Suspicious Transaction Reports by banks to the Central Bank. So far the implementation of the KYC has been successful and a number of Suspicious Transaction Reports have been submitted to the Central Bank of Swaziland. Currently, the Suspicious Transaction Reports have been analyzed and some are ready to be referred to law enforcement agencies. The Central Bank of Swaziland also frequently trains banking institutions on Anti-Money Laundering trends and has been instrumental in getting technical assistance from the World Bank and the International Monetary Fund for Anti-Money Laundering training. The Central Bank has also prepared Memorandums of Understanding with the Police and the Anti-Corruption Commission on sharing of information. These MoU are almost ready to be signed.

Swaziland is also currently amending the MLP Act to target certain issues and this creates a new bill. This new bill basically aims to strengthen the fight against the financing of terrorism and to expand the number of accountable institutions. The Central Bank of Swaziland is currently establishing the Financial Intelligence Unit (FIU) as a matter of urgency. The recruitment of the head of the FIU is underway. The creation of the FIU is expected to solve the issue of Suspicious Transaction Reports

not being acted upon effectively. It is expected that the FIU will later be independent and have its own Board and report to the Minister of Finance. The Swaziland Government has made available funds for the creation of the FIU.

The Republic of Botswana

General information on Botswana

The Republic of Botswana is a developing nation in southern Africa, which has common borders with South Africa, Namibia, Zambia and Zimbabwe. It has a population of about 1, 7 million. Botswana has a semi-arid climate characterized by warm winters and hot summers. It has abundant tourist attractions predominantly concentrated in the northern part of the country. It has a



surface area of about 582 000 square kilometers, and it is about 500km from the nearest coastline, to the southwest. Tswana is the largest ethnic group. The country is mostly Christian, and follows a parliamentary republic type of government. The capital city is Gaborone. The President, Seretse Khama Ian Khama is the head of Government. Pula is the national currency.

Economy

Botswana's economic growth has been impressive since 1966 when it gained independence. The economy's annual average growth rate for the first five years of National Development Plan (NDP 9) was 4.4 percent after several years of rapid economic growth. Hence, it is among the few African countries classified as upper middle-income country. The economy is dominated by mining, especially diamonds; tourism; textiles, cattle and services sectors. During 2007/2008 mining contracted by 3.5 percent compared to a growth of 4.7 percent in the prior year. Overall GDP growth was estimated at 3.3 percent for 2007/08, a significant reduction from 5.3 percent in 2006/07, mainly reflecting the contraction in the mining sector. Given the economic linkages, subdued mining activity and therefore reduced demand for inputs by this dominant sector, will continue to have a major impact on activity in the broader economy.

In line with the global downswing in economic performance, GDP growth in Botswana has slowed down, affecting government revenues from the end of 2008/09, probably until 2010/2011. The decline in mineral revenue is expected to adversely impact on the Government budget balances, which would have to be cushioned by drawing down on Government's reserves and borrowing.

The above notwithstanding, during 2008, the international credit rating agencies, Moody's Investors Service (Moody's) and Standard and Poor's (S & P), reaffirmed Botswana's investment grade rating for the eighth consecutive year. Viewed against the deteriorating global economy, these ratings reflected Botswana's continued sound financial position, as well as consistent record of prudent macroeconomic management. Both agencies were positive that, despite the global financial crisis and economic slow down, the probability of a significant future ratings downgrade was low, provided that implementation of necessary reforms continued to improve.

Financial Sector Developments

Since the 1980s, the financial sector has undergone considerable reforms aimed at improving efficiency, broadening the range of financial instruments, institutions and markets, and giving market forces a stronger role in the operation of the financial sector. The financial sector grew as more commercial banks established in Botswana which in the process, increased coverage throughout the country. Growth has been accompanied by considerable changes in the structure of both savings and lending activities. Initially only commercial banks formed the financial sector. However, other institutions have been established. The financial sector is now comprised of commercial banks, merchant banks, quasi-Government owned banks, insurance companies, building societies, capital markets and pension funds, international financial services centre, etc,. Furthermore, the country has a modernised payment and settlement system. The financial system is one of the more advanced systems in sub-Saharan Africa and characterized by a significant level of foreign participation, predominantly South African.

There are two financial sector regulators namely, the Bank of Botswana and Non-Bank Financial Institutions Regulatory Authority (NBFIRA), which commenced operations on April 1, 2008. The establishment of NBFIRA is expected to address remaining regulatory and supervisory gaps in the financial sector, including the regulatory oversight of asset management activities and micro lenders which will further enhance the soundness and stability of the financial system. Access to finance is available to a larger proportion of the population with the objective to broaden access during the National Development Plan 10. The financial system faces potential risks from the rapid growth in the non bank financial institutions, mortgages and unsecured household credit. This calls for strengthened regulatory and supervisory interventions, which are being addressed.

Despite the on-going global financial crisis, the domestic banking sector performed satisfactorily well during 2008 and appeared to be relatively insulated from the crisis. Other financial institutions, in particular, the Botswana Stock Exchange and the pension funds experienced a decline in growth due to the crisis. During 2008, the Foreign Companies Index (FDI) of the Botswana Stock Exchange declined by 45.8 percent while the pension funds offshore equities and dual listed equities had the most pronounced fall in value. **General Situation of Money Laundering and Financing of Terrorism in Botswana**

Botswana, like other members of the global village and more in particular, as a member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), has embraced the international campaign against the escalation of trans-national crimes in their various forms. With respect to money laundering, this has been done through criminalizing any conduct that forms or is associated with that offence. The country has shown its support to combat money laundering through the ratification of various conventions, signing regional agreements and in passing the various pieces of legislation. In order to implement these instruments and comply with the 40 Recommendations of the Financial Action Task Force (FATF), Botswana amended **Proceeds of Serious Crime (Amendment) Act No: 13, of 2000** in order to introduce additional provisions that sought to address the shortcomings of the **Proceeds of Serious Crime Act No: (CAP08:03)**.

The Act, as amended, now applies to activities intended to conceal or disguise the nature, source, location, disposition, movement, ownership or any rights with respect to the money or property. It

also covers key AML requirements, such as, customer identification, record keeping, reporting of suspicious transactions, training and awareness raising for a broader range of financial activities, among others, insurance, securities and money transmission services.

Furthermore, Botswana has also enacted the **Extradition Act (CAP 09:03)**. In the same vein, Botswana enacted the **Corruption and Economic Crime Act (CAP 09:05)** which provides for the establishment of a law enforcement agency called the Directorate on Corruption and Economic Crime (DCEC). The mandate of DCEC is to investigate and prosecute serious economic offences, corruption and money laundering offences. The Directorate also functions as a quasi financial intelligence unit which receives, analyses and provides useful feedback to all banks on all reported cases of suspected money laundering. In 2003, Botswana enacted the **Banking Act, Anti-Money Laundering Regulations**, which are enforced by Bank of Botswana. The Regulations provide minimum guidelines on 'Know Your Customer' (KYC) requirements, record keeping, recognition and reporting of suspicious transactions, cooperation with law enforcement agencies, awareness raising and staff training on anti-money laundering measures. Presently, there is no anti-terrorism legislation in Botswana, although terrorism activities are addressed through various laws such as the **Arms and Ammunitions Act (Cap 24:01)**, the **Penal Code**, and the **National Security Act (Cap 23:01)**.

To facilitate the efficient implementation of the reforms to fight money laundering and combat the financing of terrorism, Botswana drafted its first strategy in 2005, which outlined the challenges, efforts and initiatives Government aimed to undertake to protect its financial system from money laundering and terrorist financing threats. The original strategy indicated that the anti-money laundering regime in Botswana was weak and exposed the country to money laundering risks and terrorism financial acts. Furthermore, the 2007 Financial Sector Assessment Programme (FSAP) also identified the same deficiencies and recommended five priority areas, which needed to be addressed to strengthen the country's AML/CFT regime.

As part of the implementation process, Botswana has established the Non-Bank Financial Institutions Regulatory Authority (NBFIRA) in a bid to strengthen the regulation of non-bank financial institutions. Another milestone for Botswana is the passing of the Financial Intelligence Act of 2009, which provides for the establishment of the Financial Intelligence Agency (FIA). The Agency will receive, analyse and disseminate financial information to the supervisory authorities, the police, DCEC, Directorate of Public Prosecutions (DPP) and other stakeholders. Further to this process, consequential amendments to the Proceeds of Serious Crime Act are ongoing to harmonise it with the Financial Intelligence Act, provide for issues of civil forfeiture and more importantly, to criminalise money laundering. In the same vein, Botswana is drafting its terrorism legislation in order to comply with United Nations Security Council resolution 1373. These efforts will go a long way in building a robust AML/CFT regime for Botswana.

Challenges

Lack of capacity has been identified as one of the bottlenecks in existing structures. This has affected the implementation, monitoring and evaluation of the strategy as well as the legislation. Furthermore, it has hampered Government's efforts to sensitize the public and companies, financial institutions about issues of money laundering. However, being subsidiaries of internationally established and recognised banking institutions, banks in Botswana have largely embraced and have put in place

anti-money laundering procedures/measures. The establishment of an Agency dedicated to money laundering issues will drive this aspect of the strategy. The goal is to build a relationship between the different existing committees to facilitate information flow between different stakeholders like bankers, insurers, as well as Botswana Confederation of Commerce, Industry and Manpower, a body that represents the interests of the business community. This relationship is imperative because these entities provide a frontline defense against AML/CFT.

In this regard, the Government is working with its stakeholders to build capacity and this is an ongoing process. The Financial Intelligence Act gives the National Anti-money Laundering Committee powers to work with the Agency to oversee the overall coordination of the national AML/CFT issues. The Committee was established in July, 1996 and strengthened in 2003 by expanding its membership. It is comprised of institutions that deal with anti-money laundering and combating the financing of terrorism (AML/CFT) in Botswana. Some are involved in setting laws while others prosecute, investigate, monitor compliance and collect financial information related to suspected or actual criminal activities. These institutions include Ministry of Finance and Development Planning, Bank of Botswana, Directorate on Corruption and Economic Crime, Directorate of Public Prosecutions; the Police, NBFIRA, etc.,. This is a positive development that will enhance Government efforts. Furthermore, this means that the country has an effective and well represented AML/CFT National Coordinating Committee.

Conclusion

Botswana has revised its national strategy to reflect progress, and identify new challenges, priority areas and to strengthen the country's AML/CFT regime. The revised strategy is for a three year period from 2009-2011. It must be noted that the fight against money laundering and terrorist financing is a continuous one because criminals change their techniques quickly, taking advantage of new technological innovations. These techniques present new threats which countries must strive to overcome in order to protect our financial system. The threat is the same for cash based economies like Botswana and developed countries whose financial systems are based on sophisticated technology. In this regard, Botswana will continue to play a meaningful role in the international fight against money laundering and terrorist financing.

The Republic of Kenya

KENYA'S ANTI-MONEY LAUNDERING AND COUNTER TERRORISM REPORT

1. Introduction

The Republic of Kenya, located in East Africa, is bordered by Ethiopia and Sudan to the north, Somalia to the northeast, Uganda to the west, Tanzania to the south, and the Indian Ocean to the southeast. It has an area of 582,646 sq. km and a population of approximately 38 million. Administratively, it is divided into eight provinces; Eastern, North Eastern, Central, Coast, Western, Nyanza, Rift Valley and the capital city Nairobi which also carries full status as an administrative province.



Kenya serves as a regional communications, trade and financial centre for Eastern, Central, and Southern Africa. Through the port of Mombasa, Kenya is a major gateway to the Northern Corridor and provides the transportation network linking the port city of Mombasa to several landlocked countries in the Great Lakes region including Uganda, Rwanda, Burundi, the Democratic Republic of Congo, as well as Northern Tanzania and Southern Sudan. In addition, the Jomo Kenyatta International Airport provides an active connection for most international flights into and out of the region.

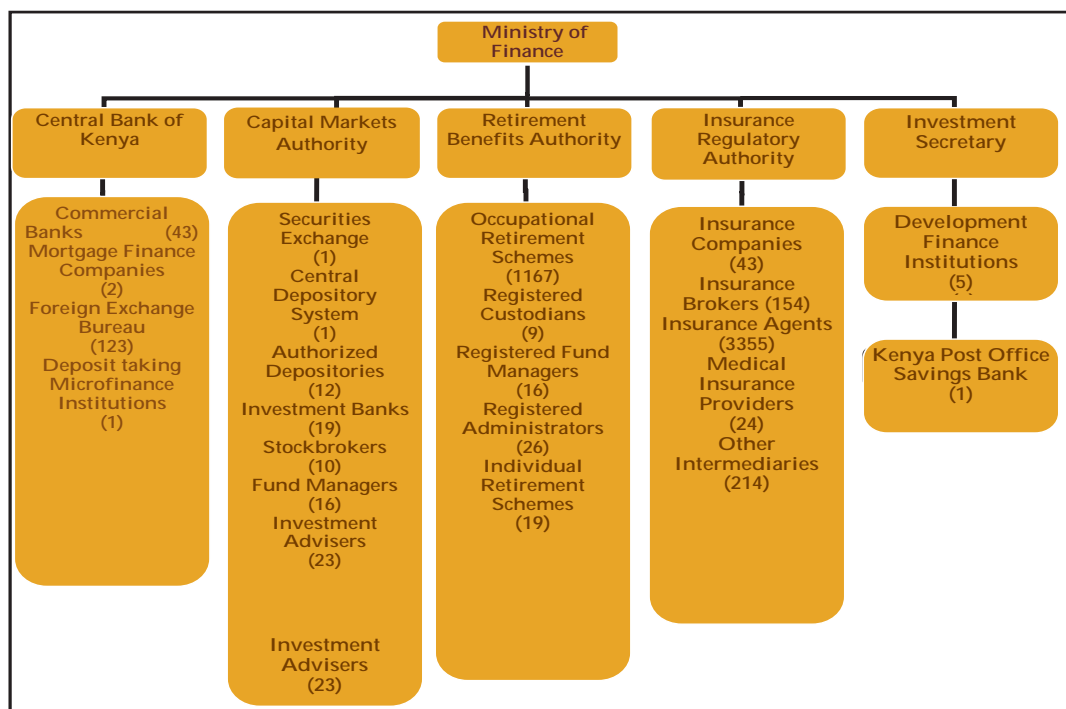


Table 1: Structure of the Kenyan Financial System*

*Savings and Credit Cooperative Societies (Sacco Societies) totaling 5,350 in number, as at December 31, 2008, play a key role in the provision of financial services and products to the majority of Kenyans in both rural and urban areas. They are currently registered, regulated and supervised under the Co-operative Societies Act by the Ministry of Co-operative Development and Marketing.

The Kenya National Taskforce (NTF) on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)

The Kenya National Taskforce on Anti-Money Laundering and Combating the Financing of Terrorism (NTF) was established through a gazette notice in 2003. It is a multidisciplinary taskforce, whose membership comprises of 14 organizations deemed crucial to the implementation of the national AML/CFT regime including various government agencies and line Ministries and the Kenya Bankers Association. NTF's primary mandate is to facilitate the development of a robust and effective AML/CFT regime in Kenya by sensitizing members of the public on the dangers of money laundering and developing a national policy framework on AML/CFT that is in line with international standards and best practice.

Key achievements of the taskforce to-date include the following:

- *Drafted the Proceeds of Crime and Anti-Money Laundering Bill*
- *Drafted Anti-Money Laundering Regulations that will take effect after enactment of the Proceeds of Crime and Anti-Money Laundering Bill.*
- *Enhanced institutional capacity of NTF member organizations by exposing members to various international AML/CFT training programs that exemplify best practice.*

The Draft National Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Strategy

The draft National AML/CFT Strategy identifies areas where regulators, law enforcement, and supervisory agencies will work collaboratively to detect, disrupt, and dismantle key avenues for money laundering and terrorism financing as well as enhance the stability and integrity of the financial system. Key objectives in the draft strategy are to:

1. Enact a comprehensive AML/CFT legislation;
2. Enhance the regulation and supervision of the national financial system;
3. Improve the security and safety of financial institutions, designated non financial businesses and professions;
4. Establish an effective system of financial transactions and activities reporting.
5. Establish an effective regional international cooperation on AML issues
6. Establish an effective self-regulation environment for designated businesses & professions
7. Establish an effective mechanism for the tracing, recovery & confiscation of proceeds of crime
8. Establish an effective monitoring and evaluation mechanism and
9. Strengthen and ensure the active participation of the National Task Force and the subsequent Anti Money Laundering Advisory Board in its advisory role.

Laws and Regulations

The Proceeds of Crime and Anti-Money Laundering Bill (AML Bill), 2009 seeks to criminalize money laundering and provides for criminal and civil restraint, seizure and forfeiture. It places an obligation on reporting institutions to file reports on suspicious activities and also establishes a Financial Reporting Centre, an Asset Recovery Agency and a National Anti-Money Laundering Advisory Board among others.

Pending enactment of the AML Bill, the following key pieces of legislation currently govern/deter money laundering related offences/activities in Kenya:

- a) **The Narcotic Drugs and Psychotropic Substances Act (1994)** - renders the laundering of the proceeds of drug trafficking an offence.
- b) **The Anti-Corruption and Economic Crimes Act (2003)** - establishes the Kenya Anti-Corruption Commission (KACC) which is empowered to investigate economic crimes and to institute civil proceedings against public officials for the recovery of property.
- c) **The Public Officer Ethics Act (2003)** - has provisions that require the declaration of assets and liabilities held by public officials after every two years.
- d) **The Public Procurement and Disposal Act, 2005** - establishes the Public Procurement Oversight Authority (PPOA) and procedures for efficient public procurement and for the disposal of assets by public entities.
- e) **The Prudential Guidelines on the Proceeds of Crime and Money Laundering (Prevention) (2006)** - provides guidance regarding the prevention and detection of money laundering activities for financial institutions that are licensed under the Banking Act and requires reporting of suspicious transactions by such institutions to the Central Bank of Kenya.
- f) **The Witness Protection Act (2006)** - which came into operation in 2008, provides for the establishment of a new identity for a witness by way of relocation, provision of accommodation, transport for the property, reasonable financial assistance, and generally ensures the safety and welfare of the witness. It also allows the high court to make new entries in the register of births, deaths or marriages and also imposes a seven-year jail sentence for any person convicted of blowing the cover of an individual, who is a beneficiary of the witness protection program.

2. Roles and initiatives of major players in the fight against money laundering and the financing of terrorism

The Government of Kenya in its duty to protect its citizens, safeguard the security and prosperity of its economy from the threat of organized crime and terrorism, has taken a number of initiatives through its key organizations in the area of AML/CFT;

Central Bank of Kenya

The Central Bank of Kenya has taken a number of key measures to prevent the abuse of the financial system by terrorists, money launderers and other criminals, including:

- Issuing AML guidelines whereby banks, microfinance institutions and foreign exchange bureau are required to have in place adequate "Know Your Customer" (KYC) policies and procedures that promote high ethical and professional standards that seek to prevent such institutions from being used by criminal elements. The Bank Supervision Department conducts on-site examinations to ensure compliance with these guidelines.
- Phasing out Bearer Certificates of Deposits (BCDs) with effect from December 31, 1999. Prior to that, BCD's were viewed as valid deposit instruments. However, it was noted that they encouraged anonymity of the holders of value deposits and thus facilitated money laundering in the financial system.
- Instituting AML/CFT capacity building measures for bank supervisors in conjunction with the various co-operating partners.

Kenya Revenue Authority

The Kenya Revenue Authority is the central body for the assessment, collection, accounting for government revenue, and the administration and enforcement of the laws relating to customs services and motor vehicle registration. As a member of the Kenya National Task Force on Anti- Money Laundering the Authority has implemented several initiatives and administrative measures to curb tax evasion which is a major predicate offence to money laundering in the region which include:

- Installation of X-ray Cargo Scanning Units at the major ports of entry in order to interdict the entry of prohibited or illicit goods such as small arms, explosives and illicit drugs.
- Introduction of a Canine Unit (K9) at all strategic entry points in the country to detect and deter the entry of illicit narcotics into the country.
- The establishment of a Marine Unit to effectively patrol the lake and sea borders in order to detect and deter smuggling.
- Roll out of an Electronic Cargo Tracking system to monitor the movement of transit cargo in order to mitigate the risk of diversion of cargo.
- Enhanced capacity of border control officers through training and new declaration measures in order to detect and interdict cash couriers.
- The introduction of the electronic tax registers in order to ensure that only bona fide business economic transactions are recorded in a tamper proof memory and minimize the risk of money laundering.

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Capital Markets Authority

The Capital Markets Authority has put in place a number of measures to safeguard the integrity of the capital markets in compliance with The International Organization of Securities Commissioners (IOSCO) AML/CFT standards and principles. Some of the key measures instituted include:

- Built and improved the capacity of the market supervision and legal staff with regard to the AML/CFT issues through training and workshops
- Developing AML guidelines and reference guide in consultation with relevant market players for adoption by the capital markets intermediaries
- Provided KYC requirements in its regulations including the requirement to keep and maintain customer records for a minimum of seven years.

National Counter Terrorism Centre

The Government of Kenya strongly condemns all acts of terrorism, having suffered the direct impact of the same on 7th August in 1998 after the bombing of the US Embassy in Nairobi and on 28th November 2002 after the bombing of Kikambala Hotel in Mombasa. As a country, Kenya is taking various legislative and executive measures to ensure compliance with the United Nations Security Council Resolution 1373 in support of the global implementation of this Resolution. Key measures taken to address terrorism include:

- Enactment of anti-terrorism legislation. Currently, the Prevention of Terrorism Bill has been drafted and is set to go to Parliament for debate and enactment after consultation with key market

players. The draft Bill spells out mechanisms for freezing accounts and confiscating assets of suspects.

- Established the National Counter Terrorism Centre (NCTC) in January 2004 with the mandate to co-ordinate counter terrorism resources and efforts through integrated research, analysis and operations.
- Set up a counter terrorism prosecution counsel at the Attorney General Chambers to deal with prosecution and advise the Government on legal matters pertaining to terrorism cases.
- Embarked on a campaign to enhance public awareness to demystify terrorism and for the public to understand its impact and the role of the citizenry in counter terrorism measures. The mass media has also been used to clarify misconceptions about terrorism in relation to religion, culture and ethnicity.
- In support of international efforts aimed at combating terrorism, Kenya has ratified all the twelve international Conventions on terrorism as well as the AU Convention on the prevention and combating of terrorism and has put in place arrangements to domesticate the provisions of these instruments.
- Co-operation with other states in exchanging vital information regarding terrorist threats and has extradition arrangements with various countries. The 1998 Nairobi Bomb suspects were extradited to the USA to face trial for the terrorist related offences under this arrangement.
- Promotion of international cooperative relationships in information sharing with other jurisdictions through existing channels among security agencies and the INTERPOL framework.
- Under the Penal Code of Kenya, it is an offence for any person to solicit for employment in any organization engaged in activities of a terrorist nature. The Non-Governmental Organization (coordination) Act also prohibits Non-Governmental Organizations from engaging or recruiting persons in activities aimed at promoting or likely to promote terrorism.

Ministry of State for Immigration and Registration of Persons

The Ministry of State for Immigration and Registration of Persons has put in place several initiatives to combat money laundering and financing of terrorism which include:

- Liaison with other security agencies in issuing entry permits and visas to non Kenyans wishing to invest or reside in Kenya.
- Verification of suspicious bank statements from non-Kenyans making applications for entry permits so as to ascertain sources of funds channelled for investments.
- Manning of all ports of entry namely international airports, sea ports and border controls to document all persons seeking to enter or leave the country using the Personal Identification Secure Comparison and Evaluation System (PISCES) – a database that checks passenger profile against a list of criminals such as drug dealers, terrorists and human traffickers.
- The Immigration Act empowers Minister in charge of Immigration matters to declare any non-Kenyan involved in serious criminal activities a “Prohibited Immigrant” and have him or her removed from and remain out of Kenya either indefinitely or for such a period as may be specified

Non Governmental Co-ordination Board

The Non Governmental Co-ordination Board was established by an Act of Parliament No. 19 of 1990 and became operational in June 1992. It was established in response to the phenomenal growth in the number of organizations involved in the areas of welfare and development and the need to bring them under one legal framework. This it was felt would enable effective regulation and concurrently facilitate better understanding on their contribution to national development.

- Under this Act the activities of the Non-Governmental Organizations are supposed to be monitored to ensure that they are for worthy developmental purposes of the Republic of Kenya. NGOs thus file their financial returns together with other related reports which are supposed to enable the Government to evaluate their contribution to the national economy. The Board is thus expected to develop and implement strategies that can counter Money Laundering and Anti- Terrorism activities by virtue of being in charge of a sector which brings into the Kenyan economy billions shillings.
- For the Board to have an effective impact of the above strategies, it is currently undertaking a review of its legal framework with a view to enable it be more effective in its regulatory work.

3. International AML/CFT initiatives

Money laundering and terrorism financing is a global challenge that requires a global response. With an increasingly globalized financial system, money launderers and terrorist financiers are able to channel funds across borders in an effort to further disguise their true nature and put them beyond the reach of authorities. In order to effectively deter these activities, the Government of Kenya has, taking cognizance of the need to co-operate with international partners instituted the following measures:

Domestication of International and Regional AML/CFT protocols

Kenya has signed and ratified AML/CFT related conventions including the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), The UN Convention against Transnational Organized Crime (Palermo Convention), the UN Convention for the Suppression of the Financing of Terrorism) and the African Union's Convention on the Prevention and Combating Corruption. The Government of Kenya committed itself to establishing the necessary legal and institutional framework to prevent money laundering and terrorism financing and compliance with The Forty Recommendations on Money Laundering and the Nine Special Recommendations on Terrorist Financing (the FATF 40+9 Recommendations) and international best practices.

International Co-operation

Kenya is one of the founding members of the Eastern and Southern Africa Anti-Money laundering Group (ESAAMLG). Membership in this Financial Action Task Force (FATF) Style Regional Body (FSRB) has helped steer the Government of Kenya's AML/CFT efforts towards full implementation of FATF's 40+9 Recommendations. This is through participation in ESAAMLG's Council of Ministers' and the Taskforce of Senior Officials meetings where members of the National AML/CFT Taskforce keep abreast on the various developments, trends and techniques on money laundering and terrorist financing.

Capacity Building

Over the years, member organizations of the NTF have participated in various international capacity

building programs and initiatives held in conjunction with ESAAMLG and various co-operating partners such as the World Bank, International Monetary Fund, and the United Nations Office on Drugs and Crime (UNODC). Key programs and initiatives include:-

- A regional Mutual Evaluation Training workshop held in April 2009 which was conducted by ESAAMLG in conjunction with the World Bank in Mombasa, Kenya. This program has contributed towards building capacity in the region by ensuring that there is a large pool of experts available in the country to conduct mutual evaluations.
- Training programs aimed at equipping key stakeholders in the AML/CFT regime such as financial practitioners, supervisors, law enforcement officials and policy makers with the appropriate skills and knowledge to develop and customize AML/CFT training programs.
- Members of the National Taskforce have participated in study tours to two jurisdictions where AML/CFT legislation has been successfully implemented. This has facilitated participants' appreciation of the various challenges faced in the process of implementing an effective AML/CFT regime.

4. Future AML/CFT Plans

The Government of Kenya is taking legal and administrative measures to establish an effective AML/CFT regime that will prevent abuse of its financial system and other legitimate entities from abuse by money launderers, terrorists and other criminals, through effective legal enforcement, confiscation and forfeiture of proceeds of crime. Going forward, implementation of the following measures will further facilitate strengthening the anti-money laundering regime in Kenya;

- The enactment of a comprehensive AML/CFT legislation. In this regard;
 - The Proceeds of Crime and Anti-Money Laundering Bill 2009 has been republished and is awaiting consideration and enactment by Parliament.
 - The Mutual Legal Assistance Bill has been tabled in Parliament and is awaiting consideration and enactment.
 - There is an effort to enact prevention of terrorism legislation with the drafting of the legislation ongoing, in consultations with various stakeholders.
- Development of draft sector specific AML Regulations to be covered by the new legislation that will cater for the various reporting institutions.
- The NTF is set to launch an outreach AML/CFT sensitization program to various stakeholders including NTF member organizations and both the private and the public sectors.
- Kenya is scheduled for an initial round of Mutual Evaluation by ESAAMLG in early April 2010. The ESAAMLG evaluation team will assess the effectiveness of Kenya's AML/CFT regime and its compliance with the FATF's 40+9 Recommendations based on the revised 2004 Mutual Evaluation Methodology. It is envisaged that this program will contribute towards building an effective self regulatory AML/CFT monitoring and evaluation mechanism in Kenya.
- The domestication of legal commitments arising from treaties and protocols related to issues that require international co-operation such as mutual legal assistance, extradition and confiscation, asset seizure and forfeiture.
- Expansion of the categories of financial and non-financial designated businesses and professions that will be required to report suspicious transactions to the financial intelligence unit.

5. Conclusion

Recognising that money laundering poses a serious threat to the integrity and stability of the country's financial system, the Government of Kenya is committed to the fight against money

laundering and terrorism financing. The integration of laundered funds into the Kenya's financial system provides an enabling environment for organized crime, fuels corruption and erodes the rule of law, hence the need to put in place robust systems to detect, intercept and confiscate the proceeds of crime. Unchecked money laundering is capable of serious macroeconomic consequences such as inexplicable changes in money demand, prudential risk to financial soundness and stability of financial institutions, increased volatility of international capital flows and exchange rates due to unanticipated foreign exchange transactions and cross border assets transfer. All these consequences pose significant challenges to the effectiveness of both monetary and fiscal policies. In addition, money laundering has direct negative effects on economic growth through the diversion of resources to sterile investments (high value consumption assets) that do not generate economic returns and contribute to additional productivity of the broader economy.

The Government of Kenya will therefore continue to institute measures to mitigate against evolving AML/CFT threats to provide disincentives for criminal involvement in the economy, enhance the integrity and stability of financial system and facilitate investment into beneficial activities that will help boost the productivity of the Kenyan economy. An effective AML/CFT program will include enactment of specific AML/CFT legislations, increased multilateral co-operation, mutual legal assistance in money laundering and terrorism investigation, prosecution and extradition.

The Republic of Malawi

1. Introduction

Malawi's financial sector comprises of the Reserve Bank of Malawi (the central bank) which is the overall supervisory authority of 11 commercial banks; 2 discount houses; 1 leasing and finance company; 23 forex bureaus; 1 stock exchange; 5 stock brokers; 8 portfolio/investment managers; 1 investment trust company; 12 insurance companies; 10 insurance brokers; 96 insurance agents and several small microfinance institutions. The banking industry dominates the activities in the financial sector.

With the exception of one bank, all the other banks are mainly privately- owned. The banking sector is highly concentrated as three top banks own about 70.0 percent of the total banking assets and deposits. Four banks are listed on the stock exchange.

2 National AML/CFT Initiatives

2.1 Laws/Regulations adopted

Malawi Parliament passed the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act (ML Act) in 2006. Among other things, the Act criminalises money laundering and terrorist financing, establishes a Financial Intelligence Unit (FIU) as an autonomous entity, obligates financial institutions and designated non-financial businesses and professions to implement AML/CFT measures and report suspicious transactions to the FIU. It also provides for a framework for domestic and international cooperation.

After consultations with various sectors of reporting institutions, the FIU has prepared draft regulations to ensure compliance of the ML Law by financial institutions. With the technical assistance from cooperating partners, arrangements are being finalized for an international expert to review the draft regulations before being forwarded to the Minister of Finance for gazetting.

2.2 Establishment of FIU

FIU Malawi was established in August 2007 under section 11 of the Money Laundering, Proceeds of Serious Crime and Terrorist Financing Act. Since its establishment, the FIU has carried out the following activities: setting up its operational infrastructure and systems, building the capacity of its staff, developing its strategic plan, designing and implementing the reporting regime, conducting sensitization meetings with key stakeholders, establishing relationships with domestic partners, and conducting training programs for reporting institutions, government agencies and supervisory authorities (with the technical assistance from partners such as the World Bank and FSVC, USA).

The FIU started receiving suspicious transaction reports in December 2007, which started with the banking sector as Malawi is implementing a staggered process of compliance. Other sectors such as insurance, capital market players, foreign exchange bureaus, legal practitioners, accountants have since been engaged on their anti-money laundering reporting obligations. Over the period, the FIU has made disseminations to relevant law enforcement agencies for

investigations and possible prosecution.

FIU Malawi was admitted for Egmont membership in May 2009. This is an important milestone in the operations of the FIU because this will ensure that FIU Malawi is able to enter into MOUs to share and access information from other FIUs and benefit from the working groups of the ESAAMLG. Through these activities, FIU will continue to strengthen its capacity in form of training and learning by doing and further develop into an important player in the global fight against money laundering and terrorist financing.

2.3 Establishment and role of Multi-disciplinary Committee

Government of Malawi established a multidisciplinary committee to foster cooperation, coordination and rich information sharing among agencies on AML/CTF issues before the enactment of the anti-money legislation. The committee comprises of the Ministry of Finance (Chair), the FIU, the Reserve Bank of Malawi, the Malawi Revenue Authority, the Malawi Police Service, the National Intelligence Service, the Anti-corruption Bureau, the Department of Immigration, the Ministry of Justice the Ministry of Foreign Affairs, the Judiciary, Malawi Gaming Board and the NGO Community.

The committee is the liaison organ with the ESAAMLG Secretariat and other major stakeholders such as the World Bank, the International Monetary Fund and the United Nations on issues relating to money laundering and terrorist financing.

The National AML/CFT Committee as it is known was instrumental in the development of the National AML/CFT Strategy. The composition of the committee ensured that the strategy, as it was being developed, encompasses the needs of all relevant actors and stakeholders in the fight against money laundering and terrorist financing.

2.4 National AML/CFT Strategy

Malawi has prepared its National AML/CFT Strategy. This has been submitted to Cabinet for approval and authorisation to publish it. The preparation of the Strategy benefitted a lot from the World Bank AML/CFT evaluation which was conducted in 2008. The strategy has identified priority areas that the country needs to address to strengthen its AML/CFT system. Among the important strategic objectives is the need for developing and consolidating the country's legal, institutional and regulatory frameworks. If these functions are performed efficiently and effectively, the AML/CFT system will, in the long run, be improved and better placed to detect and prosecute financial crimes.

Human capital development is another important objective that has been identified. The government recognises that in order for institutions dealing with ML/FT issues to perform to the desired standards, they have to be manned by well trained and knowledgeable officers and staff. This is at the moment inadequate. The government has therefore set the training of relevant staff and officers among the priority activities to be undertaken to build the capacity of relevant institutions to handle AML/CFT issues.

The government has planned an extensive campaign for public awareness on money laundering and terrorist financing issues. The awareness campaigns also target financial institutions on their reporting obligations and supervisory bodies of their roles. Well executed public information dissemination initiatives and media coverage will result in a new culture

intolerant to ML and TF.

2.5 Role and Initiatives of major players in the fight against ML/TF

Since Malawi is in the process of strengthening its AML/CFT system, the government is involving a lot of actors and stakeholders in the process. At present, programmes have been developed together with the private sector in building up capacity to enable respective players understand their roles and carry out their responsibilities in compliance with the ML Act. There have been awareness campaigns, customized training of financial institutions in reporting suspicious transactions by supervisory bodies and networking amongst members of the National AML/CFT Committee and other government agencies.

3 *International AML/CFT Initiatives*

Malawi has been a member of ESAAMLG since its inception in 1999. By being a member, Malawi has benefited from AML/CFT trainings and participating in mutual evaluations projects conducted by ESAAMLG. Malawi participates at all meetings held by ESAAMLG and is part of its working groups and project teams. Malawi will be hosting ESAAMLG meeting in August 2010 and will assume leadership of the organization from 2010 to 2011.

Malawi has entered into Memorandum of Understanding (MOUs) on sharing of information with a number of countries such as the Republics of South Africa, Namibia and Qatar. It is also planning to reach out to other strategic and neighbouring countries such as Zambia, Tanzania and Zimbabwe and China, just to name a few.

In addition to the FIU's membership to EGMONT Group, the country also participates in AML/CFT initiatives carried out by other regional bodies such as the SADC and COMESA. It also implements recommendations (core principles) issued by the Basle Committee on Banking Supervision, IOSCO and IAIS to facilitate AML/CFT supervision in the financial sector.

4 *Future AML/CFT Developments*

Short, medium and long terms

- Intensifying public awareness so that the public and other stakeholders are aware of the evils of money laundering and their roles and obligations for developing an effective and efficient AML/CFT regime in Malawi.
- Enhancing relations among law enforcement agencies and other relevant stakeholders in the fight against money laundering through joint trainings and compliance audits by the FIU and the Reserve Bank of Malawi. Trainings have started and are being conducted by experts from World Bank. The idea is to train local trainers who in turn will train other personnel and stakeholders.
- Implementing an effective compliance monitoring program to ensure that reporting institutions are in full compliance with the ML Law.
- Reviewing the AML/CFT Act to address some gaps such as absence of administrative monetary penalty regime.
- A number of economic and monetary laws are being reviewed. The expectation is that the

financial sector's landscape will subsequently change for positive growth and supervision enhancement.

5 *Conclusion*

Malawi has made remarkable strides in the fight against money laundering and terrorist financing since the promulgation of its ML Act and the subsequent establishment of the FIU. Mechanisms for reporting financial transactions have been put in place, training programmes for financial institutions, supervisory bodies, prosecuting bodies and other relevant stakeholders continue to be developed and executed. Systems are also being established for formalizing domestic and international cooperation.

With the development of the National AML/CFT Strategy, the country is set to focus on priority areas as recommended by the World Bank Assessment Report. It is expected that the implementation of planned activities and attainment of the set strategic objectives will lead to a more strengthened AML/CFT regime in Malawi.

The Republic of Mauritius

1.0 Introduction

The Republic of Mauritius has a total area of some 2,040 sq kms and its population is around 1.2 million. Mauritius has been remarkably successful in achieving rapid growth and substantial diversification of a formerly mono-agricultural economy. Real output growth over the past two decades has averaged around 5 percent per year, leading to an impressive rise in per capita income, a marked improvement in social indicators, and a narrowing in income



disparities. Mauritius has also succeeded in fostering a stable and democratic political system, underpinned by strong institutions and the rule of law. Sound economic management and a far-sighted development strategy have permitted the country to diversify its export and productive bases from a sugar-based economy into one based on four pillars of development: sugar, textiles, tourism, and financial services. The Government is also promoting the services sector, including IT and related services. Foreign exchange control was abolished in 1994.

The economic strategy of focusing on the development of the financial services sector in the late 1980's witnessed the emergence of Mauritius as a credible and reputed financial centre. Financial services, comprising the business of banks, insurance companies, stock market and other financial intermediaries constitutes a fast growing sector of the Mauritian economy. The sector grew by an average of 7.3 percent over the 2000/2008 period, representing around 11 percent of GDP and employing more than 10,000 persons. The financial services sector has become an important pillar of the economy both in terms of value-added and employment generation, especially for higher skilled jobs.

The financial services sector is regulated and supervised by two independent institutions- namely the Bank of Mauritius, for all matters pertaining to banking and foreign exchange and the Financial Services Commission, for all nonbank financial services such as insurance, capital markets, leasing activities, global business companies, and private pensions.

The basic financial sector infrastructure, such as payment, securities trading and settlement systems, is modern and efficient. Mauritius has a high level of banking penetration. Out of a total population of some 1.2 million, there are actually some 2 million banking accounts (savings, time deposits, foreign currency and demand deposits) with all the banks. The use of electronic money credit and debit card, ATMs, etc is very common. Furthermore, Mauritius belongs to a select group of developing countries where contractual savings exceed 40 percent of GDP and represent a major potential force in the local financial system.

Developing the financial services sector exposes Mauritius to the risk of money laundering and terrorist financing although it has the advantage of having no physical borders with its neighbours and therefore do not have the same problem of border control, patrol, cross border theft, movement of population and identification. To fight against such risks Mauritius has taken a number of measures, both legislative and administrative. Mauritius has also embarked on the financial sector reforms by adhering to international standards and norms such as BASLE, IOSCO, IAIS AND IFRS, and FATF recommendations. Mauritius has made advance commitment to the OECD to comply with international standards. Mauritius hosted the 4th Council of Ministers' meeting of ESAAMLG in August 2004.

2.0 National AML/CFT Initiatives

Several authorities play a key role in the AML/CFT framework - the Financial Intelligence Unit (FIU), the Independent Commission Against Corruption (ICAC), which is the primary authority for the investigation and prosecution of corruption and ML cases, the Police and the Anti-Drugs and Smuggling unit, the Attorney General's Office, the Drugs Assets Forfeiture Office (DAFO) and the Courts. The Bank of Mauritius and the Financial Services Commission implement the FATF recommendations on their licensees. The Ministry of Finance and Economic Empowerment is responsible for policy decision regarding AML/CFT.

The National Committee for Anti-Money Laundering and Combating the Financing of Terrorism, which was established under the Financial Intelligence and Anti Money Laundering Act 2002, is responsible for promoting coordination among the FIU, investigatory authorities, supervisory authorities, and other relevant institutions with a view to improving the effectiveness of existing policies to combat money laundering and the financing of terrorism. Since its setting up, the National Committee has been participating actively in the:

- (i) ratification of United Nations International Convention for the Suppression of the Financing of Terrorism;
- (ii) ratification of the United Nations Convention Against Transnational Organized Crime
- (iii) enactment of the Convention for the Suppression of the Financing of Terrorism Act 2003
- (iv) implementation of recommendations made by the Financial Sector Assessment Programme (FSAP) mission in 2002, which includes enactment of the AML (Miscellaneous Provisions) Act 2003 to strengthen the legislative and institutional framework in the fight against money laundering and the financing of terrorism. It gave the National committee for AML/CFT a legal status, and promulgation of the Financial Intelligence and Anti Money Laundering Regulations 2003 on customer identification procedures.
- (v) completion of the *Mauritius Money Laundering Investigation and Prosecution Handbook for which Mauritius received TA from First Initiative.*
- (vi) introduction of the disclosures system for the implementation of FATF Special Recommendation IX on Cash Couriers.
- (vii) implementation of the recommendations made in the Detailed Assessment Report on AML/CFT submitted by the IMF further to the FSAP mission undertaken in 2007 on AML/CFT.

Legislative Framework with regard to AML/ CFT

The following are the main legislations governing the AML/CFT in Mauritius:

Dangerous Drugs Act 2000

This Act criminalises drug trafficking and provides for the sanctions viz. imprisonment and seizure and forfeiture of assets of the drug traffickers. An Asset Forfeiture Office was set up under this Act.

Companies Act 2001

The Companies Act 2001 provides a modern and efficient framework for companies to carry out their business activities at the onset of the new millennium, and aims to facilitate enterprise, promote transparency and enhance competitiveness. The new company legislation is designed to be clear, flexible and in line with international standards and concerns. The Companies Act 2001 is “user friendly” and helps to minimise bureaucracy, reduce compliance and other costs and facilitates the administration of company business.

The Financial Intelligence and Anti-Money Laundering Act 2002

The FIAML Act makes provision for the establishment and management of a Financial Intelligence Unit (FIU) as the central agency responsible for receiving, requesting, analysing and disseminating to the investigatory and supervisory authorities, disclosures of financial information. The Act also criminalises money laundering.

The Prevention of Corruption Act 2002

The Prevention of Corruption Act provides for the prevention and punishment of corruption and fraud by introducing new corruption offences with severe penalties and the establishment of an Independent Commission Against Corruption, which has powers to : detect and investigate corruption offences; investigate money laundering offences; improve public awareness of corruption, restraint and forfeiture of the proceeds of corruption and money laundering; and mutual assistance in relation to corruption and money laundering.

The Prevention of Terrorism Act 2002

The Prevention of Terrorism Act 2002 provides for measures to combat terrorism and for related matters. Its objects are to suppress the financing of terrorist acts; freeze funds and assets of terrorists and terrorist organisations; establish terrorists acts as serious criminal offences in domestic laws and regulations; afford international assistance in investigations, prosecution of financing of terrorism; to exchange information and collaborate internationally on terrorist acts.

The Prevention of Terrorism (Special Measures) Regulations 2003

Two sets of regulations were made under the Prevention of Terrorism Act, namely the Prevention of Terrorism (Special Measures) Regulations 2003 and the Prevention of Terrorism (Special Measures) (Amendment) Regulations 2003. These Regulations were enacted to enable freezing of accounts of persons mentioned in the United Nations Security Council and Council of European Union lists.

Convention for the Suppression of the Financing of Terrorism Act 2003

The objective of the Convention for the Suppression of the Financing of Terrorism Act 2003 is to give force of law to the United Nations Convention for the Suppression of the Financing of Terrorism 1999, which criminalises the financing of terrorism. Mauritius signed this Convention in November 2001 and ratified it in December 2004.

The Anti-Money Laundering (Miscellaneous Provisions) Act 2003

Following the recommendations of the FSAP in 2003, The Anti-Money Laundering (Miscellaneous Provisions) Act 2003 was enacted to amend the Banking Act 1988, the Financial Intelligence and Anti-Money Laundering Act 2002 and the Financial Services Development Act 2001 to provide for -

- the setting up of a National Committee for Anti-Money Laundering and Combating the Financing of Terrorism;
- the Financial Intelligence Unit to issue guidelines to banks, financial institutions, cash dealers and members of the relevant professions or occupations on the manner in which suspicious transaction reports should be made to the Financial Intelligence Unit;
- the Bank of Mauritius and the Financial Services Commission to issue codes and guidelines on anti-money laundering and the combating of the financing of terrorism and to enforce compliance with those codes and guidelines;
- a derogation from the duty of confidentiality of -
 - banks, to allow them to report suspicious transactions and supply information relating to a reported suspicious transaction to the FIU;
 - the Bank of Mauritius and the Financial Services Commission, to allow them to refer information suggesting a possible money laundering offence or a suspicious transaction to the FIU;
 - the Director of the FIU to be given the power to request further information in relation to a reported suspicious transaction.

The Mutual Assistance in Criminal and Related Matters Act 2003

The Mutual Assistance in Criminal and Related Matters Act 2003 makes provision for mutual assistance between the Republic of Mauritius and a foreign state or an international tribunal in relation to "serious offenses" which it defined as an offense against a law of Mauritius or a foreign state for maximum penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months and includes offenses that fall under the jurisdiction of international criminal tribunal. The legislation makes it possible for Mauritius to provide assistance in the absence of bilateral or multilateral agreements. The Attorney General's office is the central authority for the processing of requests received from a foreign state, as well as for requests to be made to a foreign state.

Financial Intelligence and Anti Money Laundering Regulations 2003

These Regulations provide among other things: prohibition of the opening of anonymous or fictitious accounts by financial institutions, customer identifications (*i.e know your client*) and record keeping, appointment of a Money Laundering Reporting Officer by financial institutions the implementation of internal controls and other procedures to combat money laundering

Bank of Mauritius Act 2004 and Banking Act 2004

In October 2004, new banking laws namely a new Bank of Mauritius Act and new Banking Act were enacted.

The object of the Banking Act 2004 is to amend and consolidate the laws relating to the business of banking and other financial institutions and to provide for related matters. It empowers the Central Bank to issue such guidelines as it thinks fit for the purposes of the Act. The Banking Act 2004 makes provision for the Central Bank to revoke a banking licence where a bank has been convicted by a court of the Commonwealth or a court of such other countries as may be prescribed, of an offence under any enactment relating to anti-money laundering or prevention of terrorism or the use, laundering in any manner, of proceeds of funding of terrorist activities or other illegal activities or is the affiliate or subsidiary or parent company of a financial institution which has so been convicted, provided the conviction is a final conviction

The object of the Bank of Mauritius Act 2004 is to repeal and replace the law relating to the Bank of Mauritius and to provide for related matters. The Central Bank may issue guidelines on or relating to the operations and activities of and standards to be maintained by institutions falling under its supervision. Also as per the Bank of Mauritius Act 2004, any information received by the supervisory authority suggesting the possibility of a money laundering offence or suspicious transaction shall be transmitted to the Financial Intelligence Unit.

The Bank of Mauritius has moved towards the full implementation of the Standardised Approaches of the Basel II framework as from the quarter ending 31 March 2009.

Financial Reporting Act 2004

The Financial Reporting Act 2004 was enacted in November 2004 to regulate the reporting of financial matters in Mauritius and to set up the appropriate legislative framework for the establishment of:

1. the Financial Reporting Council, which has the responsibility of monitoring the truth and fairness of financial reporting and of overseeing auditing practices in Mauritius;
2. the Mauritius Institute of Professional Accountants, which has the responsibility of regulating the accountancy profession in Mauritius;
3. the National Committee on Corporate Governance, which acts as the national coordinating body responsible for all matters pertaining to corporate governance; and
4. the Mauritius Institute of Directors, which acts as the body responsible for promoting the highest standards of corporate governance and of business and ethical conduct of directors.

Securities Act 2005

The object of the Securities Act 2005 is to establish a framework for the regulation of securities markets, market participants and self-regulatory organisations, the offering and trading of securities and other related matters, to ensure fair, efficient and transparent securities markets and to strike an appropriate balance between the protection of investors and the interests of the securities market.

This Act is designed to help develop Mauritius as a leading business and financial services centre

in this part of the world. It draws on modern legislation in analogous jurisdictions and underpins the Government's intention to expand financial services in Mauritius while assuring appropriate regulatory and supervisory standards, recognizing the on-going economy. The Securities Act 2005 aims to enhance the regulation and supervision of securities markets and is based on the standards of the International Organization of Securities Commissions (IOSCO).

Insurance Act 2005

The object of the Insurance Act 2005 is to establish a framework for the regulation and supervision of the insurance business, to provide for the licensing of insurers and other insurance operators, and for the registration of insurance salespersons and other insurance professionals, to enhance the protection of policyholders and to provide for matters connected therewith and incidental thereto. The Insurance Act 2005 has been drafted to implement the International Association of Insurance Supervisors' (IAIS) Standards and Core Principles and focuses on specific regulatory issues relating to capital adequacy, solvency, corporate governance, early warning systems, and the protection of policyholders.

Registry of Association Act 1976

The Registry of Associations Act provides for the legal framework for the registration, supervision and monitoring of the non-profit organizations (term as NGOs-non-Governmental organization in Mauritius).

Gambling Regulatory Authority Act 2007

This Act which established the Gambling Regulatory Authority aims at:

1. amending and consolidating the laws relating to gaming and betting;
2. providing a legal framework for the regulation of betting on foreign horseraces, football matches and other events or contingencies and of interactive gambling;
3. making provision to foster responsible gambling in order to minimise harm caused by gambling;
4. providing for one single regulator for better synergy and enforcement; and
5. providing for related matters.

Financial Services Act 2007

The object of the Act is to amend and consolidate the law regulating financial services, other than banking, and global business and to provide for related matters. The Act sets out the mandate of the Financial Services Commission, which is the regulatory body responsible for the non-banking financial services sector.

The Combating of Trafficking in Persons Act 2009

The objective of the Act is to give effect to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons; prevent and combat trafficking in persons; and protect and assist victims of trafficking.

Insolvency Act 2009

The objective of the Act is to amend and consolidate the law relating to insolvency of individuals and companies and the distribution of assets on insolvency and related matters.

The Prevention of Terrorism (International Obligations) Act 2008

The Act allows Mauritius to adhere to international counter-terrorism instruments.

Codes and Guidance Notes

The following Codes and Guidance have been issued:

Bank of Mauritius: Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism for banks and cash dealers.

Financial Services Commission: Codes on the Prevention of Money Laundering and Terrorist Financing intended for (i) insurance entities (ii) investment businesses (iii) management companies.

Powers were also given to Gambling Regulatory Authority to issue Guidance Notes on AML/CFT to its licensees, i.e casinos, bookmakers, etc.

The above legislations can be downloaded from the following websites:

- www.gov.mu/portal/site/AssemblySite
- www.gov.mu/portal/site/compdivsite
- www.gov.mu/portal/sites/ncb/fsc/index.html
- www.fiumauritius.org
- www.gov.mu/portal/sites/icac/index.html
- www.gov.mu/portal/sites/frc/index.html

3.0 International AML/CFT Initiatives

3.1 Financial Sector Assessment Programme (FSAP)

Mauritius was assessed in 2002/2003 under the joint International Monetary Fund and World Bank Financial Sector Assessment Programme (FSAP). In February 2007, Mauritius underwent an IMF/World Bank FSAP. The main focus was to update the findings of the 2002/2003 assessment, and to assist the Mauritian authorities in identifying strengths and systemic vulnerabilities of the financial sector and priority measures for improving the operation and oversight of the system. A subsequent mission visited Mauritius in September/October 2007 to undertake an assessment of the country's anti-money laundering and countering the financing of terrorism régime. The reports of the missions are published in the website of ESAAMLG (www.esaamlg.org) and the International Monetary Fund (www.imf.org).

3.2 Membership in International Organizations

1. Mauritius is an active member of ESAAMLG and has been participating in its meetings, seminars and workshops. Mauritius actively participated in various working groups of the Task Force meetings of ESAAMLG namely the Legal Working Group, the Working Group on the

links between corruption and money laundering. Mauritius hosted the 4th Council of Ministers' meeting of ESAAMLG in 2004.

2. The FIU is a member of the Egmont Group since July 2003 and is the African representative on the Egmont Committee.
3. Mauritius is also an active member of the IAIS, IOSCO and SADC CISNA.
4. Mauritius is also a member of the World Customs Organisation.

4.0 Future AML/CFT Developments.

After the finalization of the FSAP report on AML/CFT in 2008, Mauritius has embarked on a process to implement recommendations made in the report in the fight against money laundering and financing of terrorism.

5.0 Conclusion

Mauritius will continue to update and modernize its legislation and adhere to international norms and practices against money laundering and financing of terrorism.

The Republic of Mozambique

Mozambique is located in the Southern Region of the African Continent, with a total area of 801,590 Km², and a population of 21,350,008 according to 2009 statistics. Mozambique shares borders with Tanzania to the North and Zambia, Malawi and Zimbabwe to the West, and with South Africa and Swaziland to the South and the Indian Ocean to the East. The Mozambican territory is divided into 11 Provinces, namely, Niassa, Cabo Delgado, Nampula, Zambézia, Tete, Manica, Sofala, Inhambane, Gaza, Maputo and the City of Maputo (the City of Maputo holds a status of a Province), and 128 Districts. The Country also has 43 Municipalities, of which 23 are Cities and the remaining 20 are Towns. Sixty eight percent (68%) the population live in rural areas and 32% in urban areas.



The coastline of Mozambique is 2,795 km long, with a number of Islands, the Archipelagos of Quirimbas and Bazaruto; and Ibo Isles, Mozambique, Chiloane, Xefina, Portuguese and Inhaca Isles, worth highlighting.

Mozambique Rivers mainly flow northwards, southwards and eastwards. The major rivers are Rovuma, Lugenda, Lúrio, Ligonha, Chire, Zambezi, Púnguè, Buzi, Save, Limpopo, Incomáti and Maputo.

Mozambique attained National Independence on 25 June 1975, and thereafter the first Constitution was passed, with a single party system and a People's Assembly (Parliament). Maputo is the Capital City and the official Language is Portuguese. The single party rule was changed with the approval of the new Constitution in 1990, which then saw the inception of the multi-party system. The Constitution was subsequently amended in 2004 in order to deepen further the democratic dispensation.

As for the Legal System, the Republic of Mozambique has adopted a Roman-Dutch oriented system, also known as the Civil Law. The Constitution provides for a Democratic Rule of Law, with the separation of powers, namely, the Executive (President of Republic, Cabinet or Council of Ministers), the Legislature (Parliament) and the Judiciary (Courts and the Constitutional Council).

The President of Republic and Members of Parliament are elected by direct, equal, secret and periodic universal suffrage by voters of the age not less than 18 for a 5 year mandate. The current President, Armando Emílio Guebuza, was re-elected for a second mandate in 2009. The National Assembly (Parliament) is comprised of 250 Members.

Mozambique is a member of the United Nations, African Union, SADC (Southern Africa Development Community), Commonwealth and Islamic Organization.

Within the framework of the fight against Money Laundering and Financing of Terrorism, Mozambique has ratified the Vienna Convention on Illicit Drug and Psycho Tropical Substances Trafficking the Palermo Convention which establishes Transnational Organized Crime counter-measures. Mozambique is also a signatory to the United Nations and the African Union anti-Corruption conventions.

As a consequence of ratification these Conventions, Mozambique has approved the Law 7/2002, of 5 February, which establishes the legal regime for the prevention and punishment of the use of the financial system to commit money laundering, possession of assets, products or entitlements from criminal activities; the Law 3/97, of 13 March, which establishes the legal regime applicable to trafficking and abuse of illicit drug and psycho tropical substances, precursors and preparations or other substances of similar effects. Mozambique has also established the Central Bureau on Drug Enforcement; and Law 6/2004, of 17 June, Anti Corruption Law, which paved the way for the establishment of the Central Bureau on Anti Corruption Enforcement, within the ambit of good governance.

The Law 14/2007, of 27 June, which establishes the Financial Intelligence Unit, referred to as GIFiM (Office for Financial Intelligence of Mozambique) was approved.

Presently, Law number 7/2002, of 5 February, on money laundering is undergoing review, in order to adjust it to international legal standards.

According to the Mo-Ibrahim Foundation, Mozambique has been ranked 22nd out of a total of 48 countries assessed on good governance. This ranking was released on 6 October 2008. This is a new and full hierarchy of Sub-Saharan African Nations on the quality of governance.

Mozambique's economy is growing at a good rate, with an average annual growth rate of 6.7 % (2008 data). Per capita GDP is USD 422,8 (2007 data). Metical (Mt) is the National currency. Major exports are minerals, natural resources such as, coal, natural gas, hydropower, titanium, tantalite, graphite, iron and gemstones, cashew nuts, and seafood.

Mozambique also possesses large arable lands and has a considerable tourism potential owing to her rich wildlife and long maritime coastline.

In a bid to facilitate domestic and foreign investment, the Government has established the so-called "One Stop Shops" in different points of the country with the objective of streamlining licensing procedures of business and to reduce the number of steps required for companies to be awarded a license. To illustrate the extent of improvement it will suffice to say that, before these reforms, 100 steps were required to get a license.

The Republic of Namibia

1.0 Introduction¹

Country Overview, size and location

The Republic of Namibia lies across the Tropic of Capricorn in the South West of Africa and covers an area of 824,292 square kilometers (318,259 square miles). It is bordered by South Africa to the south and southeast, Botswana and Zimbabwe on the east, Angola on the north, and the South Atlantic Ocean on the west. The Caprivi Strip, a narrow extension of land in the



extreme northeast, connects it to Zambia and Zimbabwe. The country is divided into 3 broad zones: the Namib desert to the west; the Kalahari desert to the east; and the Central Plateau.

Financial Sector Overview

Namibia's financial sector is closely tied to that of NSouth Africa and is one of the most sophisticated and well established financial systems in Africa. The banking sector is very active and mature, with four commercial banks as at end March 2009, all characterized by varying degrees of foreign ownership. The two largest banks are owned by South African banks, while the remaining two include a Swiss-owned bank and one that is jointly owned by Namibian and South African firms.

There is one investment bank and four specialised banks including Agribank, Nampost Savings Bank and Development Bank of Namibia. The banking sector is regulated by the Bank of Namibia, Namibia's Central Bank. Namibia is in the early stages of developing legislation to establish a two-tiered banking system.

As of December 2008, the Namibia insurance sector consisted of 17 long term insurance companies and (1) re-insurer. There are 14 short term insurance companies, regulated by the Namibia Financial Institutions Supervisory Authority (NAMFISA). The market for non-banking financial institutions (NBFI) is regulated by NAMFISA which was created in 2001.

The NBFI is made up of some 515 pension funds, a number of asset management and unit trust management companies, several specialised lending institutions, and a large number of micro-lending institutions. Most of these institutions are private, with strong ownership links to South Africa.

The Namibian capital market is also closely linked to South Africa. The Namibian Stock Exchange

¹ Brief country profile including size and degree of sophistication of Financial sector –

(NSX), which opened in 1992, have 25 dual listed companies (Namibia/RSA) and 8 local listings across various sectors including financial, mining, industrial retail and fishing. The financial regulator for the NSX is NAMFISA, whilst the Stock Exchanges Act of 1985 (amended in 1992) is the main law that dictates the operations of the NSX .

2.0 National AML/CFT Initiatives

National AML/CFT Strategy

The Government of Namibia recognise that financial crime of all types is facilitated by the laundering of the proceeds of crime and that it is essential to have robust laws and well trained and equipped law enforcement agencies in place, which have the capacity to deal with money laundering and the financing of terrorism.

The Government further understood that unless this is done, there will be little to prevent Namibia from becoming an unwitting haven for those engaged in money laundering and terrorist financing and no way to assist neighbouring countries and other members of the international community who have been victimised by criminal groups.

Government also realized that it is essential that criminal enterprises should be denied access to the Namibian financial services and provided the following four reasons as justification therefore:

- failure to prevent money laundering may make financial crimes more attractive and may permit the funding of future criminal activities, which may lead to an increase in the level of crime experienced nationally;
- the possible abuse of the financial system by money launderers has the potential to undermine financial institutions and ultimately the integrity of the financial sector;
- if money laundering is not checked, contempt for the law may well be engendered, which may undermine public confidence in the legal and financial systems of Namibia. This in turn promotes economic crimes such as corruption, fraud, exchange control violations and tax evasion;
- money laundering facilitates corruption and the accumulation of economic power by corrupt individuals and businesses, has the potential to undermine the economy and Namibia's democratic way of life.

The Government of Namibia has thus firmly resolved to play its part in international efforts against organized crime, money laundering and terrorism financing. The creation of efficient anti-money laundering and anti-terrorism financing programmes is regarded by Government as necessary both to protect Namibia's fundamental national interests and to discharge Namibia's international treaty² obligations.

Government further realized that no one agency or group within Namibia is capable of meeting the challenges posed by money launderers and terrorist financiers. It thus developed an Anti-Money Laundering and Combating the Financing of Terrorism Strategy which draws upon the resources of numerous ministries and agencies within the State and upon the skills and knowledge of different

² The above issues and objectives were the factors which caused Namibia to ratify the UN Convention on Corruption, the Vienna and Palermo Conventions and to participate in the 1999 Arusha Meeting after which the Eastern and Southern African Anti Money Laundering Group (ESAAMLG) was established. In 2001 the Government of Namibia established the Namibian Anti-Money Laundering Taskforce which has had the primary responsibility for co-ordinating Namibia's AML/CFT programmes.

professional groups. The strategy ensures that all resources within the State are harnessed co-operatively to identify launderers and terrorist financiers, to prosecute them and to deprive them of their capital, the proceeds of their crimes and the tools of their trade.

The strategy has been divided into 7 key areas: treaties, legislation, international co-operation, enforcement structures, co-ordination, training and resources. The strategy is further complemented by an implementation schedule which allocates certain responsibilities to certain Ministries and organizations, to ensure that success in respect of the aims and objectives of the strategy is achieved.

This National Strategy document is intended to be comprehensive. Many key elements of the Strategy are already in place as considerable progress has been made since 2001. For this reason the National Strategy document must be read in conjunction with its Implementation Plan which indicates those parts of the strategy that have been put in place and those parts which still have to be delivered, together with a target completion date.

The above strategy has not as yet been adopted by Cabinet, but is currently tabled for discussions with the Anti-Money Laundering Advisory Council, the policy guidance body to the Minister of Finance, established in terms of the Financial Intelligence Act, 2007 (Act No 3 of 2007) which became operational on 05 May 2009.

Laws/Regulations adopted

In line with its international obligations to combat money laundering, Namibia adopted the Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004) (POCA) and the Financial Intelligence Act, 2007 (Act No. 3 of 2007) (FIA). Both these Acts came into operation on 05 May 2009 and is further complimented by the already operational Anti-Corruption Act of 2003. In addition, the Extradition Act as well as the International Co-operation in Criminal Matters Act, 2000 (Act No.9 of 2000) provides for transnational mutual legal assistance in the form of provision of evidence, execution of sentences, enforcement of foreign confiscation orders and transfer of proceeds of crime.

The POCA was designed to comply with obligations imposed by the Palermo Convention and it criminalizes money laundering. Under POCA, the scope of the crime of money laundering, covers a very broad range of predicate offences and includes any conspiracy, incitement or attempt to commit any of these predicate offences.

Under POCA, the crime of money laundering entails the concealing or disguising of unlawful origin of property, assisting another person to benefit from proceeds of unlawful activities and the acquisition, possession or use of proceeds of unlawful activities, irrespective of whether the unlawful activities took place in or outside Namibia. The offence can be committed intentionally (as may be inferred from objective factual circumstances) or negligently and attracts very heavy penalties.

To deprive criminals permanently of their proceeds of crime, the POCA provides for both conviction based asset confiscation and civil asset confiscation and forfeiture. The POCA further provides for Restraint Orders and Preservation of Property Orders in respect of proceeds of crime before or during an instituted prosecution.

On the other hand the FIA also defines money laundering and places certain obligations on identified

accountable institutions and their supervisory bodies in order to prevent, detect and deal with suspicious money laundering activities within their operational environments. In line with the FATF 40 recommendations, the FIA requires accountable institutions to identify their clients, keep certain records and report cash transactions above a prescribed limit, electronic transfers above a prescribed limit and suspicious transactions to the Financial Intelligence Centre. Accountable institutions are further required to create, implement and develop internal rules, policies, procedures and controls with regard to customer acceptance, customer due diligence, record keeping, suspicious transaction reporting, on-going compliance training for employees and compliance review procedures.

The FIA further requires Supervisory bodies to take all reasonable steps to ensure that accountable institutions comply with their obligations under the FIA or face heavy criminal and/or administrative penalties.

The FIA further requires of border control agencies such as Customs and Excise and Immigration, to monitor and report cross-border movement of cash above a prescribed amount.

Establishment of A FINANCIAL INTELLIGENCE UINT

The Financial Intelligence Centre, Bank of Namibia was established on 13 October 2006 within the Bank of Namibia. It is an administrative Financial Intelligence Unit and derives its statutory powers from the FIA.

The Centre is an autonomous department within the Bank of Namibia and consists of 10 permanent staff members. The main functions of the Centre as stipulated under the FIA are amongst others to:

- a) receive Suspicious Transaction Reports (STR's), Large Cash Transaction Reports (CTR's), Conveyance of cash to and from Namibia Reports (CCTFN) and Electronic Funds Transfer Reports (EFT) to and from Namibia; to analyze such reports and disseminate the financial intelligence gathered from such reports and investigations, to law enforcement agencies for further investigation and prosecution;
 - b) supervise compliance with the provisions of the FIA by all Accountable Institutions and Supervisory Bodies; and
 - c) provide guidance to all reporting entities on methodologies to combat money laundering.
- The Financial Intelligence Centre, Bank of Namibia, became operational effective, 5 May 2009.

Establishment and role of Multi-disciplinary Committee

The Anti-Money Laundering Advisory Council (AMLAC) was established in terms of section 9 of the FIA. Members to the Council are appointed by the Minister of Finance and consist of the following office bearers:

- a). the Governor of the Bank of Namibia, who is the chairperson of the Council, or his or her delegate;
- b). the Permanent Secretary of the Ministry responsible for finance;
- c). the Inspector General of the Namibian Police Force;

- d). the Permanent Secretary of the Ministry responsible for trade and industry;
- e). the Permanent Secretary of the Ministry responsible for Justice;
- f). the Director of the Namibian Central Intelligence Service;
- g). the Chief Executive Officer of the Namibia Financial Institutions Supervisory Authority
- h). the Director of the Anti-Corruption Commission;
- i). the President of the Bankers Association;
- j). one person representing associations, representing a category of Accountable institutions requested by the Minister to nominate representatives;
- k). one person representing Supervisory Bodies requested by the Minister to nominate representatives; and
- l). one person representing an institution or body requested by the Minister to nominate a representative.

The main functions of the Council are to:

- a) on the Minister's request or at its own initiative, advise the Minister on -
 - i) policies and measures to combat money laundering activities; and
 - ii) the exercise by the Minister of the powers entrusted to the Minister in terms of this Act;
- b) maintain a forum at least twice a year in which the Bank, associations representing categories of accountable institutions, office, ministry or government agency, supervisory bodies and any other person, institution, body or association, as the Council may determine, can consult one another.

The AMLAC was fully advised on their duties and responsibilities under the FIA and already had their first consultative meeting with the Minister of Finance on the Regulations complementing the provisions of the FIA. The Council will during the month of May 2009 have another meeting in which important policy matters will be discussed dictating future efforts to combat Money Laundering and Terrorist Financing in Namibia.

Role and initiatives of major players in the fight against ML/TF

Except for the Ministry of Justice, the Bank of Namibia, the Office of the Prosecutor-General, the Namibian Police and the Bankers Association of Namibia, not much have been done by other major players in the fight against Money Laundering and Terrorist Financing.

The Ministry of Justice ensured that Namibia signed and ratified most United Nations (UN) Conventions on Corruption, Organized Crime, Money Laundering and Terrorist Financing. The Ministry is in the process of finalizing all outstanding ratification on last mentioned Conventions.

The Bank of Namibia drafted the preventative anti-money laundering law, the FIA and its complementing Regulations, Determinations and Exemptions. It further, as stated above, established the Financial Intelligence Centre, which acts as Namibia's National Financial Intelligence Unit.

The Bank of Namibia further provided training on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) to all major players in the fight against AML/CFT. The Bank of Namibia further rolled-out a nationwide public awareness campaign, educating the Namibian Nation on money laundering and what needs to be done to combat and prevent the financial sector being abused by money launderers.

The Namibian Police established a new investigative unit called the Organized Crime and Criminal Intelligence Unit which together with the Commercial Crime Investigate Unit will investigate issues relating to money laundering and organized crime. Members of the Namibian Police have further received extensive training from the Bank of Namibia and Donor Agencies such as the ESAAMLG, the World Bank, the United Nations Office on Drugs and Crime and the US Treasury, Office of Technical Assistance on the topic of AML/CFT.

The Office of the Prosecutor-General has also established a specialized unit to deal with the challenges posed by prosecuting AML/CFT cases. The Prosecutor-General's office further received extensive training from the Bank of Namibia and Donor Agencies on AML/CFT issues.

The Banker's Association represented by the four commercial banks operative in Namibia and the Bank of Namibia, further publish weekly columns in daily newspapers, educating the general public on what money laundering is and how they can assist financial institutions to combat money laundering and other types of financial crimes.

2.1 International AML/CFT Initiatives

ESAAMLG Membership

Namibia was one of the 14 countries that established the Eastern and Southern Africa Anti Money Laundering Group (ESAAMLG) in Arusha on 27 August 1999. The objectives of ESAAMLG are set out at clause I of the Memorandum of Understanding (the MOU) that was signed on 27 August 1999. The key objective is the adoption and implementation by ESAAMLG members of the Financial Action Task Force (FATF) 40 + 9 Recommendations on Money Laundering and Terrorist Financing.

The achievement of this objective is ultimately a matter for the individual members of ESAAMLG, each of which has to assume responsibility for the introduction of the necessary legislation and the creation of the various structures that are required to enforce it properly. Progress of each member country in implementing the FATF 40 + 9 is monitored through the Mutual Evaluation Process that is managed by the ESAAMLG Secretariat, overseen by the Task Force of Senior Officials established by Clause IX of the MOU and ultimately by the Ministerial Council established by Clause VII³. The process is transparent as Mutual Evaluation Reports on each member country, recording the level of compliance with each FATF recommendation, are published on the ESAAMLG website and can be viewed by any interested person.

The task of achieving FATF 40 + 9 compliance is not easy as it involves the introduction of legislation and law enforcement structures (many of them novel) covering a wide range of activities many of which will be the responsibility of different ministries, some of which may not have a history of past collaboration. A short summary of some of the more important projects, listed by Ministry, which have been tackled pursuant to the obligations imposed upon Namibia as a member of ESAAMLG is as follows:

³ Namibia underwent such an evaluation in October 2005.

Ministry of Justice

- Draft Anti-Money Laundering and Asset Confiscation Legislation (Prevention of Organised Crime Act, 2004 (Act 29 of 2004));
- Establishment of a specialised unit within the Prosecutor-General's office for prosecuting ML offences and conducting asset confiscation cases

Ministry of Finance

- Draft legislation to establish a Financial Intelligence Unit (Financial Intelligence Act 2007, Act No 3 of 2007);
- Establishment of a Financial Intelligence Unit (the Financial Intelligence Centre or FIC) within the Bank of Namibia;
- Upgrade the level of Anti-Money Laundering supervision of banking financial institutions by the Bank of Namibia, non-banking financial institutions by NAMFISA, and designated non-financial business and professions by regulatory bodies such as the Law Society of Namibia, the Public Accountants and Auditors Board; the Namibia Stock Exchange and the Estate Agents Board

Ministry of Safety and Security

- Draft anti-terrorist financing legislation (in progress);
- Establish specialised anti-money laundering and terrorist financing investigation unit within the Commercial Crime Investigation Unit;
- Train financial investigators to deal with the challenge posed by Money Laundering and Terrorist Financing investigations and asset confiscation cases

Office of the President of Finance

- Establish an Anti-Corruption Commission.

The ESAAMLG MOU recognises the complexity of this process by requiring each member to establish a National Anti-Money Laundering Committee "...comprising senior representatives of relevant disciplines: legal and Judicial, Financial and Law Enforcement." Although the precise role of the National Anti-Money Laundering Committee (NAMLC) is not explicitly stated, it is clear that the NAMLC is intended to be a body of technical experts comprising representatives of all stakeholder agencies and ministries. The function of the NAMLC is to co-ordinate at the national level implementation of the steps that are necessary to achieve compliance with the FATF 40 + 9. These steps should be incorporated in each member country's National Anti-Money Laundering Strategy (NAMLS).

As highlighted above, Namibia's National Anti-Money Laundering Strategy has been drafted and is currently tabled with AMLAC who will submit it for approval by Cabinet. The reason for the belated arrival of this important document can largely be attributed to problems with the structure and establishment of Namibia's NAMLC, prior to the commencement of the Financial Intelligence Act, 2007. The NAMLC has now formally been replaced by AMLAC and the former members of the NAMLC will serve as members to a technical committee on AML/CFT which will report to the AMLAC.

3.0 FATF/other FSRB Membership

Namibia, even though by itself it cannot apply for membership to the Financial Action Task Force on Money Laundering and Terrorist Financing (FATF) as a result of a moratorium imposed by FATF on membership application, it does participate in FATF activities through ESAAMLG, which is a Financial Regional Style Body of FATF.

Namibia further on a daily basis partakes in the following activities of the ESAAMLG:

- (i) participating in ESAAMLG Senior Task Force Officials and Council of Ministers Meetings;
- (ii) Participating in ESAAMLG Working Group Meetings (ie. ESAAMLG Working Group on Finance; ESAAMLG Working Group on Legal Matters; ESAAMLG Working Group on Mutual Evaluations and Development Implementation Strategy; ESAAMLG Working Group on Corruption and Anti-Money Laundering; ESAAMLG Working Group on Money Laundering and Terrorist Financing Typologies; ESAAMLG Expert Review Group on Mutual Evaluations of Member Countries; ESAAMLG Working Group on Membership and Observer Applications);
- (iii) Studying and commenting on emerging regional trends in money laundering and terrorist financing (by means of completion of questionnaires) as experienced by ESAAMLG Member States and developing action plans to address identified trends;
- (iv) Acting as Project Leaders to ensure that projects referred to in para. (iii) above is carried out;
- (v) Acting as expert Mutual Evaluators (Legal, Financial, Financial Intelligence Units and Law Enforcement) for the ESAAMLG Secretariat in:
 - the evaluation of Member Countries' compliance with the UN Vienna and Palermo Conventions by using the FATF Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing; and
 - assessing measures in place to combat money laundering and its effectiveness, in each Member State, in order to identify gaps between existing measures and endorsed standards as referred to above.
- (vi) Acting as National Contact Point for the ESAAMLG Secretariat, the FATF, the EGDMONT Group of Financial Intelligence Units, the World Bank, the International Monetary Fund, the Southern African Developing Community Secretariat, the United Nations Office on Drugs and Crime, the Institute for Security Studies and the Joint Africa Institute.

4. Participation/Contribution in Implementation of eSAAMLG/ FATF/ Other FSRB/ other international Organisation (IOSCO, IAIS, Basle) AML/CFT initiatives

Except for Namibia's participation in the ESAAMLG, a FATF Financial Style Regional Body, as highlighted above, Namibia does not participate or contribute to the implementation of any other international organisation's AML/CFT initiatives.

The Republic of Seychelles

Recognizing the fact that combating money laundering is a dynamic and continuous process, the authorities have taken appropriate measures to strengthen the system in combating money laundering and its' associated illegal activities.

Seychelles has ratified all of the International Conventions relating to Narcotic Drugs including the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the United Nations Convention against Transnational Organized Crime and its two Protocols. Seychelles also subscribes to the Global Program against Money Laundering Offshore Forum initiated by the United Nations Office for Drug Control and Crime Prevention.

During the past decade, the financial sector in Seychelles has undergone considerable changes especially as the country had initiated moves to establish itself as an Offshore Financial Centre. In keeping in line with the international trend and in an effort to combat any attempts to launder money through the jurisdiction, the authorities introduced legislation aimed at combating money laundering.

Anti – Money Laundering Act 1996

On February 26, 1996, the Minister for Finance contacted the Commonwealth Secretariat requesting their assistance in providing a draft model of legislation on Anti-Money Laundering. The Commonwealth Secretariat responded on March 14, and on April 23, 1996, Seychelles became the first country in the region to introduce legislation covering Anti-Money Laundering with the enactment of the Anti-Money Laundering Act (AML Act).

The legislation which is based on a Commonwealth model, defined money laundering, criminalized it and designated money laundering as an extraditable offence. The Act placed an obligation on financial institutions to maintain identification and record keeping procedures as may be prescribed by CBS, in respect of any kind of business relationship formed with or on transactions conducted by the institution in the course of its business. Such procedures have been stated in non-enforceable guidance notes issued by CBS in March 1998.

The Act criminalized the conversion or transfer or property knowing that such property is derived from serious crime for the purposes of concealing or disguising the illicit origin of the property. It also criminalized the concealment of the funds and any attempt to assist in the concealment.

It provided for monitoring orders and confiscation of proceeds after a person is convicted of an offence of money laundering and the court is satisfied that the person had derived his property from the commission of an offence.

Under the Act, financial institutions and any person not being a financial institution but conducting any of the activities as listed in the schedule attached to the Act were obliged to submit suspicious

transaction reports to the Central Bank.

Changes to the Anti-Money Laundering Act 1996

The AML Act 1996 served its purpose but with recent international developments, it does not fully meet current international requirements on combating money laundering. As such, there was a need for it to be amended so as to be up to date with current international norms.

In 2002, a team of experts from the IMF carried out an assessment of the country's Anti-Money Laundering and Financing of Terrorism legislation regime based on the FATF's 40 + 9 Recommendations on Anti-Money Laundering and Financing of Terrorism. Following this visit, certain recommendations were made to strengthen the legislation and legal experts from the IMF have since 2003 been assisting the authorities with the redrafting of the legislation governing Anti-Money Laundering and Terrorist Financing.

An IMF mission team visited the Republic for a second time in 2004 to assess the progress made by the regulators and provided technical assistance with the drafting of the new Anti Money Laundering Bill. The draft copy of the Bill was circulated to all interested parties for their comments, and where appropriate, necessary changes have been incorporated into the final copy of the Bill.

Prevention of Terrorism Act

In 2004, prior to the arrival of the IMF Mission the authorities enacted the Prevention of Terrorism Act so as to be in line with the FATF's 9 Special Recommendations on Terrorist Financing. The law criminalizes terrorism and terrorist financing.

Distinct New Features of the Anti-Money Laundering Act 2006

On May 18, 2006, the Anti Money Laundering Act 2006 came into operation thus replacing the previous AML Act of 1996. Some of the old features of the AML Act 1996 have been strengthened whilst some new ones have been added as detailed below:

- 1) Definitions expanded;
- 2) Reporting Entities extended;
- 3) Definition of Money Laundering modified;
- 4) Obligations to verify customers' identity and keep transaction records;
- 5) Prohibition of fictitious and anonymous accounts;
- 6) Financial Institutions and Money Transmission Service Providers to include originator information;
- 7) Reporting entities to monitor transactions;
- 8) Obligations to report suspicious transaction or certain information;
- 9) Other preventive measures by Reporting Entities;
- 10) Creation of a Financial Intelligence Unit;
- 11) Restraint, seizure and forfeiture of assets in relation to ML and FT;

- 12) Pecuniary Penalty Orders;
- 13) Offences and penalties reviewed;
- 14) The Minister is now able to issue regulations.

The Financial Intelligence Unit

On May 18, 2006, the Anti-Money Laundering Act 2006 became operational thus replacing the AML Act of 1996. The new Act made provision for the creation of a Financial Intelligence Unit (FIU) as an independent unit within the Central Bank with the Board of the Central Bank being responsible for the FIU. This requirement meets the requirements of Recommendation 26 of the FATF which requires the establishment of a Financial Intelligence Unit (FIU). An Administrative type FIU was thus established on June 1, 2006 and is headed by a Director appointed by the Board of the Central Bank. In August of the same year, two new staff members joined the FIU where they have been receiving in-house as well as overseas training on Anti-Money Laundering. Two new staff members joined the FIU in 2007 making a total complement staff of five employed.

The FIU is the focal point for receiving, analyzing and disseminating reports of transactions or attempted transactions related to the offence of money laundering or of financing of terrorism to the appropriate law enforcement and supervisory agencies.

The authorities decided to amend the AML Act 2006 and on August 18, 2008, the Anti Money Laundering (Amendment) Act was enacted so as to provide for Civil Assets Forfeiture. A Financial Intelligence and Assets Recovery Unit to be known as the FIU was established. The FIU became an independent body corporate with its own budget.

This legislation has now provided the legal framework necessary to significantly increase the investigative powers and duties of the FIU. The increase in powers and duties is predominately aimed at ensuring officers have the legal authority and are empowered to undertake investigations with a primary focus being to deny criminals the benefits of any financial proceeds derived through criminal activities.

Some of the main points of the legislative changes include:

- Creation of new positions within the FIU (Director, Deputy Director, Legal Officer and Asset Agents) to be appointed directly by the President of the Seychelles.
- Duties as outlined in Section 16 to increase the scope of the activities undertaken by the FIU to remove assets from criminals.
- The use of Interim, Interlocutory and Disposal orders as part of that removal process.
- That the civil standard of proof applies.
- That the FIU is no longer part of the Central Bank, but rather becomes independent and reports directly to the President
- That the FIU has strong powers to gain access to information (including computer databases) held by government, reporting and non reporting entities.
- That officers seconded from other departments such as the Police department or Revenue Commission maintains the powers they held in their previous appointments.

Currently the Assets Recovery Unit of the FIU is in active pursuit through the Courts of a sizable

quantity of assets suspected of being derived from criminal conduct. These include the assets of person recently sentenced to six years imprisonment in Germany for offences pertaining to illegal arms trading. The assets being targeted are valued in excess of six million (6,000,000) Euro and are currently the subject of Court Orders. The assets of a number of suspected Seychellois Drug Dealer(s) are also the subject of Court Orders and these are valued at over Euro 700,000. Funds derived from suspected Money Laundering by a citizen of the Czech Republic are the subject of a Court Order and at present they are valued at Euro 100,000. The FIU has frozen an account pertaining to a Costa Rican registered company on suspicion of criminality/money laundering, this account exceeds US \$ 8,000,000 and the matter is the subject of an on-going FIU investigation.

Under the legislation, the FIU is the body established by Government to challenge criminality by detecting and investigating the proceeds of crime and preparing the court cases for the freezing and confiscation of criminally derived assets. Since the FIU was launched in early 2009, it has investigated over one hundred suspicious reports and conducted formal investigations into 37 cases. To date, approximately one third of these cases have resulted in applications to the court for the seizure of the proceeds of crime and three people have been convicted either in Seychelles or overseas as a result of investigations.

Core Functions of the FIU

1.1 Receipt of Reports

One of the core functions of the FIU is to receive, analyze and disseminate reports of transactions or attempted transactions related to the offence of money laundering or the financing of terrorism to the appropriate Law Enforcement or Supervisory Agencies.

Prior to the establishment of the FIU, the Bank Supervision Division (BSD) of the Central Bank performed the duties of an FIU by receiving, analyzing and disseminating STR'S under the AML Act 1996. With the establishment of the FIU on June 1, 2006, all Reporting Entities now submit STR's to the FIU which analyzes, investigates and prepares cases which are later submitted to the office of the Attorney General for prosecution.

1.2 Exchange of Information

Another important function of the FIU is the exchange of information with foreign FIU's in accordance with the requirements of the Egmont Group. During the period 2006 to 2008, the FIU has so far exchanged intelligence information with seven foreign institutions with similar powers to the FIU. During the same period, the FIU has requested for and received intelligence information from four foreign FIU's.

Since the establishment of the Assets Recovery Unit in January 2009, the FIU continued to expand its activities and to date has had contact pertaining to the exchange of intelligence/information with eighteen other countries. The exchange of intelligence information with one country has led to the successful conviction of an individual involved in illegal activities in that country.

1.3 Examination of Reporting Entities

Under the AML Act, the FIU is also authorised to conduct examinations of Reporting Entities so as to ensure compliance with the provisions of the AML Act 2006 and the PTA 2004. The scope of the on-site examinations comprises of the following:

- Documented AML/KYC/CFT Policies and Procedures;
- Implementation of Account Opening Policy and Identification of Customers;
- Identification of customers including Politically Exposed Persons (PEPs);
- Maintenance of identification and transaction records;
- Need to ascertain wealth and purpose of transactions;
- Cross border correspondent banking;
- Wire transfers and Money Transmission;
- Ongoing Transaction Monitoring;
- Reporting of Suspicious Transactions;
- Risk Management Policy;
- Appointment of Compliance & Reporting Officer and duties;
- UN Security Council list of Terrorist/Terrorist Organizations;
- AML/CFT Training Policy.

Reporting Entities are subject to visits by examiners from the FIU every year to assess compliance to the legislation. Spot inspections may be conducted as and when the need arises. To-date, examiners from the FIU have completed the on-site examination of fifty eight Corporate Service Providers (CSP), six Domestic Banks, two Offshore Banks, one Credit Union, two Money Service Providers and one Bureaux de Change.

Other Functions of the FIU

2.1 Provision of Training

Since 2006, the FIU provided new members of staff who have joined the Central Bank as well as students on attachment with an insight into what constitutes Money Laundering and how it is perpetrated.

During 2008, the FIU provided training on AML to two local organizations, the Development Bank of Seychelles (DBS) and the Seychelles Police. One presentation was made for the staff of DBS and three presentations were made for the officers and cadets at the Seychelles Police Academy.

The FIU has also since 2006 made presentations on AML for the staff of all the local commercial banks, Bureaux de Change, staff of the Company Service Providers in the offshore sector, Ministry of Finance and Seychelles Investment Bureau.

2.2 Report on FIU Activities

Under Section 16 (8) of the AML (Amendment) Act 2008, not later than 3 months after the end of each year, the FIU shall present a report on its activities during the previous year to the President. The FIU has produced reports on its activities during the years 2006, 2007 and 2008 all of which have

been presented to the President in accordance to the legislation.

2.3 National Anti Money Laundering Committee

In December 2007, a National Anti Money Laundering Committee was established so as to better co-ordinate the efforts of the various law enforcement agencies in combating AML/CFT. The committee which is chaired by the FIU Director comprises of representatives from the Police, the Attorney General's office, Customs, Immigration, Tax, Seychelles International Business Authority (SIBA), Central Bank of Seychelles (CBS), Ministry of Foreign Affairs, Securities & Financial Markets Division (SFMD), Seychelles Licensing Authority (SLA) and the FIU. The committee meets every quarter to discuss issues related to Anti Money Laundering and the Financing of Terrorism.

2.4 Membership of Egmont Group

One of the FATF's Recommendations is that once an FIU has been set up, it should apply to become a member of the Egmont Group. In 2008, the Seychelles FIU applied to become a member with the Mauritius FIU acting as the principal sponsor and the French FIU as the co-sponsor. In May 2008, the Director participated in the Egmont Group's Annual Plenary which was held in South Korea in May 2008 as an Observer and a delegation participated in the Plenary which was held in Doha in May 2009. A delegation comprising of the two principal sponsors is due to conduct an on-site visit of the FIU as part of the ongoing application process for eventual membership in 2010.

2.5 Mutual Evaluation

From November 20th to 30th, 2006, a team of nine evaluators from the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) undertook a Mutual Evaluation of Seychelles. The FIU made all the necessary arrangements for the team of evaluators to hold meetings with the various law enforcement agencies, supervisory agencies and reporting entities which included the FIU, CBS, the AG, Customs, Tax, the Police, to name a few. In August 2008, the FIU led a team from Seychelles went to defend the draft report produced by the evaluators when it was presented to the ESAAMLG Council of Ministers Meeting which was held in Mombasa, Kenya. The Mutual Evaluation report was ratified and the authorities agreed to it being published on the ESAAMLG Website.

2.6 Staff Training

The FIU has also ensured that its staff members as well as officers from local Law Enforcement and Supervisory Agencies receive ongoing training on AML/CFT. The staff members have participated in seminars and workshops overseas on Anti-Money Laundering and Combating the Financing of Terrorism organised by the IMF, Bank for International Settlements (BIS), the World Bank, UN Office for Drugs Control (UNODC), Commonwealth Secretariat and the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). The workshops were held in countries such as Botswana, Zambia, Namibia, Tanzania, Switzerland, Tunisia, and Kenya. FIU staff has also been sent on attachments with the Mauritius FIU and the Irish FIU.

The Republic of South Africa



Background Information

The Republic of South Africa is a developing country which occupies the southernmost part of the African continent. The country has a surface area of 1 219 million kilometres and has common boundaries with Botswana, Mozambique, Namibia, Swaziland and Zimbabwe. Completely enclosed by South African territory is the mountain Kingdom of Lesotho. The population at present is estimated to be 47.9 million.

The currency is the South African Rand (ZAR).

The country's first democratic elections were held in 1994, following many years of the economy being wracked by internal conflict and external sanctions. The first democratic government inherited a financial sector that had developed within the context of an inward-looking policy environment, with skewed investment opportunities, client focus and ownership and control of companies in the hands of a select few. Years of political and economic isolation resulted in a regulatory structure which had become progressively de-harmonised from international standards.

The key challenge was reconciling the first-world banking sector — characterised by well established infrastructure and technology, but limited participation (over 60% of the adult population was excluded from any formal financial services in 1994) — with the enormous demand for financial services. The Government took a three-pronged approach to address these issues by: encouraging private firms to initiate stalled investment plans; working to bridge the divide between the first and second economies by providing appropriate savings and risk and transactional products; and building a social security net to alleviate poverty.

The Government continues to work toward bringing unregulated financial activity within the regulated financial system, thereby providing an audit trail of transactions that extend the reach and effectiveness of anti-money laundering and combating the financing of terrorism (AML/CFT) controls and bring some measure of consumer protection. This means ensuring that individual clients currently excluded from using formal financial services, particularly low-income clients, can access and, on a sustainable basis, use financial services which are appropriate to their needs and are being offered by registered financial services providers. The South African Government considers the pursuit of financial inclusion and maintenance of the integrity of the financial system, in the form of an effective AML/CFT regime, as being complementary financial sector policy objectives.

Major profit-generating crimes include fraud, theft, corruption, racketeering, precious metals smuggling, abalone poaching, "419" Nigerian-type economic/investment frauds and pyramid schemes, with increasing numbers of sophisticated and large-scale economic crimes and crimes

through criminal syndicates. South Africa remains a transport point for drug trafficking. Corruption also presents a problem. However, the South African authorities are committed to pursuing this issue through a range of initiatives such as the introduction of measures to entrench good governance and transparency. The South African authorities are vigilant about the possibility that South Africa could be used as a transit or hideaway destination for people with terrorist links.

The development of AML/CFT systems in South Africa represents work in progress. South Africa has demonstrated a strong commitment to implementing AML/CFT systems which has involved close cooperation and coordination between a variety of government departments and agencies. The authorities have sought to construct a system which uses as its reference the relevant United Nations Conventions and the international standards as set out by the Financial Action Task Force.

Legal Systems and Related Institutional Measures

South Africa became a member of the Financial Action Task Force (FATF) in June 2003. Some of the following pieces of legislation (discussed below) ensures our compliance with the FATF 40 Recommendations on combating money laundering and terror financing. South Africa also is also a member of the Eastern and Southern African Anti Money Laundering Group (ESAAMLG) as from August 2002. Further, the Financial Intelligence Centre became a member of the Egmont Group of Financial Intelligence Units in 2003.

South Africa has criminalised money laundering activities in three separate provisions of the Prevention of Organised Crime Act, 1998, (which cover the conversion or transfer, concealment or disguise, possession, acquisition of property) in a manner that is largely consistent with the 1988 United Nations (UN) Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the 2000 UN Convention against Transnational Organised Crime (Palermo Convention). South Africa adopts an "all crimes" approach to the determination of predicate offences. There is also a broad range of ancillary offences to the money laundering offences. Liability for money laundering extends to both natural and legal persons, and proof of knowledge can be derived from objective factual circumstances. The penalties for money laundering are a fine not exceeding ZAR 100 million or imprisonment for a period not exceeding 30 years.

South Africa criminalised terrorist financing in Section 4 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004. This provision is comprehensive and criminalises the collection or provision of property with the intention that it be used for the purpose of committing a terrorist act, or by a terrorist organisation or individual terrorist for any purpose. The term property is broadly defined, and there is no requirement that the property actually be used to carry out or attempt a terrorist act, or be linked to a specific terrorist act. Terrorist financing is also a predicate offence for money laundering. A broad range of ancillary offences also apply to the terrorist financing offence. The maximum penalty (which can apply to natural or legal persons) for conviction of a terror financing offence is a fine of R100 million or imprisonment for a period of 15 years.

The financial intelligence unit (FIU) of South Africa is the Financial Intelligence Centre ("the Centre") which is an "administrative" FIU under the Ministry of Finance. The Centre is a well-structured, funded, and staffed FIU that is functioning effectively. The Centre became a member of the Egmont Group of Financial Intelligence Units in 2003 and has access to a wide range of financial, administrative and law enforcement information to enhance its ability to analyse Suspicious Transaction Reports (STRs).

Preventative measures – Financial institutions

South Africa has implemented AML/CFT preventative measures through the application of the Financial Intelligence Centre Act, 2001 (FIC Act), the Money Laundering and Terrorist Financing Control Regulations (MLTFC Regulations) and Exemptions in Terms of the Financial Intelligence Centre Act (Exemptions).

Financial institutions covered by the FIC Act (so-called “accountable institutions”) are prohibited from establishing a business relationship or concluding a single transaction with a customer before establishing and verifying the customer’s identity, and the identity of any person acting on behalf of the customer or on whose behalf the customer is acting. Accountable institutions are also required to establish and verify the identity of all customers with whom it had entered into a business relationship before the FIC Act took effect (so-called “existing customers”).

Certain Exemptions fully exempt certain accountable institutions from all CDD requirements (as well as some or all record keeping requirements) in circumstances defined as being low risk.

South Africa has a broad reporting regime in which all financial institutions and businesses (not just accountable institutions) are required to report suspicious transactions. Overall, the STR reporting regime is being implemented effectively. All suspicious transactions must be reported to the Centre, including attempted transactions, regardless of amount. No criminal or civil action may be brought against a person who files an STR in good faith, and tipping-off is prohibited.

Additionally, accountable institutions are required to file Terrorist Property Reports (TPRs) with the Centre if they have knowledge that property in their possession or control is terrorist related.

Financial secrecy provisions do not inhibit implementation of the FATF standards. Accountable institutions are required to keep records of information pertaining to customer identification and transactions whenever they establish a business relationship or conclude any transaction. Such records must be kept for at least five years from the date on which the business relationship is terminated (in the case of a business relationship) or transaction was concluded.

Further, South African licensing requirements effectively prevent the establishment of shell banks.

Supervision of the implementation of AML/CFT preventative measures by financial institutions is the responsibility of the various supervisors of financial institutions. The South African Reserve Bank is responsible for supervising banking institutions, and overseeing South Africa’s exchange control regime—powers which it exercises through its Banking Supervision Department and Exchange Control Department. The Financial Services Board is responsible for supervising financial advisors and intermediaries including investment managers, the insurance industry, retirement funds, friendly societies, collective investment schemes, exchanges, central securities depositories and clearing houses. The Johannesburg Stock Exchange is a licensed exchange and self-regulatory organisation which is responsible for supervising authorised users of the exchange.

Preventative measures – Designated Non-Financial Businesses and Professions

The following designated non-financial businesses and professions (DNFBPs) are designated as accountable institutions pursuant to the FIC Act: attorneys (which includes notaries), trust service

providers, real estate agents, casinos and public accountants who carry on the business of rendering investment advice or investment brokering services. AML/CFT preventative measures generally apply to all accountable institutions in the same way, regardless of whether they are financial institutions or DNFBPs.

Although dealers in precious metals and stones are not subject to the customer due diligence (CDD) and record keeping requirements of the FIC Act (as they are not defined as accountable institutions), the industry is very committed to the Kimberly process, begun under the auspices of the United Nations, which seeks to improve transparency in the diamond trade.

International Cooperation

South African authorities have established effective mechanisms to cooperate on operational matters to combat money laundering and terror financing. The Centre has mechanisms in place to exchange information and coordinate with the various stakeholders, and regulators and law enforcement agencies effectively and to cooperate effectively amongst themselves.

South Africa adopts a flexible approach in dealing with mutual legal assistance requests, and is able to render a wide range of mutual legal assistance under the International Cooperation in Criminal Matters Act, 1996. South Africa is able to render assistance without the need for a treaty or agreement (although South Africa has a number of agreements in place), and there is also no requirement for dual criminality or where the request is to obtain evidence, there is no requirement that judicial proceedings should have already been instituted before assistance can be rendered. Assistance is generally provided on the basis of an assurance of reciprocity, but this principle is not interpreted in an overly strict manner. Neither the legislation nor the treaties impose restrictions against requests relating to fiscal matters.

South Africa's extradition framework is comprehensive and flexible. The Extradition Act, 1962 provides for extradition in respect of "extraditable offences", namely, offences in both states that are punishable with a sentence of imprisonment for a period of six months or more. This would include the money laundering offences and terrorist financing offences. There is no requirement for a treaty, and South Africa can also extradite its own nationals.

The Centre, law enforcement agencies, and supervisors are able to provide a wide range of international co-operation to foreign counterparts, and generally do so in a rapid, constructive, and effective manner.

Conclusion

South Africa has made much progress in the last ten years in protecting, among others, its financial system, its institutions and citizens from being abused by criminals while seeking to create tools for law enforcement to more effectively prevent money laundering and the financing of terrorism activities.

South Africa will continuously strive to fight crime, money laundering and terror financing in order for South Africa to protect the integrity and stability of its financial system, develop economically and be a responsible global citizen.

The Republic of Uganda

1. Introduction

Uganda is a largely cash based economy. Only a small proportion of the Ugandan population has bank accounts and the percentage having insurance policies or owning securities is even lower. However, there are plans for the development of the economy which would lead to more transactions being effected through the formal financial sector. The use of cash for transactions within the country and across the borders is commonplace. Ugandan shillings are accepted as 'legal' tender in neighboring countries such as Southern Sudan, Rwanda and Eastern DRC. This encourages cross border movement of cash and increases Uganda's vulnerability to AML/CFT.

The economy of Uganda is largely dependent on its agricultural produce. The economic betterment of the country is due to the active endeavor of the government as well as the help and support of various countries of the world and international organizations. The estimated Uganda GDP or Gross Domestic Product is \$52.93 billion. The official exchange rate of Uganda GDP is approximately \$8.526 billion. Uganda GDP real growth rate stands at about 5.3%. The GDP of Uganda per capita is around \$1,900. The composition according to the sectors in Uganda GDP is estimated at 29.4% in agriculture, 22.1% in industry and 48.5% in services. The labor force of Uganda is about 13.76 million of which 82% is involved in agriculture, 5% is in industries and 13% is in services. The percentage of population below poverty line is 35%.

The gross fixed investment of Uganda is approximately 23.5% of Uganda GDP. The estimated budget of Uganda stands at \$1.943 billion in revenues and expenditure is 1.994 billion. The public debt is around 29.3% of Uganda GDP.

2. Structure of Uganda's Financial Sector

The financial sector of Uganda is diverse. It is composed of formal and informal financial institutions that operate in a variety of ways. The formal financial sector is composed of Bank of Uganda, the Central Bank, with the mandate to supervise and regulate operations of all deposit-taking institutions that fall in the category of three tiers.

In the first tier (Tier 1) are all the 21 local commercial banks. Tier 2 is the category described as Credit Institutions. These institutions operate more or less like banks but do not offer current account deposit facilities. These mainly deal in time and savings deposits and are not members of the cheque clearing house. Under Tier 3 are the Micro Finance Deposit-taking Institutions (MDIs).

All the above mentioned three tiers of institutions are licensed, regulated and supervised by Bank of Uganda as mandated by the Financial Institutions Act, 2004 and the Micro Finance Deposit-Taking Institutions Act, 2003. Along these institutions are the forex bureaus and money remittance businesses that are licensed by Bank of Uganda under the provisions of the Foreign Exchange Act, 2004. Although these institutions do not take public deposits, they operate in the public domain and in public interest as they offer services of buying, selling, and transferring foreign exchange for the public.

There are other players in the financial sector which include the East African Development Bank Ltd, Uganda Development Bank Ltd, National Social Security Fund, Uganda Securities Exchange, Insurance Companies and thousands of micro finance institutions and Savings and Credit Cooperative Organisations.

3. National *AML/CFT Initiatives*

Genesis of Uganda's AML/CFT Work and Formation of the UAMLC

Finance and Law Ministers from 9 countries in the Eastern and Southern Africa Region on behalf of their Governments met at Arusha, Tanzania on 27th August, 1999 and agreed to establish the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) whose aim is to combat the laundering of the proceeds of all serious crime within the Eastern and Southern Africa.

Pursuant to Clause XIII (on National Committees) of the MOU signed by the ESAAMLG founding member countries on 27th August, 1999 in Arusha, Tanzania, Uganda's Minister of Finance (then Hon. Gerald Ssendaula) inaugurated the Uganda Anti-Money Laundering Committee (UAMLC) in August 2000. The UAMLC is a National multi-disciplinary committee comprised of representatives from the legal, regulatory sectors of the Government of Uganda.

Role of the UAMLC

The UAMLC's role is to spearhead the fight against money laundering and the combating of the financing of terrorism in Uganda. The UAMLC represents Uganda as the national task force in the anti-money laundering crusade at the national, regional and international level and forums (including the representation of Uganda at the ESAAMLG meetings held twice a year).

Activities of the UAMLC

The UAMLC has been operating over the last eight (8) years in a quasi-legal status following its appointment by Uganda's Minister of Finance in August, 2000. Cabinet recently approved a proposal to include a new clause 138 in the Anti-Money laundering Bill, 2009 for Uganda providing for, among others, the legal status and specific mandate of the UAMLC. In order to foster a sound and effective AML/CFT regime for Uganda, the UAMLC developed and put in place a National AML/CFT strategy for Uganda.

The National AML/CFT strategy for Uganda has six (6) key strategic objectives, vis,

1. Introduction and implementation of a comprehensive AML/CFT legislation for Uganda;
2. Putting in place effective enforcement structures and resources in Uganda;
3. Effective regulation of the financial sector and other accountable institutions in Uganda;
4. Effective International co-operation;
5. Effective strategic management controls;
6. Engagement with relevant stakeholders.

This AML/CFT strategy is a blueprint for how Ugandan authorities shall use the regulatory powers that they have and how they expect to use the AML law to detect, deter, disrupt, prosecute, seize and freeze and confiscate assets of money launderers and terrorists. Good progress has been made

by Uganda in executing each of above strategic objectives. Annual Progress Reports on Uganda's Achievements on each of these Strategic Objectives have been submitted to the ESAAMLG over the last 3 years.

The UAMLC has been instrumental in co-ordinating with various international bodies like the World Bank, IMF and the US Treasury in organizing and delivering training and workshops on Money Laundering/CFT to various stakeholders in the anti-money laundering crusade in Uganda.

Uganda's Achievements and Milestones in the AML/CFT Crusade [1999-2009]

Uganda is committed to the fight against money laundering and the combating of the financing of terrorism. In this regard, Uganda is striving to put in place a robust anti-money laundering and the combating of the terrorist financing regime and institutional framework that will ensure that these crimes are controlled and prevented. Over the last decade, Uganda has progressively advanced its AML/CFT work and activities.

On 11 December 2002, the Cabinet approved the principles for the Uganda Anti- Money Laundering Framework [Uganda's Anti-Money Laundering Policy Document] which formed the basis of the "Proposed Anti-Money Laundering Bill, 2004" that was first passed by Cabinet on 27 January 2005.

As a stop-gap measure pending the enactment into law of the Uganda's Anti-Money Laundering Bill, Bank of Uganda issued Anti-Money Laundering Guidelines to financial institutions in Uganda in December, 2002. Parallel Guidelines were issued to forex bureaus on 1st September, 2003.

The Guidelines are aimed at countering the misuse of the country's financial sector for purposes of money laundering/financing of terrorism. The anti-money laundering measures stipulated in these Guidelines oblige banks, other supervised financial institutions and forex bureaus to, among other things, comply with certain broad minimum requirements such as the "Know Your Customer/ Client" principles, put in place various anti-money laundering policies and measures, institute the requisite internal control measures and to report any suspicious transactions to the Bank of Uganda for further investigation or reference.

These Guidelines are enforced vide section 126 (2) of the Financial Institutions Act [FIA], No. 2 of 2004 which entitles the Bank of Uganda to impose civil money penalties in the event it found that a financial institution is in non-compliance with an Order (which term includes Guidelines) of the BOU. Section 134 of the FIA provides that orders issued prior to the coming into force of the FIA on 26th March, 2004 remain in effect until changed or rescinded.

A number of training sessions have been held here in Kampala by the U.S Treasury Enforcement Team (O.T.A), the UAMLC and Bank of Uganda. The training sessions in general covered the following topics:

Overview of money laundering; Investigating financial institution fraud; Methods of Payment/Paper trails – An Investigative Perspective; Case studies on the Problems of Investigations; Evidence, court presentations, testimony, etc; Sources of information; Financial Frauds Schemes; Bank Fraud schemes; "Know Your Customer" rules, international Records, International Standards, Legal Procedures for acquiring Bank records, suspicious transactions, etc.; Evidence and court procedures, problem cases and their solutions; Money laundering laws of the World; Money Laundering Typologies and

Techniques; Indirect proof of Unexplained Financial Gain and Practicum; Forfeiture of Assets and obtaining evidence internationally; Evidence gathering, Witness Investigative Solutions and other Current Topics.

The training sessions have been attended by Investigators, Prosecutors, the Uganda Revenue Authority, the Capital Markets Authority and the financial sector in general. It is planned to extend this training and capacity building efforts to the judges, magistrates, prosecutors, Parliamentarians and other key stake-holders in the Uganda legal sector.

In addition, Ugandan delegates have attended various regional and international AML/CFT training courses and evaluator training courses.

Uganda hosted the 6th meeting of the Task Force of Senior Officials of the ESAAMLG and the 3rd Council Meeting of the ESAAMLG Ministers that was held in Kampala between 25 – 28th August, 2003 and served as the President of the ESAAMLG in 2003.

The Financial Institutions Act [FIA], 2004 (under sections 129 and 130) requires financial institutions in Uganda to undertake the 'Know Your Customer' requirements at the commencement of and during the course of the banker-customer relationship and further to report any " suspected money laundering related activity related to any account" to national law enforcement agencies. Draft Anti-Money Laundering Regulations have been drafted under the FIA, 2004 and these will soon be gazetted and come into force.

Uganda underwent a Mutual Evaluation Exercise by the World Bank in February 2005 to assess its compliance with the FATF 40 + 9 Recommendations on AML/CFT. The DAR, which is now posted on the ESAAMLG website, confirms Uganda's commitment to the causes of the ESAAMLG and is also a focal point for addressing the gaps in Uganda's AML/CFT laws and regulations so as to conform with the FATF 40 + 9 Recommendations on AML/CFT.

Uganda's commitment and political will to fight money laundering is further evidenced in the Budget Speeches of 2007 and 2008 and Cabinet's decision to pass the Anti Money Laundering Bill, 2009 (Uganda) on 4th February, 2009. The Bill is due to be tabled before Parliament for debate and passage.

Establishment of the FIU

The establishment of the Financial Intelligence Authority (FIA) has been stalled by the absence of a money –laundering law for Uganda. The FIU will be established as soon as Uganda's Anti- Money Laundering law is passed.

Role and initiatives of major players in the fight against ML/TF

In general, the members of the UAMLC are the major players in Uganda in the fight against ML/TF and have been working as a joint national task force /multi-disciplinary committee in the anti-ML/TF crusade. The UAMLC presently consists of the following government organisations :-

1. Ministry of Finance, Planning and Economic Development [MOFPED]

2. Bank of Uganda [BOU]
3. President's Office [External Security Organisation-ESO]
4. President's Office [Internal Security Organisation- ISO]
5. Ministry of Justice [MOJ]
6. Ministry of Internal Affairs [Immigration Department].
7. Directorate of Public Prosecutions [D.P.P]
8. Uganda Police Force
9. Capital Markets Authority [CMA]
10. Uganda Revenue Authority [URA]
11. Uganda Bankers Association [UBA]
12. Uganda Institute of Bankers [UIB]
13. Non-Governmental Board [Ministry of Internal Affairs]

Because of their respective statutory roles, duties and mandates, some of the abovementioned members of the UAMLC have taken varied initiatives in the anti- money laundering/CFT crusade as mentioned below :-

The **Ministry of Finance, Planning and Economic Development** created the Uganda Anti Money Laundering Committee [UAMLC] and is generally responsible for all matters concerning the combating of money laundering in Uganda including the putting in place of an effective AML/ CFT regime for Uganda, overseeing the enactment of the AML Bill into law and formulating its implementation plan.

The **Bank of Uganda (BOU)** is the institution responsible for supervising banks, other financial institutions and micro-finance deposit-taking institutions (MDIs), forex bureaus and money remittance companies. BOU has over the last 8 years conducted a number of focused sensitisation seminars on AML/CFT to the Insurance Industry, the Accounting Profession, the CMA and the financial sector in Uganda in general. A nation-wide campaign was also conducted by the Bank in conjunction with the Uganda Bankers Association (UBA) to sensitize the public about "Know Your Customer" policies, requirements and procedures. AML/CFT awareness raising in the country is a key component and feature of the national AML/CFT strategy plan for Uganda and will be conducted on a continuous basis.

BOU has continued enforcing AML/CFT standards within the financial sector (particularly banks, credit institutions and forex bureaus) using moral suasion and the Anti-Money Laundering Guidelines issued to financial institutions and forex bureaus in 2002 and 2003, respectively, together with the provisions on control of money laundering contained in the Financial Institutions Act, 2004. All banks now have AML/CFT Compliance officers-- an indication of their willingness to adopt AML/CFT compliance programs.

BOU has played the key role in the on-going facilitation of the UAMLC. BOU has since August,2000 been the Chair of the UAMLC.

Capital Markets Authority which regulates the securities industry in Uganda, with 20 licensed broker dealers, fund managers, investment advisers and a Unit Trust Manager has drafted regulations on Anti Money Laundering for securities players, though these Regulations are yet to take effect.

The Uganda Insurance Commission requires every insurance company to have a Anti Money

Laundering Policy (AML), which is reviewed regularly and we ensure that it is implemented by the responsible officers (compliance officer).

4. International AML/CFT Initiatives

Uganda has continued to actively participate in regional and international fora on the combating of the laundering of money and the financing of terrorism. Uganda has been an active member of the ESAAMLG since its inception. Up to four Ugandans have participated in the ESAAMLG's Mutual Evaluation Exercises and various UAMLC members have also contributed to the ESAAMLG's typology exercises and reports.

Uganda has liaison arrangements with most countries engaged in the fight against terrorism and continues to exchange information with them whenever required.

Uganda has had productive contacts with and is an active member of the International Criminal Police Organisation (INTERPOL) and is the Headquarters to the United Nations African Institute for the Prevention of Crime and Treatment of Offenders (UNAFRI). At the regional level, the Treaty for East African Co-operation includes co-operation in security matters and there is regular contact between Security and Intelligence Chiefs.

Uganda's Securities regulator, the Capital Markets Authority is a member of IOSCO, the international standards setter for the securities industry world wide. Uganda has carried out an IOSCO self assessment to ensure that its laws and regulations comply with the 30 IOSCO principles of securities regulations.

5. Future AML/CFT Developments

Uganda's future AML/CFT work shall be guided by the national AML/CFT strategy cited above, but most of the planned work and activities are contingent upon the enactment of Uganda's Anti Money Laundering Law. Once this law is passed, it is expected that the Financial Intelligence Authority shall be established. It is also planned to conduct further training sessions to build awareness and educate various stakeholders on the features and implications of the AML law and why it is necessary. Future typology studies on money laundering in Uganda are also planned to be carried out.

6. Conclusion

Overall, Uganda's National AML/CFT Strategy and work has significantly progressed over the last decade and will be improved upon subsequent to the World Bank's Assessment of Uganda's compliance with the FATF 40 + 9 Recommendations on AML/CFT between February 14-23, 2005. The DAR high-lighted several areas of Uganda's AML/CFT framework that require strengthening. Efforts to address the shortcomings identified are in high gear.

The Republic of Zambia

1. Introduction

Zambia is a land-locked country with 8 neighbouring countries. It has 9 provinces made up of 72 districts. The capital city of the country is Lusaka. It has a surface area measuring approximately 750,000 square kilometres. The population according to the last national census in 2000 was 9.8 million people.



Zambia got its independence from Britain on 24th October 1964. It is a unitary state headed by a Republican President who is elected by universal suffrage for a term of five years. The political system of Zambia is a multi-party democracy and its legal system is based on statute law enacted by its Parliament, English Law, Common Law and Zambian Customary Law.

The Zambian financial sector is made up of three sub-sectors according to the financial sector supervisory authorities. These are the payment systems, banking and financial institutions sub-sector (supervised by the Bank of Zambia), the securities sub-sector (supervised by the Securities and Exchange Commission, and the pensions and insurance sub-sector (supervised by the Pensions and Insurance Authority).

The financial sector, as at 31 March 2009, was made up of 15 commercial banks, three payment systems, eighteen payment system business and over 300 non-bank financial institutions comprising pension funds, leasing companies, building societies, bureaux de change, micro finance institutions, securities firms, a venture capital fund, a development bank and a national savings and credit institution.

1.1 National AML/CFT Initiatives

Zambia is committed to combating money laundering and the financing of terrorism. The Government appreciates that money laundering and financing of terrorism are not only global security threats but also national threats. In this regard, the nation has made some significant progress in combating of money laundering and financing of terrorism. This can be seen through the enactment of various pieces of legislation on money laundering, financing of terrorism, corruption, criminalising of many predicate offences and enhancing of the integrity of the judicial system and law enforcement.

An Anti-Money Laundering Authority, chaired by the Attorney General was created under the Prohibition and Prevention Money Laundering Act (PPMLA) in 2001 in order to give policy guidance to the Anti-Money Laundering Investigations Unit. The Authority is assisted by a national multi-disciplinary anti-money laundering task force chaired by the Permanent Secretary in the Ministry of Finance and National Planning was formed in 2005 to enhance domestic cooperation, oversee adoption and implementation of international Anti Money

Laundering/Combating Financing of Terrorism (AML/CFT) standards as well as development of national AML/CFT strategies. It consists of senior officials from law enforcement, legal, regulatory authorities and ministries of Finance, Home Affairs and Justice.

Zambia has also acceded to and ratified a number of United Nations and African Union conventions and protocols related to curbing crime and money laundering. Zambia has acceded to the 1961 United Nations Convention on Narcotic Drugs and the Convention on Psychotropic Substances, ratified 1988 United Nations Convention against Illicit traffic in Narcotic and Psychotropic Substances, the Convention against Transnational Organised Crime, Convention against Corruption, Convention on Suppression of Terrorism and the African Union Convention on Preventing and Combating Corruption.

The following legislation and measures have been put in place to combat money laundering and corruption:

The Government has set the tone for the development of an anti-money laundering culture through the enactment of the Narcotic Drugs and Psychotropic Substances Act; the enactment of the Prohibition and Prevention of Money Laundering Act; the establishment of an Anti-Money Laundering Authority; the establishment of the Anti-Money Laundering Unit; the enactment of the Anti-Corruption Act; the establishment of the Anti-Corruption Commission; the enactment of the Anti-Terrorism Act; the issuances of Anti-Money Laundering Statutory Directives by the financial regulatory authorities to financial institutions and the investigation and prosecution of politically exposed persons (former second Republican President, and other senior government and public officials).

With regard to preventing and combating corruption, Zambia has enacted the Anti-Corruption Act; established the Anti-Corruption Commission; developed and implemented a national corruption prevention policy whose ultimate goal is to combat the occurrence of corruption; active involvement of the private sector, civil society and public sector in the attainment of their respective objectives under the national corruption prevention policy; acceded to the United Nations Convention on Corruption and the African Union Convention on Corruption; ratified the Southern Africa Development Community (SADC) Protocol on corruption; acceded to the United Nation's Security Council Resolutions on Terrorism and effected these resolutions, whenever necessary and maintained membership and active participation in Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG).

In 2007, Zambia underwent a mutual evaluation of its anti-money laundering regime by ESAAMLG. The evaluation of the AML/CFT was based on the FATF 40+9 Recommendations. The report identified key issues that the country should implement in order to achieve a fuller compliance with international AML/CFT standards.

Under the direction of the Anti-Money Laundering Authority, the national multi-disciplinary anti-money laundering task force has since embarked on developing a National AML/CFT Strategy, which will be supported by an action plan for implementing the recommendations in order to improve the anti-money laundering regime in Zambia.

1.2 International AML/CFT Initiatives

Zambia is an active member of the international community. It is a founder member of ESAAMLG. It has embraced the UN Conventions related to AML/CFT and the Financial Action Task Force on Money Laundering (FATF) Recommendations. Financial sector supervisory authorities also have embraced principles developed by the Basle Committee, International Organisation of Securities Commissions and International Association of Insurance Supervisors. Future AML/CFT Developments

Arising from the mutual evaluation report, the review of the Prohibition and Prevention of Money Laundering Act is an immediate priority so the extent of criminalisation of money laundering and the measures for the confiscation of proceeds of crime attain the most stringent international standards. In the medium to long term, the focus will be on strengthening institutional arrangements for combating money laundering and financing of terrorism.

1.3 Conclusion

Based on the mutual evaluation report, and given the prevailing political will, Zambia is confident that it has obtained adequate guidance on the specific measures it requires to implement in order to bring about improvements in the standard of its AML/CFT laws, institutional arrangement and the quality of international cooperation. With the encouragement that comes from membership of ESAAMLG, the country is confident of scoring decisive victories against money laundering and the financing of terrorism.

The Republic of Zimbabwe

1. The Republic of Zimbabwe promulgated its anti-money laundering laws in during the period 2003 to 2004 with the enactment of the Bank Use Promotion and Suppression of Anti-Money Laundering Act [*chapter 24:24*]. This Act provides inter alia for the designation of financial institutions, insurers, legal practitioners, public accountants, auditors, estate agents, cash dealers, money lenders, pension funds, unit trusts and other collective investment schemes. The designated institutions are mandated to file Suspicious Transaction Reports (STR's) with the Financial Intelligence Unit.
2. The Bank Use Promotion and Suppression of Money Laundering Act provides for the establishment within the Reserve Bank of Zimbabwe of a Financial Intelligence Unit. The Zimbabwean Financial Intelligence Unit was formed during the period 2003 to 2004 and was named The Financial Intelligence Inspectorate Evaluation and Security Unit (FIIES). It deals with the receipt of Suspicious Transaction Reports and, their investigation, the promotion of use of banks, suppression of money laundering and international cooperation.
3. The Republic of Zimbabwe was the first country in the Eastern and Southern Africa Anti-money Laundering Group (ESAAMLG) to be subjected to a purely ESAAMLG conducted Mutual Evaluation during the period 2007 to 2008 using the 2004 methodology. The Republic fared very well in most of the evaluated areas. A number of areas needing improvements were highlighted and the country is currently addressing these aspects.
4. One of the weaknesses highlighted in the mutual evaluation report was the fact that Anti-Money Laundering and Anti-Terrorists Financing legislation was scattered in various pieces of legislation thus making accessibility difficult. This weakness was remedied by enacting the Criminal Law Codification Act [Chapter] in 2006 which has had the effect of bringing together the concerned legislation under one cover.
5. The Republic of Zimbabwe has since enacted an act to criminalize the financing of terrorism in the form of the Suppression of Foreign and International Terrorism Act (SFIT). [Chapter
6. Subsequent to the Mutual Evaluation the country has ratified most international conventions and protocols regarding Anti-money laundering issues including;
 - (i) The United Nations Convention Against Corruption and,
 - (ii) The Palermo Convention.
7. The country is competently combating terrorism as manifested in the successful extradition of one Simon Mann and others to the Equatorial Guinea on charges of terrorism. Further, the country has mounted 14 successful prosecutions in cases of illegal diamond dealing. Forfeiture of assets was successfully effected.

Zimbabwe has actively participated in Esaamlg run Mutual Evaluations and DSI's of other countries such as Lesotho, Zambia, South Africa and Tanzania.

The United Republic of Tanzania

1. INTRODUCTION

Country and Financial Sector profile

The United Republic of Tanzania is comprised of the union of two sovereign states namely Tanganyika and Zanzibar. The two sovereign states formed the United Republic of Tanzania on 26th April, 1964. The country's population is estimated to be 39.28 Million (July 2007) with an area of 945,000 sq km (365,000 sq miles). The official language is Kiswahili, but English is also widely spoken.



The financial sector in Tanzania is made up of Banking institutions, Insurance Companies, Pension Funds, Securities Market, Bureau de change and Casinos. Each institution is supervised and regulated by a separate regulator. Banking institutions and Bureau de change are regulated and supervised by the Central Bank (Bank of Tanzania (BOT)), Securities Market by the Capital Markets and Securities Authority, (CMSA), Insurance Companies by the Insurance and Supervisory Department (ISD), Pension funds by the Social Security Regulatory Authority and Casinos by the Gaming Board of Tanzania. The financial sector in Tanzania is mostly dominated by banking institutions. The last financial sector review (i.e 30th September 2008), noted that the total assets of the banking institutions accounted for 95.94 % of the total assets of the entire sector. The total assets of banking institutions as at 31st March 2009 amounted to Tanzania Shillings 8,626 billions.

Banking sector in Tanzania is comprised of fully-fledged commercial banks, financial institutions and microfinance institutions. As at 31st March 2009, there were a total of 36 banking institutions out of which 25 were fully-fledged commercial banks and 11 were financial institutions. There were 198 bureaux de change operating in Tanzania as at 31st March 2009.

2. ANTI MONEY LAUNDERING AND THE COMBATING OF FINANCING OF TERRORISM (AML/CFT) INITIATIVES

Legal and Institutional Framework

The Anti Money Laundering Act, Cap 423 (AML Act 2006) was enacted in 2006 and became effective in July 2007. To facilitate implementation of the AML Act 2006, on 14th September 2007, the Minister for Finance and Economic Affairs issued the *Anti-Money Laundering Regulations, 2007*. The AML Act 2006 and its Regulations cover a wide spectrum of "reporting person", including, banks and financial institutions, cash dealers, accountants, real estate agents, dealer in precious stones, work of arts or metals, regulators, customs officer, attorneys, notaries and other independent legal professional. Prior to the enactment of the AML Act 2006, money laundering offences in Tanzania were addressed

under the Proceeds of Crime Act, Cap 256. Apart from AML Act 2006, Tanzania has a number of other laws with provisions relating to money laundering and financing of terrorism offences and their penal provisions; these include, The Extradition Act, Cap 368; The Proceeds of Crime Act, Cap 256; The Criminal Procedure Act, Cap 20; The Mutual Assistance in Criminal Matters Act, Cap 254; The Evidence Act, Cap 6; The Economic and Organized Crime Control Act, Cap 200; The Banking and Financial Institutions Act, Cap. 342; The Gaming Act, Cap 41; Prevention of Terrorism Act, Cap. 19 and The Anti Trafficking in Persons Act, No. 6 of 2008. The Anti Money Laundering Act, 2006, provides for substantive and procedural provisions that criminalize money laundering and financing of terrorism (ML/FT). The Act also establishes the Financial Intelligence Unit (FIU). Tanzania has also developed the National AML/CFT strategy for the period of 2008/2011 which is currently under consideration by Government.

Establishment of the FIU and the National Multi-Disciplinary Committee on Anti – Money Laundering

The Anti Money Laundering Act 2006, establishes the FIU as an Extra Ministerial Department under the Ministry of Finance and Economic Affairs. The FIU is responsible for receiving, analyzing and disseminating suspicious transaction reports and other information relating to potential money laundering and terrorist financing received from “*reporting persons*” and other sources from within and outside the United Republic.

Apart from establishing FIU, the Anti Money Laundering Act 2006, also establishes the National Multi-Disciplinary Committee on Anti Money Laundering (National Committee) as a policy advisory body to the Government on the country’s AML/CFT measures. The National Committee is composed of Twelve (12) members appointed by the Minister for Finance and Economic Affairs, from various Government Ministries and Institutions that are directly involved in the fight against money laundering and terrorist financing. In the performance of its advisory duties, the committee undertakes the following:-

- (i) Assessing and improving the effectiveness of the policies and measures to combat money laundering and financing of terrorism;
- (ii) Advising the Government on legislative, regulatory and policy reforms in respect of anti-money laundering and combating predicate offences;
- (iii) Formulating policies to protect the international reputation of Tanzania with regard to anti-money laundering; and
- (iv) Generally, advising the Government in relation to such other matters relating to anti-money laundering and combating the financing of terrorism.

Role and initiatives of Stakeholders in the fight against ML/FT

The fight against ML/FT requires concerted efforts and cooperation among different stakeholders. The National Committee as a policy advisory body is responsible for advising the Government on the country’s AML/CFT efforts and setting strategic directions towards fighting ML/FT. The National Committee and the FIU work together with various stakeholders in the country including relevant Government Ministries, domestic regulators such as the Bank of Tanzania, the Capital Markets and Security Authority, the Insurance Supervisory Department, the Gaming Board of

Tanzania, the National Board of Accountants and Auditors, Bar Associations, Tanzania Bankers Association, Business Registration and Licensing Authority Tanzania Revenue Authority and Tanzania Communications Regulatory Authority, to ensure that the existing AML/CFT law and regulations are implemented.

3. INTERNATIONAL AML/CFT INITIATIVES

As mentioned above, the fight against ML/TF requires local and international cooperation among stakeholders. Tanzania is among the 14 founder members of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and hosts the ESAAMLG Secretariat in Dar es Salaam. During the year 2003, Tanzania was evaluated under the Financial Sector Assessment Program (FSAP). The exercise involved detailed assessment of the country's compliance to the Basel Core Principles that include "Money Laundering". Tanzania has taken significant measures to address the FSAP recommendations among others, enactment of the Bank of Tanzania Act, Cap 197 and the Banking and Financial Institutions Act, Cap 342 respectively, in the year 2006.

Tanzania has also undergone Mutual Evaluation Exercise (ME) which was conducted by ESAAMLG using 2004 Methodology. The report would be adopted by the ESAAMLG Council of Ministers in August 2009.

To affirm its commitment to meet international standards in the fight against ML/FT, Tanzania ratified and acceded to a number of UN Conventions and Regional Protocols on combating money laundering and the financing of terrorism including: Single Convention on Narcotic Drugs (1961)- Acceded in 1993; UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna 1988) - Acceded in 1996, UN Convention on Psychotropic Substances (1971) - Acceded on 7th December 2000, International Convention against the Taking of Hostages (1979) – Acceded on 22nd January 2003, International Convention for the Suppression of Terrorist Bombing (1997) – Acceded on 22nd January 2003, International Convention for Suppression of Financing of Terrorism (1999) – Acceded on 22nd January 2003, Protocols on Combating Illicit Drug Trafficking in East African Region, SADC Protocol on Mutual Legal Assistance in Criminal Matters and Extradition and SADC Protocol on Combating Illicit Drug Trafficking Acceded in 2003 and United Nations Palermo Convention Against Transnational Organised Crime (2000) – ratified in July 2005.

5. FUTURE AML/CFT DEVELOPMENTS

The fight against Money Laundering and Financing of Terrorism is a continuous process. In addition to what has been accomplished so far, Tanzania has a number of strategic and operational plans that need to be implemented:

- a) Adoption and implementation of the ESAAMLG recommendations emanated from the Mutual Evaluation Exercise, to comply with the international standards on AML/CFT prescribed by FATF and other Regional/International bodies.
- b) Finalization and adoption of the National Anti-Money Laundering Strategy for the period 2008-2011, and incorporating AML/CFT implementation plans as part of the Government's national development and growth strategies and plans.
- c) Enhance the operational capacity of the FIU.

- d) Strengthen networking and coordination forums for national authorities to cooperate in exchanging and sharing information and experiences;
- e) Strengthen networking and coordination forums for international bodies to cooperate in exchanging and sharing information and experiences;
- f) Develop capacity building programs for all key stakeholders in the war against money laundering and the financing of terrorism including staff and officials of the FIU, Police, financial system supervisor and regulators, Investigators, Judges and Prosecutors.
- g) Strengthen networking and coordination for regional and International Cooperation.

6. CONCLUSION

Tanzania is aware of the negative effects of money laundering and the financing of terrorism on the country. A concerted effort among local and international stakeholders is required in the fight against ML/FT. Tanzania has already developed a legal and institutional framework for AML/CFT. The findings and recommendations of the ME exercise would strengthen the existing AML/CFT framework. Tanzania reaffirms its commitment to international and regional cooperation in the efforts to combat money laundering and the financing of terrorism.

Annexes



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.

a) 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 31st day of March in the following year.

**From Arusha to Maseru
ESAAMLG at Ten**

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



ESAAMLG MUTUAL EVALUATION PROCEDURES

August 2008

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ABBREVIATIONS

AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
WB	World Bank
DAQ	Detailed Assessment Questionnaire
DAR	Detailed Assessment Report
ESAAMLG Group	Eastern and Southern Africa Anti-Money Laundering Group
FATF	Financial Action Task Force on Money Laundering
FSSA	Financial System Stability Assessment
FSAP	Financial Sector Assessment Program
FSRB	FATF Style Regional Body
IMF	International Monetary Fund
IFI	International Financial Institutions (World Bank and IMF)
IMF	International Monetary Fund
MEQ	Mutual Evaluation Questionnaire
MER	Mutual Evaluation Report
OFC	Offshore Financial Centre
OGBS	Offshore Group of Banking Supervisors
ROSC	Report on Observance on Standards and Codes

The ESAAMLG Mutual Evaluation Procedures were approved by the Council of Ministers on 22 August 2008 and became effective immediately thereafter.

I. Scope, Basis and Principles for ESAAMLG Mutual Evaluation

1. Using the FATF 2004 Methodology (as updated) ESAAMLG members may be assessed in one of three ways:-
 - By an ESAAMLG Mutual Evaluation;
 - By an IMF or World Bank-led assessment;
 - For the members of the ESAAMLG who are also members of the FATF or of another FSRB, jointly by the FATF or the FSRB¹ and ESAAMLG.
2. In each case, the ESAAMLG will need to consider and adopt, for ESAAMLG Mutual Evaluation purposes, the mutual evaluation/assessment report on the ESAAMLG member. The member being evaluated should commit to the report being presented to the Task Force Meeting within 12 months of the on-site visit.
3. The mutual evaluation exercise is designed to assess a country's compliance with the international Anti-Money Laundering/Combating Terrorist Financing (AML/CFT) standard (i.e. the 40 + 9 FATF Recommendations). This consists in assessing whether the necessary laws, regulations or other measures required under the essential criteria of the FATF Methodology are in force and effect, whether there has been a full and proper implementation of all the necessary measures, and whether the AML/CFT system as implemented is effective.
4. There are a number of general objectives and principles that govern mutual evaluations conducted by the ESAAMLG. The process and procedures should:
 - produce objective and accurate reports of a high standard in a timely way.
 - ensure that there is a level playing field, whereby mutual evaluation reports are as consistent as possible, especially with respect to the findings and ratings.
 - ensure that there is equality of treatment, both in terms of process and results, for all members assessed.
 - seek to ensure that the overall evaluation and assessment exercises conducted by all relevant organisations and bodies (ESAAMLG, FATF, IMF, World Bank, other FSRBs) are not duplicative.
 - have sufficient clarity and transparency; in an effort to encourage the implementation of higher standards, to identify and promote good and effective practices, and to alert governments and the private sector to areas of weakness or deficiency.
 - be sufficiently streamlined and efficient, so as to ensure that there are no unnecessary delays or duplication in the process from the beginning to the end of the evaluation process, and that the time is efficiently used. This will help to ensure an efficient use of resources and that reports are current and accurate.

¹ For the purposes of these procedures, references to an FSRB shall also include the Offshore Group of Banking Supervisors (OGBS)

II. Procedures and Steps in the Evaluation Process

5. The procedures set out in this section relate to the general conduct of ESAAMLG mutual evaluations. They are also summarised in the Finalisation Schedule ([Attachment A](#)). The ESAAMLG Secretariat will maintain a detailed Finalisation Checklist based on the Finalisation Schedule. This process will be followed for each ESAAMLG mutual evaluation.
6. These procedures should be read in conjunction with the *AML/CFT Evaluations and Assessments: Handbook for Countries and Assessors* (the Handbook) finalised by the FATF in June 2004 and updated from time to time². The Handbook contains procedural information and provides templates for the Mutual Evaluation Questionnaire (MEQ), the detailed Mutual Evaluation Report (MER) and its Executive Summary.
7. Sections IV and VI of this document set out the procedures that will be followed in Joint Mutual Evaluations conducted with the FATF/FSRBs and in assessments conducted by the World Bank/IMF respectively.

II.1 *Date of on-site visit*

8. The ESAAMLG Secretariat fixes the date of the on-site visit in consultation with the authorities of the evaluated country. This should be done as soon as possible and preferably at least 6 months prior to the on-site visit.

II.2 *Completion of the Mutual Evaluation Questionnaire (MEQ)*

9. The ESAAMLG Secretariat sends a copy of the MEQ, developed for use with the 2004 Methodology as updated (Annex 1 to the Handbook), to the evaluated country at least 4 months prior to the on-site visit.
10. Should the ESAAMLG member being evaluated have difficulty with the MEQ, it should notify the Secretariat as soon as possible. The Secretariat can provide guidance and clarification for completion of the questionnaire. The Secretariat may where required, arrange for a pre-assessment training to assist the evaluated country with the completion of the questionnaire and provide clarification, advice and guidance on mutual evaluations generally.
11. The MEQ is completed by the jurisdiction and returned to the Secretariat in electronic form no later than 8 weeks prior to the on-site visit.
12. The questionnaire format is intended to facilitate the preparation of a response, which in turn forms the basis for the initial outline draft of the MER to be prepared by the Secretariat. As noted at paragraph 8 of the Handbook, it is very important that countries provide a full description of their AML/CFT system for each area, which covers all the essential criteria and other relevant matters. The MEQ response should be as complete as possible, and provide a detailed description (and analysis where appropriate) of the relevant measures. All necessary laws, regulations, guidelines and other relevant documents should be available in English and the original language, and both these documents and the MEQ should be provided in an

² The Handbook may be down loaded from the ESAAMLG website.

electronic format (see the Handbook, paragraph 22 for examples of relevant laws, regulations and other documents that evaluated countries should provide).

13. The Secretariat will provide copies of the completed MEQ and all other relevant material to the Evaluation Team as soon as they are received but not later than 8 weeks before the on-site visit.

II.3 *Confidentiality*

14. Documents produced:
 - (a) by an evaluated country during a mutual evaluation exercise (e.g. documents describing a country's regime or threats faced, responses to the MEQ, or responses to evaluators' queries); and
 - (b) by the Secretariat or evaluators (e.g. reports from evaluators, draft MER etc)

will be treated as confidential and will not be made publicly available unless the evaluated country (for documents under (a) above) or the Secretariat (for documents under (b) above) consents to their release.

15. All evaluators (including any observer) will be required to sign a Confidentiality Undertaking in the form set out in Attachment B.

II.4 *Follow up from previous evaluations and other issues*

16. Although jurisdictions are required to provide information on the measures that they have taken in response to their last evaluation report (see the Handbook, please refer to the MEQ template, Section 1.5 called "progress since the last mutual evaluation or assessment") there may be some cases where additional follow up questions could be desirable, or where other issues have come to the attention of the evaluators which they want to raise with the jurisdiction prior to the evaluation. Any supplementary questions of this nature should be sent to the jurisdiction at least 4 weeks prior to the on-site visit, and responses provided no later than 1 week prior to the visit.
17. In order to make the process as transparent and as effective as possible, other ESAAMLG members would be invited to notify the Secretariat of any issues that they would like to see raised and discussed during the on-site visit, especially where ESAAMLG members have faced difficulties relating to parts of the AML/CFT system in the evaluated jurisdiction- e.g. issues of international co-operation. It would certainly assist the Evaluation Team if the Secretariat were notified of such issues. Members of the FATF and of other FSRB's will also be invited to provide information on their experience of international co-operation with the country being evaluated or on any other issues that they would like to see raised and discussed during the on-site visit. The Secretariat will seek this information at least **8 weeks** prior to the on-site visit. Responses should reach the Secretariat at least 1 week before the on-site visit and will be made available to the evaluation team and evaluated country.

18. In order to expedite the whole mutual evaluation process, and to ensure that there is sufficient time between the on-site visit and the discussion of the report in the Task Force Meeting, the Secretariat will turn the MEQ response into an initial outline draft of the MER in the **8 weeks** following the receipt of the MEQ response. This initial draft will be provided to the evaluators no later than one week prior to the on-site visit, and will also contain a list of any issues that the Secretariat has identified and which need to be clarified or further discussed during the on-site visit.

II.5 *Selection of the Evaluation Team*

19. Evaluators will be selected by the Secretariat from different member countries or observers. The evaluation team will normally consist of four experts (one legal, two financial and one law enforcement), plus the Secretariat (one or two staff, depending on the size and complexity of the jurisdiction being evaluated).
20. Criteria for the selection of evaluators include the expertise and background of each expert, the nature of the legal system (civil law or common law), the specific characteristics of the jurisdiction (size, geographical location) and the aim of involving as many member jurisdictions as possible in the evaluation process. Evaluators will have attended a training seminar before they conduct a mutual evaluation. Further details on the composition, roles and functions of the evaluators may be obtained from the Handbook.
21. In joint evaluations, the assessment team is made up of experts from both the ESAAMLG and the FATF. Where appropriate, for developmental purposes the Secretariat may also select an additional team member as observer to observe or assist the evaluation team. The additional member will normally be an expert who has not previously participated in a mutual evaluation and/or whose jurisdiction has not previously been involved in a mutual evaluation.
22. The Secretariat will submit the list of evaluators and observer to the evaluated country for information and comment at least 3 weeks before the visit. Any request for changes to the composition of the team will be taken into account, but the final decision concerning the composition of the team will rest with the Secretariat. Due to the nature of the peer review process, the Secretariat will work to ensure that the mutuality of the process is maintained. A list of assessors will be kept, and the Secretariat will try to keep the process a mutual one, in which all members provide an expert for at least one mutual evaluation, though it would be better if the workload could be more evenly spread.
23. A copy of all relevant procedures will be provided to the evaluation team as soon as the composition of the Team has been confirmed.
24. Evaluators need to be fully prepared to examine the laws, regulations, guidelines and institutional measures and to review the effectiveness of the system of the evaluated country. Evaluators should bear in mind that different jurisdictions may adopt different approaches to the various components of the AML/CFT regimes. Evaluators should therefore be open and flexible, and should avoid narrow comparisons with their own national solutions.

11.6 *Schedule of on-site meetings*

25. The jurisdiction must prepare a draft schedule of meetings for the on-site visit and send it to the Secretariat as soon as possible but no later than one month before the on-site visit³. The evaluators and/or Secretariat may request such additional meetings as they think are necessary. Some spare time should be left in the schedule to enable extra or follow-up meetings to be scheduled during the course of the visit. Lunches should be kept relatively short and, if necessary, working lunches may be arranged.
26. Where practical, meetings should be held on the premises of the agency/organisation being met. This allows the evaluation team to meet the widest possible range of officers from the agency/organisation and to obtain more easily any additional information required. For this to be effective, appropriate travel times between meetings must be built into the schedule. However, for some evaluations, travelling between venues can be time consuming and wasteful. Generally, the number of venues should be kept to a minimum of 2-3 per day unless venues are in close proximity. Depending on the size of the jurisdiction and the number of meetings that needs to be scheduled, it may be necessary and appropriate for the evaluators to split up and hold separate meetings simultaneously with agencies within their primary area of responsibility. However, it is preferable for the evaluation team to stay together as a group during all meetings.
27. Where a translator is required for meetings, this needs to be factored into the schedule and meetings made sufficiently long for appropriate discussions to take place using a translator. More generally, translation is an issue that needs to be carefully taken into account. Where English is not the official language of the evaluated country, the process of translation of relevant laws, regulations and other documents should start at an early stage, so that they can be provided to the evaluation team in time for the evaluation. However, the evaluation team should also be provided with the relevant laws or other documents in the language of the jurisdiction, since translations of technical texts are not always perfect. During the on-site visit there also needs to be professional and well prepared translators if the jurisdiction experts are not fluent in English. The evaluated country will provide the translator and documents translated.
28. On the basis of a draft schedule submitted by the jurisdiction, the evaluation team, the evaluated country and the Secretariat will work to finalise the schedule of meetings as soon as possible prior to the on-site visit.
29. It is the responsibility of the jurisdiction being evaluated to provide the appropriate security arrangements, where required. All transportation during the visit, both to and from the airport and between appointments, is the responsibility of the evaluated country. The jurisdiction should also provide the evaluation team with a meeting/resource room for the duration of the on-site visit. Ideally, this room should contain photocopying and other basic facilities, as well as internet access.

³ Paragraph 25 of the Handbook provides details of the types of authorities that will need to be included in the meeting schedule.

11.7 *The on-site visit*

30. The on-site visit, which allows for face to face meetings with all relevant government agencies/ departments and with the private sector, provides the best opportunity to clarify all issues relating to the AML/CFT system of the evaluated country.
31. The total length of the mission is likely to be in the order of 8 – 10 working days and allows for:
 - An initial half day preparatory meeting between the Secretariat and evaluators;
 - Followed by up to eight days of meetings with representatives of the jurisdiction (though fewer days of meetings may be required for smaller jurisdictions);
 - Finally, one to two days where the Secretariat and evaluators work on the initial draft outline MER, previously prepared by the Secretariat, to ensure that all the major issues that arose during the evaluation are noted in the draft report, and discuss and agree ratings for 40 + 9 Recommendations.
32. The initial half day preparatory meeting between the evaluation team and the Secretariat is held on-site to, inter alia,-
 - Ensure all evaluators have all relevant documentation and identify any outstanding documentation;
 - Check and agree on the final schedule of meetings, including the level/type of person the evaluation team will wish to meet;
 - Discuss the sharing of responsibilities between evaluators, including who will take the lead role during each meeting during the on-site visit; and
 - Discuss issues arising from the completed MEQ and other relevant documentation provided by the jurisdiction.
33. An introductory meeting with government officials and, at the discretion of the evaluated jurisdiction, private sector representatives, should be arranged. This meeting provides an opportunity to the evaluation team to explain the evaluation process and clarify logistical details. It also provides an opportunity for the jurisdiction to make any general statement and clarify any issue with the evaluation team.
34. One-to-one meetings then take place between the evaluation team and agencies/organisations in accordance with the agreed meeting schedule. The meetings with the private sector are an important part of the visit, and generally, the evaluators should be given the opportunity to meet with various representatives of associations and institutions in private, and without a government official present. The team may also request that meetings with certain government agencies are restricted to those agencies only.
35. In addition to supplying transportation and translator facilities, the evaluated country shall provide a dedicated officer to assist the evaluation team with its meetings to ensure continuity.
36. It is very important that the evaluated jurisdiction and the specific agencies being met ensure that appropriate staff members are available for each meeting. While the level and type of

officer required will vary from agency to agency, generally speaking, jurisdictions should ensure that both senior managers, who can 'speak for' the agency/jurisdiction at a policy level, as well as 'operational' staff who can answer detailed questions, are present at each meeting. Agencies should be made aware by the jurisdiction that they may be asked quite detailed and probing questions. The persons present should therefore be familiar with the content of the jurisdiction's MEQ response, especially where it relates to their area of expertise, and be prepared for questions relating to that response.

37. A final on-site 'wrap up' meeting with government and, at the discretion of the jurisdiction under evaluation, private sector representatives of the jurisdiction being evaluated, will need to be held in order to provide an opportunity for any outstanding issues to be raised and answered. At this meeting, the evaluation team should provide some preliminary views on its findings and recommendations.
38. Following the final 'wrap up' meeting, the evaluators and Secretariat will work on the draft MER on-site, ensuring that all the major issues that arose during the evaluation are noted in the draft outline report and discuss and agree on ratings for the 40 + 9 Recommendations.

11.8 *Post on-site visit*

39. The steps in finalising a draft report for discussion at the Task Force Meeting, and the approximate time that is required for each step, should be as follows (see also [Attachment A](#)):
 - a) Evaluators to send their additional remarks on the initial draft MER (as discussed/amended on-site) to the Secretariat (**3 weeks**).
 - b) Preparation of a draft MER by the Secretariat, which is sent to the evaluators for comment (**5 weeks**).
 - c) Evaluators to provide comments on the draft MER to the Secretariat (**2 weeks**).
 - d) Revision of the draft report by the Secretariat based on these comments, and the draft report then to be sent to the evaluated country and to the evaluators (**1 week**).
 - e) Evaluated country to provide comments to the Secretariat, which will be forwarded to the evaluators for their views (**5 weeks**). Substantive amendments where possible, should be suggested at this stage. Within this same 5 weeks period, the Secretariat will also have prepared the draft Executive Summary, sent this to the evaluators, received their comments and provided the draft summary and the draft ROSC⁴ to the evaluated country for comment.
 - f) Evaluators review the jurisdiction comments and liaise with the Secretariat on the changes that need to be made to the draft MER (**2 weeks**). In case of any dispute with the jurisdiction, the view of the evaluators shall at this stage prevail, subject to further discussions. At the same time, the jurisdiction should review the draft Executive Summary and ROSC and provide their comments to the Secretariat (which will be forwarded to the evaluators).

⁴ A draft format for the Executive Summary is contained in Annex 2 to the Handbook. In order to ensure consistency and to make the process as efficient as possible, the substantive text of the Executive Summary and the ROSC should be the same, though minor formal changes could be made. See Section VI for more details.

- g) The evaluators review the jurisdiction's comments on the Executive Summary and ROSC and liaise with the Secretariat on the changes that need to be made. The Secretariat revises the MER, the Executive Summary and ROSC based on the evaluators' comments (**2 weeks**) and sends it to the evaluated country and the evaluators.
 - h) Where requested by the evaluated country, the evaluation team (including Secretariat) and the country meet by teleconference and/or face to face to further discuss the draft report. At least one week prior to any further meeting the country must provide a second set of comments and other material in writing to the evaluation team.
 - i) The draft MER, the Executive Summary and ROSC are sent to all members and observers at least **1 month** prior to Task Force Meeting. To coordinate with the IMF/World Bank FSAP process, (see section VI below), the pro forma review of the ROSC summary should also be made prior to the Task Force Meeting, and comments provided to the jurisdiction, the Secretariat and evaluators (at least **one week** prior to Task Force Meeting)⁵.
40. Although the times suggested are not rigid rules, they do provide guidance on what is required if reports are to be prepared within a reasonable timeframe and in sufficient time for discussion at the Task Force Meeting.
41. It is important to note that both the evaluators and the jurisdiction need to respect the timetables, since delays may significantly impact on the ability of the Task Force to discuss the report in a meaningful way.
42. Evaluations will be scheduled so as to allow enough time between the on-site visit and the Task Force Meeting discussion, however a failure to respect the timetables may mean that this would not be the case. By agreeing to participate in the mutual evaluation process, the jurisdiction and the evaluators undertake to meet the necessary deadlines and to provide full and accurate responses, reports or other material as required under the agreed procedure.
43. Failure to comply with the agreed deadlines, may lead to one of the following actions being taken (depending on the nature of the default):
- a) Failure by the jurisdiction to provide a timely or sufficiently detailed response to the MEO could lead to deferment of the mutual evaluation and the Executive Secretary may write to the Primary Contact Point or the relevant Minister in the jurisdiction. Members will be advised at the Task Force Meeting as to reasons for deferral, and publicity could be given to the deferral (as appropriate).
 - b) Failure by the jurisdiction to provide a timely response to the draft MER – the Executive Secretary of ESAAMLG may write a letter to the Primary Contact Point or the relevant Minister in the jurisdiction. Where the delay results in a report not being discussed at the agreed Task Force Meeting, members are to be advised of the reasons for deferral.
 - c) Failure by the evaluators to provide timely or sufficiently detailed reports or responses at any stage of the mutual evaluation process – the Executive Secretary of ESAAMLG may write a letter to the Primary Contact Point for the jurisdiction of the evaluator.

⁵ This review entails the IFI reviewing the mutual evaluation report and the ROSC and checking to see if the summary fairly reflects the contents of the MER. No judgement is made regarding the factual findings or the substance of the MER conclusions, rather the IFI reviews consistency between the MER and the summary. It then provides its comments, which the jurisdiction is free to accept or not.

- d) Failure by the Secretariat to provide timely reports at any stage of the mutual evaluation process –the evaluated country will raise the matter with the President who in turn will take it up with the Executive Secretary.

II.9 *The Expert Review Group (ERG)*⁶

44. The key objective of the ERG is to identify and highlight the key issues arising in each MER, as well as inconsistencies with other MERs or DARs with a view to enhance discussion and resolution of those issues at the Task Force meeting in a fair and equitable manner. The ERG will include, *inter alia*:
- identifying all remaining areas of disagreement between the evaluated country and the evaluation team, as well as the main issues behind these positions.
 - noting inconsistencies with other MER.
 - noting important areas deserving a discussion in the Task Force Meeting.
 - identifying any issues that require interpretation/clarification of the FATF standards, the 2004 Methodology as updated or regarding ESAAMLG procedures.
45. The Secretariat will prepare a short report summarising the ERG discussion, which will identify clearly the most important issues to be discussed at the Task Force meeting. The report on the ERG discussion will help define and focus the order of the discussion at the Task Force meeting. At the Task Force meeting all members will still be able to raise any issue with respect to the report.
46. The other objectives/principles that underlie the ERG's work are:
- The ERG has no decision-making powers on a mutual evaluation report or assessment. The Task Force meeting is the only body where decisions on a mutual evaluation/assessment report take place.
 - The ERG shall not censor, overrule or "second guess" the evaluation teams, and shall not function as a broker between the evaluation team and the country.
 - The ERG will identify the key issues for discussion in the Task Force meeting taking into account any comments by the evaluated country/evaluation team/Secretariat (in particular all areas where the evaluated country disagrees with the report or identifies inconsistencies with other reports), and the written comments received in advance from ESAAMLG members.
 - The process must ensure high quality, consistent MERs, and create a more efficient/effective process both in terms of Task Force discussion and overall. Reviewing an MER, annexes and underlying laws will require a significant commitment from the persons in the ERG.
 - All ESAAMLG mutual evaluation reports will be reviewed by an ERG prior to the Task Force meeting discussion, including joint reports with FSRBs and assessment reports prepared by the IMF/World Bank.

⁶ The ERG is being incorporated in ESAAMLG procedures in line with the FATF Mutual Evaluation procedures.

47. The practical arrangements for the ERG are as follows:

- For each Task Force meeting, an ERG composed of 5 to 7 experienced experts from interested ESAAMLG members (other than the assessed countries), and/or IMF/World Bank and/or other cooperating nations/member organisations will be set up to review the MERs to be discussed at the Task Force meeting. An invitation requesting ESAAMLG members and observers to nominate experts to the ERG will be sent at least one week before the Task Force Meeting.
- A representative of the FATF Secretariat shall sit in all ERG meetings in an advisory capacity. All issues pertaining to the interpretation of the FATF standards and the 2004 Methodology shall be referred to the FATF Secretariat Representative for guidance, interpretation and/or clarification. The ERG may refer such other matter as they deem appropriate to the FATF Secretariat Representative for advice and/or guidance.
- The ERG will discuss each draft MER on its agenda in the presence of representatives of the evaluated country, the Secretariat and the evaluation team⁷.
- The ERG members will select a representative to act as the chair of the meeting.
- The ERG for each Task Force meeting shall be composed of experienced experts from different expertise (legal, financial, law enforcement). The Secretariat will ensure that there is a sufficient rotation in the participation in the ERG to allow every ESAAMLG member to have a chance to participate in this process if they wish. The Secretariat will progressively put together a general roster of experts to ensure good participation in the ERG at each Task Force meeting.
- The Secretariat report based on the ERG discussion about the priorities for the Task Force should be clear and self-explanatory. It should be distributed to members as soon as possible, before the start of the Task Force meeting.
- The Secretariat will co-ordinate ERG meetings, and will provide an interface between the ERG, the evaluation team and the country.

II.10 *Adoption of MER and ROSC*

48. If needed (although the assessment team and the country should endeavour to agree the draft MER/DAR prior to it being sent to delegations), the evaluators and representatives of the evaluated country could meet in the margins of the Task Force Meeting to agree on any final changes to the draft MER/DAR and the ROSC. Practice shows that certain technical or drafting issues can be and should be solved outside the Task Force discussions. Given that the text of the ROSC will be the same as the executive summary, this can also be agreed at that time, and any final amendments made available to members as soon as possible. Any issues that are not agreed should be presented through the ERG process or if the issue is a minor one, in a separate document.

49. The procedure for the discussion of the draft MER/DAR and the summary at the Task Force meeting will be as follows:

- a. Assessment team introduces itself and briefly presents the key issues from the report.

⁷ In the case of a report prepared by the FATF or the IMF/World Bank or the OGBS staff who prepared the draft report should participate in this discussion.

The team will have the opportunity to intervene/comment on any issue concerning the MER.

- b. Assessed country makes its opening statement.
 - c. The Task Force will discuss first the key issues identified by the ERG (to be presented briefly by the Secretariat or the assessors) and afterwards any other issues from the floor.
 - d. Following the discussion of the issues raised in the ERG report, there is then an open discussion of the draft report, during which any member has the opportunity to ask questions of both the evaluated country and/or the evaluation team. Members may suggest changes to the draft report for consideration by the Task Force.
50. After the completion of Task Force discussion, the Task Force adopts the MER and makes a recommendation to the Council of Ministers to approve and adopt the MER and ROSC. When discussing the reports, it must be recalled that the final report that is agreed is a report of the ESAAMLG and not simply a report by the evaluators. The Task Force will therefore make the final decision on the wording of any report, and will give careful consideration to the views of the evaluators and the jurisdiction when deciding on the wording to adopt. In this regard, and taking into account the need to ensure consistency between reports, the Task Force should carefully consider the text of the reports.
51. When the text of the report is finalised by the Task Force, the MER is referred to the Council of Ministers (subject to checks for typographical or similar errors) with a recommendation from the Task Force for its approval and adoption.
52. If the text is not agreed, then the evaluators, the country and the Secretariat should revise the MER and prepare an amended version which can be further discussed by the Task Force as soon as possible thereafter. Where substantive changes are required, either because additional information is required to be added or the report has to be substantially amended, then the Task Force could decide to defer the adoption of the report, and agree to have a further discussion of an amended report at the following Task Force meeting. Following the adoption of the report by the Task Force and prior to its formal adoption by the Council of Ministers, the Task Force should discuss the nature of the follow-up measures that would be required.
53. The evaluation report is written to reflect the situation as at the time of the on-site visit. In preparing the report and in giving ratings, evaluators should only take into account relevant laws, regulations or other AML/CFT measures that are in force and effect at the time of the on-site visit to the evaluated country or in a period of two months immediately following the on-site mission, and before the finalisation of the report. Because the Council of Ministers normally meets once a year, it is possible that there might be considerable delay between the completion of a draft report and its formal adoption by the Council of Ministers. In these circumstances, and so as not to impede possible progress by the jurisdiction, if the jurisdiction decides to take immediate action in response to the draft report's recommendations or has already done so, a progress report can be made available to ESAAMLG members by the evaluated jurisdiction prior to or at the agreed Task Force Meeting outlining progress made since the on-site visit.

54. The adoption of the MER and its ROSC by the Council of Ministers closes the evaluation exercise as such, and at the same time, it creates the basis for future follow-up activities. It is therefore crucial that the evaluated jurisdiction carefully considers the recommendations in the report because they will be the basis for later follow-up concerning implementation of the international AML/CFT standards.

II.11 *Procedures following the Council of Ministers Meeting*

55. Following the adoption of the MER and the ROSC by the Council of Ministers the Secretariat will edit all documents as may be necessary and circulate the revised version to the jurisdiction within **2 weeks** of the Council of Ministers meeting.
56. Within **6 weeks** of the Council of Ministers meeting, the jurisdiction-
- will confirm the accuracy of any editing and/or advise on any typographical or similar errors in the MER and the ROSC.
 - will authorise the Secretariat to publish the edited MER and ROSC on the ESAAMLG website.
57. Once finalised, the MER and the ROSC will be sent to all ESAAMLG members, observers and cooperating partners.
58. The Secretariat will publish both Executive Summary and the MER on the ESAAMLG website and in due course may publish them or extracts thereof as part of the ESAAMLG annual report.
59. If an evaluated country withholds its authority to publish the MER and the ROSC on the website, the Secretariat will publish a notice on the website to the effect that the concerned member country had been evaluated but it has declined to have the MER and the ROSC published.

II.12 *Sharing of MER*

60. On the basis of reciprocal arrangements, ESAAMLG MERs will be shared with the FATF Secretariat, the Secretariats of other FSRBs, the World Bank and the IMF after the adoption of these MERs by the Council of Ministers.

III. *Implementation Monitoring*

61. Evaluated countries will provide annual updates to the Secretariat describing measures that have been identified and implemented to remedy identified deficiencies in relation to the 40+ 9 Recommendations.
62. ESAAMLG members will consider the progress report and, as appropriate, may question the evaluated jurisdiction as to the progress made by it in response to the recommendations contained in the MER.

63. In the event that the Task Force considers that a jurisdiction has not made sufficient progress to address the recommendations contained in the MER and to bring itself into compliance with the international standards, members may need to consider whether a member is in breach of ESAAMLG membership requirements. In these circumstances, members may consider whether any formal steps are required, to ensure that the member country complies with the ESAAMLG MOU.

IV. Joint Mutual Evaluations with the FATF/FSRB

64. Where ESAAMLG members are also members of the FATF/FSRB, joint evaluations shall be conducted with the FATF/FSRB. The FATF/FSRB and the ESAAMLG will agree on the number of evaluators that will be provided by each organisation. Both the FATF/FSRB and ESAAMLG Secretariats will participate in the evaluation.
65. The procedures for preparing and adopting the draft MER will require further consultation with the FATF/FSRB and the jurisdiction concerned, on a case-by-case basis. The timing of the respective ESAAMLG Task Force and Council of Ministers meetings and FATF/FSRB Plenary meeting would determine the procedures for finalisation and adoption of the MER. In any case, the MER will be considered both in the ESAAMLG Task Force Meeting and a FATF/FSRB Plenary meeting.

V Change of Standards

66. It is notable that on-going work within the FATF can lead to changes to the FATF standards and in turn to the 2004 Methodology. ESAAMLG mutual evaluations are based on the FATF standards and the 2004 Methodology as updated.
67. Members that are being evaluated after the date of any changes will be evaluated on the basis of the FATF standards and the 2004 Methodology as they exist at the date on which the MEQ is sent to the evaluated country by the Secretariat. Even where the standards are amended after that date, countries may choose to be evaluated on the revised standards. The report should state if an evaluation has been made against new or recently amended standards i.e. revised within six months prior to the on-site visit. To ensure that there is equality of treatment, if members have been evaluated prior to that date, and the relevant change has not been assessed or addressed, the revised elements of such members systems could be assessed as part of the implementation monitoring process (see section IV above).

VI. Co-ordination with the IMF and World Bank

68. The ESAAMLG formally agreed at its 2003 Council of Ministers Meeting to co-operate with the IMF and World Bank⁸ in assessing ESAAMLG members. The broad intention is that evaluations whether led by the Fund/ Bank or by the FATF or FSRBs should be interchangeable and should use consistent procedures. It is also intended that a co-ordinated approach be taken to the conduct of evaluations globally, to reduce both duplication of evaluations and inconsistencies

⁸ The assessment procedures of the IMF and World Bank do not allow for Joint Evaluations/ Assessments to be undertaken. The ESAAMLG may send an observer during the on-site visit to the assessed country.

between them.

69. There are thus two broad aspects to the co-operation between the ESAAMLG and the IMF and World Bank:
- Use by the IMF and World Bank of ESAAMLG MERs; and
 - Use by the ESAAMLG of IMF/World Bank Assessment Reports.
70. In addition, it has been agreed between FATF/FSRBs (including ESAAMLG) and the IMF/World Bank that the executive summary of all MERs will be submitted to the Fund/Bank in ROSC format for reference and possible use in future FSAP/OFC reports.

VI.1 Use by the IMF and World Bank of ESAAMLG MERs

71. The basic products of the evaluation process are the MER, the executive summary and the ROSC (which is virtually identical to the executive summary). The ROSC is included in the FSSA reports issued by the IMF, which may be published. ESAAMLG members may choose to participate in the IMF-World Bank FSAP process, and the product of that process is an IMF Financial System Stability Assessment (FSSA) or a stand-alone assessment, or a World Bank FSA. With respect to AML/CFT, FSSA reports are in two parts; part I- an overview of financial sector issues and part II-Reports on Observance of Standards and Codes (ROSCs). Where members decide that they will participate in the FSAP process, combined with an ESAAMLG mutual evaluation they should coordinate with the Secretariat and the IMF/World Bank on the timing of the FSAP and mutual evaluation at the earliest possible date.
72. The Fund and the Bank have prepared a technical Guidance Note to FATF/FSRBs on the Timing and Preparation of Inputs from Mutual Evaluations for the FSAP and OFC Programs ([Attachment C](#)). The Secretariat will prepare the required inputs, namely the key findings, the MER and the ROSC, from mutual evaluations for the purposes of the IMF/World Bank FSAP and the IMF OFC programs in accordance with these Guidance Notes.
73. The process regarding ROSCs is as follows. The draft ROSC is agreed by the evaluated country and the evaluators, and the ROSC is sent to the IMF for its “pro forma” review. This review entails the Fund reviewing the MER and the ROSC and checking to see if the summary fairly reflects the contents of the MER. No judgment is made regarding the factual findings or substance of the MER conclusions, rather the IMF reviews consistency between the MER and the summary. It then provides its comments at least one week before the Task Force meeting. The Evaluation Team and the evaluated country are free to accept or disregard these comments. Following the Council of Ministers, the ROSC is finalised and provided to the Fund. As a general rule, the ROSC (including the tables and authorities comments) should not exceed 15 pages. The evaluated country may provide comments on the ROSC, which will be added at the end of that document.
74. The pro forma changes that need to be added to the text of a ROSC would be as follows:
- Adding a formal paragraph at the beginning:

“This Report on the Observance of Standards and Codes for the FATF 40 Recommendations and 9 Special Recommendations on Anti-Money Laundering and Combating the Financing of Terrorism was prepared by the ESAAMLG. The report provides a summary of the AML/CFT measures in place in [country] as at [date], the level of compliance with the FATF 40+9 Recommendations, and contains recommendations on how the AML/CFT system could be strengthened. The views expressed in this document have been agreed upon by the ESAAMLG and [country], but do not necessarily reflect the views of the Boards of the IMF or World Bank.”

- Adding table 2 of the MER

75. For the purpose of the FSSA or FSA the IMF/World Bank requires a set of “key findings” to be prepared. The “key findings” are a summary of the ROSC (between 400-800 words). The key findings will be prepared as initial paragraphs in the executive summary, and will be available for inclusion in the FSSA/FSA documents.

VI.2 Use by ESAAMLG of IMF/World Bank Assessment Reports

76. ESAAMLG members will consider and adopt for ESAAMLG mutual evaluation purposes assessment reports on ESAAMLG members conducted by the IMF and the World Bank.

77. While using the same Assessment Methodology and supporting documentation, there are some procedural and practical differences in the conduct of ESAAMLG mutual evaluations of ESAAMLG members versus Fund/Bank assessment of an ESAAMLG member. The procedural issues include:

- Scheduling of assessments of ESAAMLG members by the IMF and World Bank. It is essential that the ESAAMLG and Fund/Bank schedules be co-ordinated. An agreement on respective schedules for every year should take place as early as possible. Where the Fund or Bank plans to carry out an assessment of an ESAAMLG member, the ESAAMLG should be notified as far in advance as possible.
- Distribution of the Detailed Assessment Report (DAR), the executive summary and ROSC to the ESAAMLG members. According to these mutual evaluation procedures the draft DAR, executive summary and the ROSC should be sent to ESAAMLG members at least 4 weeks prior to the ESAAMLG Task Force Meeting.
- Review of the DAR and ROSC by the ERG.
- Discussions and adoption of the DAR/ROSC by the Task Force.
- Approval and adoption of the DAR/ROSC by the Council of Ministers.

ATTACHMENT A

Finalisation Schedule for ESAAMLG Mutual Evaluation Process

DATE	WEEK	ACTION TO BE TAKEN
Before the on-site visit		
As soon as possible but at least 6 months before the on-site visit	-24	Agree on date for on-site visit and for Task Force Meeting discussion of mutual evaluation report.
At least 4 months before the on-site visit	-16	Secretariat sends a copy of the MEQ to the jurisdiction
At least 2 months before the on-site visit	-8	<ol style="list-style-type: none"> 1. Response to MEQ together with copies of all relevant laws, regulations and other documents (in the original language and English) returned to Secretariat (in electronic form). 2. The Secretariat will forward these documents to the evaluation team. In the meantime, Secretariat to prepare draft outline report and identify issues relevant to the ME 3. Secretariat to send email to ESAAMLG members, FATF and other FSRBs regarding experiences concerning international co-operation of ESAAMLG members and members of FATF and other FSRBs with the evaluated country or any other issue that they wish to raise during the on-site visit..
At least 1 month before the on-site visit	-4	<ol style="list-style-type: none"> 1. Evaluated jurisdiction to provide draft schedule of on-site meetings to the Secretariat. 2. Secretariat, evaluators and jurisdiction to finalise meeting schedule. 3. Secretariat to send supplementary questions, if any, to evaluated jurisdiction.
At least 3 weeks before the on-site visit	-3	Secretariat to advise evaluated jurisdiction of the evaluators and ESAAMLG Secretariat staff participating in the evaluation.

DATE	WEEK	ACTION TO BE TAKEN
No later than 1 week prior to the on-site visit	-1	<ol style="list-style-type: none"> 1. Secretariat to provide evaluators with <ol style="list-style-type: none"> (a) an outline of the MER based on the material received from the jurisdiction; and (b) a list of issues that the Secretariat has identified and which needs to be clarified or further discussed during the on-site visit 2. Jurisdiction to provide response to supplementary questions (if any). 3. Final date by which ESAAMLG members, FATF members and other FSRB's members provide information on their international co-operation experiences with the evaluated country and ESAAMLG members to notify Secretariat of any questions or issues they would like to see raised by evaluation team. <p>The information is provided to the evaluation team and the evaluated country.</p>
ON-SITE VISIT		
First half day	0	Half day preparatory meeting between Secretariat and Evaluators.
Up to 8 working days	0	Meetings with all government and private sector bodies
Next 1-2 days	0	Evaluators and Secretariat work on draft MER, and prepare draft where all major issues and recommendations are noted, as well as ratings given.
After the on-site visit		
Within 3 weeks of on-site visit	3	Evaluators to provide Secretariat with written report on any additional findings
Within 5 weeks following receipt of last evaluator's report (8 weeks after on-site)	8	Secretariat to prepare draft MER to send to evaluators for their comments
Within 2 weeks of receipt of draft report	10	Evaluators provide comments on the draft MER to the Secretariat.
Within 1 week of receipt of last evaluator's comments	11	Revised draft report sent to jurisdiction for comment and to evaluators.
	12	Secretariat to send Executive Summary of MER to evaluators

DATE	WEEK	ACTION TO BE TAKEN
Within 5 weeks of jurisdiction receiving draft report	16	<ol style="list-style-type: none"> 1. Comments from jurisdiction sent to Secretariat and forwarded to evaluators. 2. Evaluators provide comments on the Executive Summary, which is sent to the jurisdiction, along with draft ROSC (ROSC is same text as summary, with pro-forma paragraphs added)
Within 2 weeks of receipt of jurisdiction comments	18	<ol style="list-style-type: none"> 1. Evaluators advise on jurisdiction comments and first draft report (for Task Force Meeting) prepared and sent to jurisdiction and evaluators. 2. Comments from jurisdiction on the Executive Summary and ROSC sent to Secretariat, and Secretariat makes changes as appropriate.
Minimum 7 weeks before the Task Force Meeting		<ol style="list-style-type: none"> 1. Where requested by the evaluated country, the evaluation team (including Secretariat) and the country meet by teleconference and/or face to face to further discuss the draft report. At least one week prior to any further meeting the country must provide a 2nd set of comments and other material in writing to the evaluation team. 2. Secretariat requests members to advise on names of experts interested in participating in the ERG for the Task Force meeting.
Minimum 6 weeks before the Task Force		Where the IFIs are conducting an assessment of an ESAAMLG member, the draft DAR to be provided to the ESAAMLG Secretariat.
Minimum 5 weeks before Task Force meeting		Secretariat to draw up a list of interested experts that will participate in the ERG.
Minimum - 4 weeks before Task Force Meeting		<ol style="list-style-type: none"> 1. Secretariat sends draft report, including summary, to all members. 2. Secretariat sends draft ROSC to IMF for pro-forma review, with copy to jurisdiction and examiners 3. Secretariat requests countries to send written comments on the key issues raised in the MER (2 weeks)
Minimum – 2 weeks before Task Force Meeting		Deadline for written comments on the draft report (MER and DAR) to be received from members (including the prioritised issues of the evaluated country)

DATE	WEEK	ACTION TO BE TAKEN
Minimum - 1 week before Plenary	20+	IMF/World Bank provides comments after pro-forma review. These comments are provided to the jurisdiction and evaluators. Secretariat to distribute a summary of the draft set of key issues to the ERG members.
TASK FORCE MEETING WEEK		
Monday		If required, discussions between evaluators and jurisdiction to try to reach agreement on the wording of the draft MER and Executive Summary (and thus, by consequence, the ROSC) and preparation of a set of written agreed amendments
Monday or Tuesday		Final draft of MER, Executive Summary and ROSC provided to members. If issues/wording not agreed, separate document prepared for Task Force meeting setting these out. The Expert Review Group will meet with the evaluators and evaluated country and review the MER.
Wednesday/Thursday - Task Force discussion of MER		Main discussion of MER and executive summary If Task Force agree MER and summary – they should be adopted. Task Force to discuss any special follow up measures that may be required. Task Force to make recommendation to Council for the approval and adoption of the MER.
Council of Ministers Meeting		Adoption of MER
POST COUNCIL OF MINISTERS MEETING		
Two weeks following the meeting of the Council of Ministers		Secretariat prepares revised MER, Executive Summary and ROSC based on any agreed written amendments and any amendments made during the Task Force discussion, and sends to jurisdiction.
Within 6 weeks of the Ministerial		1. Jurisdiction confirms report is accurate and/or advises of any typographical or similar errors in MER, Executive Summary and ROSC and gives authority for publication of MER and Executive Summary. 2. MER to be published on ESAAMLG website. 3. Final version of MER and ROSC sent to FATF, other FSRBs (on reciprocal basis) and IFIs.

ATTACHMENT B



CONFIDENTIALITY UNDERTAKING

I, [name of evaluator/observer], of [Country of evaluator or relevant Secretariat] having agreed to participate in the mutual evaluation of [country], hereby undertake to keep, as **confidential**, all information and documents imparted to me or generated in the course of the mutual evaluation process. I further undertake not to disclose to any third party any such information or document unless expressly authorised in writing to do so by the Government of [evaluated country].

Signed

Name of Evaluator/Observer

Date

Witnessed by

.....
Name of Witness

Signature.....

Date

ATTACHMENT C

AML/CFT—Guidance Note to FATF/FSRBs on the Timing and Preparation of Inputs from Mutual Evaluations for the FSAP and OFC Programs

1. This guidance note is for FATF and FSRB evaluators to prepare the AML/CFT inputs that are a component of the IMF and World Bank Financial Sector Assessment Program (FSAP) and the IMF offshore financial center (OFC) program. For the two programs, three AML/CFT inputs are required: (i) the key findings; (ii) the mutual evaluation report (MER); and (iii) the Report on the Observance of Standards and Codes (ROSC). In addition, FATF/FSRBs and the IMF/WB have agreed that the executive summary of all MERs should be submitted to the Fund/Bank in ROSC format for reference and possible use in future FSAP/OFC reports.

Introduction

In March 2004, the IMF and World Bank Boards agreed that an AML/CFT assessment, including a ROSC, shall be included in all financial sector assessments under the FSAP and OFC programs (see <http://www.imf.org/external/np/sec/pn/2004/pn0433.htm>). This decision was reaffirmed by the IMF Board on May 10, 2006 and the procedures for integrating FATF/FSRB evaluations into the FSAP process were modified as described in this paper. (see [citation])

According to these Board decisions, either (i) the mutual evaluation prepared by the FATF/FSRBs; or (ii) the detailed assessment prepared by the Bank/Fund can be used for the purposes of the FSAP and OFC programs. The mutual evaluations and detailed assessments would both need to be prepared according to the most recent methodology (see <http://www.imf.org/external/np/aml/eng/2004/031604.pdf>) and, to the extent possible, be conducted within 18 months before or after the relevant FSAP/OFC assessment mission. Once an assessment under the most recent methodology has been conducted, every country should be reassessed approximately every five years. The Board also called on Fund staff, the FATF, FSRBs, and country authorities to engage as early as possible in the planning process to encourage greater synchronization of assessment schedules and minimize scheduling conflicts.

Required Inputs

Key findings document

The key findings document is required by the FSAP and OFC assessment teams in order to prepare the financial sector assessment reports. The key findings will be integrated into the FSSA/FSA and the OFC Volume I reports that are forwarded to the Fund and Bank Boards. The document may be prepared either by the FATF/FSRB or the FSAP/OFC assessment team. For the FSAP/OFC team to draft the key findings, it would be necessary that they have the AML/CFT ROSC or MER (in draft or final form).

The key findings document should be about 300 words depending on the significance of the findings. It would contain a discussion on the adequacy of (i) legal systems and related institutional measures; (ii) preventive measures for the financial sector; (iii) preventive measures for *designated non-financial businesses and professions* (DNFBPs); (iv) legal persons and arrangements and non-profit organizations and (v) national and international cooperation. The summary will be used by the

FSAP/OFC mission chief in the preparation of the FSSA/OFC/FSA report. The FSAP/OFC mission chief retains ultimate responsibility for the FSSA/OFC/FSA reports, and may exercise some editorial discretion over the drafting of the key findings. In all cases, a footnote will indicate that the results on AML/CFT were based on a mutual evaluation carried out by the respective FATF/FSRB and whether a ROSC is available at the time of the preparation of the FSSA/OFC/FSA Report or that the key findings are based on a draft report. If a ROSC is not available, there should be an indication of the timing for when a ROSC can be anticipated.

Since the key findings would be included in the Board report, ideally they should be made available to the FSAP/OFC mission chief at least one week prior to the date that the report is to be issued to the Fund and Bank Boards or typically four weeks prior to Board discussion.

Mutual Evaluation Report

The Mutual Evaluation Report (MER), should be finalized within 18 months of the start of the relevant FSAP/OFC mission. The finalization of the report would be in accordance with the current practices used by the FATF/FSRBs, which normally is that the reports are reviewed during the plenary discussions. In exceptional cases where unavoidable scheduling conflicts prevent an AML/CFT assessment from being completed within 18 months of the relevant FSAP or OFC mission, the AML/CFT assessment documentation can be submitted later as a supplement.

For some FSAP/OFC assessments, the FATF/FSRB will have previously carried out a mutual evaluation using the most current methodology prior to the FSAP/OFC mission. To ensure that the FSAP/OFC team has relatively current information on AML/CFT issues, the mutual evaluation mission should ideally have taken place within 18 months prior to the first FSAP/OFC mission date. Under no circumstances will a report more than five years old be acceptable and if there has been a significant deterioration of the AML/CFT environment in the jurisdiction since it was last assessed, Bank/Fund staff, the FATF/FSRB, and the country would seek to reach agreement to either bring a scheduled FATF/FSRB assessment forward or to conduct a Bank/Fund assessment.

Report on the Observance of Standards and Codes (ROSC)

A ROSC needs to be prepared by the FATF/FSRB based on the results of the MER. The ROSC should be prepared using the approved ROSC template (attached) by the FATF/FSRB. It should be finalized shortly following the adoption of the MER by a plenary. Before the ROSC can be finalized, it should be reviewed by the IMF/WB. This review will be pro forma, with IMF/WB staff looking to ensure that the tone and conclusions of the assessment are accurately reflected in the ROSC and that the ROSC template is respected. To provide for Bank/Fund review, the final MER and draft ROSC should be forwarded by electronic mail to the FATF/FSRB IMF/WB points of contact.



STRATEGIC PLAN 2005-2008

As approved by the Council of Ministers

25 August 2005

Foreword

Money laundering is the term used to describe the ways in which criminals process illegal or “dirty” money derived from corruption or other illegal activities such as bribery, fraud, theft, drug dealing, human trafficking and tax evasion. It is an international phenomenon because it frequently involves routing transactions through many countries to disguise the illegal origin of money. Nowhere is the impact of corruption and other illegal activities on the poor more apparent than in Africa where over the years there have been numerous instances where scarce resources have been siphoned off illegally for personal gain. Cutting off the escape route for the proceeds of crime will be a major deterrent to criminals throughout the region.

The sheer scale of money laundering and the damage that it causes warrants a strategic global approach. The Financial Action Task Force (FATF) sets international standards for combating money laundering. Specifically, it formulated 40 recommendations designed to counter the use of the international financial system for money laundering. Following the terrorist attacks on the United States of 11 September 2001, FATF issued a further 9 “special recommendations” to combat terrorist financing. Implementing the 40 plus 9 FATF recommendations is consistent with wider development efforts in the region aimed at achieving the Millennium Development Goals (MDG), in particular MDG 8, target 1 – developing a global partnership for development through a commitment to good governance.

The Eastern and Southern Africa Anti Money Laundering Group, established in 1999, is a Group of like-minded countries committed to the implementation of the 40 plus 9 FATF recommendations. The first few years has been a period of steady progress during which the sustainability of the secretariat has been secured and the enabling framework for mutual support in the fight against money laundering and the funding of terrorism has been created. The programme of mutual evaluation of national anti money laundering systems – a process key to the implementation of the FATF recommendations, is also gathering momentum. The Group has recognised that more attention now needs to be given towards implementing our international commitments in a timely fashion.

I am pleased therefore to commend this new strategic plan for ESAAMLG covering the period 2005 – 2008. The plan, which was commissioned by ESAAMLG’s Council of Ministers when it met in Mauritius in 2004, is as far as we are aware the first results-based plan to be implemented by a FATF style regional body such as ESAAMLG. Adherence to the plan will focus the Group’s activities on achieving its main objectives and delivering the associated results within a much shorter timeframe than might otherwise have been the case. It will also provide a practical tool for monitoring and reporting implementation of the FATF recommendations within the region and globally. It will undoubtedly help shape future meetings of the Group so that Ministers can concentrate on strategic issues and decisions that will drive forward the process of anti money laundering and combating terrorist financing at national level.

Chairman

On behalf of the Council of Ministers

Acronyms, abbreviations and definitions

AML – Anti Money Laundering.

CDD – Customer due diligence

CFT – Combating the Financing of Terrorism.

ESAAMLG – Eastern and Southern Africa Anti Money Laundering Group.

FATF – Financial Action Task Force. An inter governmental body whose purpose is the promotion and development of policies both at national and international levels to combat money laundering and terrorist financing.

KYC – Know Your Customer. This is regarded as a cornerstone of the FATF recommendations. It requires financial institutions to exercise customer due diligence including identifying and verifying the identity of customers.

IMF – International Monetary Fund

MDG – Millennium Development Goals. A global compact agreed at the Millennium Summit in September 2000. The eight goals relate to a specific commitment to reverse the spread of poverty and disease by 2015 backed by an action plan with 18 quantifiable targets. MDG 8 target 1 is particularly relevant as regards the fight against corruption as this requires a commitment to “a rules based, predictable, non discriminatory and open trading and financial system including a commitment to good governance”.

NMC – National Multidisciplinary Committees. Established in each member country to advise on national FATF policies and strategies. They largely comprise representatives from the banking and financial sectors but with some representation from the enforcement side.

PEPs – Politically Exposed Persons. PEPs are individuals who are or have been entrusted with prominent public functions. For example, heads of state or of government, senior politicians, senior government, judicial or military officials, and senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs also involve reputational risks similar to PEPs themselves

TANA – Technical assistance needs analysis. This is a process whereby a country’s technical needs will be assessed in order that technical assistance by the FATF, members of the Cooperating Organisations and Supporting Nations, and other donors may be facilitated and provided to that country.

ESAAMLG STRATEGIC PLAN August 2005 - July 2008

Introduction

1. The strategic plan, which involved extensive consultation, covers the 3-year period from August 2005 – July 2008. The plan sets out the strategic outcomes in a mission statement for the ESAAMLG as an FATF-style regional body (FSRB) and 7 key strategic objectives, its expected results and the strategy needed to achieve the results.
2. The strategy is based on a detailed analysis of the main issues in the region including strengths, weaknesses and main challenges. A summary of this analysis is included in **Annex 1**. For monitoring purposes, **Annex 2** summarises the strategy by each responsible party – the Council of Ministers, Member Countries, the Task Force and Multi-disciplinary Committees and the ESAAMLG secretariat. The plan will be complemented by a detailed annual work plans for ESAAMLG that will be approved by the ESAAMLG Council of Ministers at its annual meeting in August.
3. The plan has been produced against the backdrop of a need to speed up implementation of AML and CFT standards, as set out in the forty Recommendations to combat money laundering and the nine Special Recommendations to combat the financing of terrorism (40+9) developed by the FATF which is the international standard setting body. The ESAAMLG is proud to be part of the international community of more than 150 nations which have embraced the standard and are implementing measures to combat money laundering and the financing of terrorism.
4. The benefits of implementing these measures are great and include the increased stability of a country's financial sector, the potential for increased credit-worthiness and greater investment, as well as providing law enforcement with additional tools in order to protect countries from the negative effects of crime and the activities of criminal syndicates. These measures will lead to the financial institutions and others becoming more robust and better able to participate in the global financial and trading systems.
5. The ESAAMLG strategic plan seeks to intensify efforts to implement the full 40+9 Recommendations in all countries and the development of their AML/ CFT systems. The strategic plan seeks to implement the priority areas for countries to implement their AML/ CFT system, as the result of a developmental approach to implementation (as set out in **Annex 3**).
6. The plan recognises that there is a need for ESAAMLG to focus more on strategic issues and achieving results. The Council of Ministers must be provided with the information and support necessary for it to reach regional agreement on matters of strategic importance and to subsequently oversee implementation.
7. The Task Force of senior officials has been established to drive implementation of ESAAMLG decisions at national level and report progress. The Task Force makes use of expert advice available from National Multi-disciplinary Committees, the ESAAMLG secretariat and other organisations. This should enable the Council of Ministers to provide ESAAMLG with

active and sustained political support. In addition, Ministers should then seek to ensure that their respective governments provide active political support for the establishment of AML/ CFT regimes within their own countries, in keeping with their undertakings to ESAAMLG.

8. Separate mention is made of the ESAAMLG secretariat because it is important that it adds value to national development efforts whilst recognising that ultimately the implementation of international standards is the responsibility of individual governments. Special attention will therefore be given to objective 7 which seek to improve the efficiency and effectiveness of the secretariat.

Mission Statement

To combat money laundering and terrorist financing in the Eastern and Southern African region through the implementation of AML/CFT international standards.

Strategic Objectives

1. Member countries will develop and implement national AML/ CFT strategies.
2. Member countries implement AML/CFT measures, meeting international standards in accordance with their national strategies and informed, *inter alia*, by mutual evaluations and Financial Sector Assessment Programme reports.
3. Member countries will develop the capacity of institutions and AML/CFT practitioners.
4. The ESAAMLG secretariat will provide guidance and disseminate knowledge on latest AML /CFT developments, emerging risks and other lessons learned to members, regional stakeholders and FATF.
5. ESAAMLG Member Countries will establish regional priorities for implementing FATF recommendations.
6. ESAAMLG members will encourage non-ESAAMLG members in the region to cooperate in the global fight against money laundering and the financing of terrorism and to join ESAAMLG.
7. A sustainable and efficient ESAAMLG secretariat.

Objective 1): Member countries will develop and implement national AML/ CFT strategies

Expected results 1: Members have AML/CFT strategies and carry out mutual evaluations and / or assessments under the FSAP to continually improve and update their strategies.

Strategy

6. Our strategy for achieving this objective will comprise:
 - Member countries through the Task Force and their NMCs will develop and maintain national AML/CFT strategies that are informed and updated by mutual evaluations and FSAP.
 - Member countries will maintain systems to monitor implementation of their respective AML/CFT strategies and programmes.
 - Member countries will provide the ESAAMLG secretariat with updated copies of their implementation plans and national progress reports each June.
 - The ESAAMLG secretariat will develop and maintain an AML/CFT monitoring system to track the development of national strategies and the status of implementation and advise the Council of Ministers on trends and possibilities for mutual support.
 - The ESAAMLG secretariat will develop and implement a regional AML/CFT awareness programme.
 - The Task Force in conjunction with NMC will regularly and systematically engage with national policy makers with a view to integrating national AML/ CFT strategies into national financial sector reform programmes, national anti-corruption programmes and wider national development programmes to include securing the necessary national budget for implementation. In doing so, the Task Force in conjunction with NMC will promote action to join up with other key players at national level including national anti corruption bodies and financial intelligence units etc.
 - The ESAAMLG secretariat will effectively manage a 3-year programme of mutual evaluations i.e. programme formulation, administrative support, quality control and follow up of recommendations

Objective 2): Member countries implement AML/CFT measures, meeting international standards in accordance with their national strategies and informed, inter alia, by mutual evaluations and Financial Sector Assessment Programme reports.

Expected result 2: Increased numbers of member states meet international AML/CFT standards.

Strategy

7. Our strategy for assisting member states to implement their national strategies will comprise:
 - Member countries will participate in an ongoing 3-year programme of mutual evaluations conducted in accordance with mutual evaluation procedures.

- Member countries will participate in an ongoing 2-year technical assistance needs analysis process.
- The ESAAMLG secretariat will effectively manage the mutual evaluation and technical assistance needs analysis programmes i.e. programme formulation, administrative support, quality control and follow up of recommendations.
- The ESAAMLG secretariat will coordinate the development of a regional advisory and implementation assistance service. This will primarily comprise maintaining a network of experts from within the region who have committed to assist member countries with advice and assistance with implementation issues to which members can tap into.
- The ESAAMLG secretariat will source experts from outside of the region with specialist expertise where this is not available from within the region that member countries could approach for implementation assistance.

Objective 3): Member countries will develop the capacity of institutions and AML/CFT practitioners.

Expected result 3: National bodies of AML/CFT experts and a regional cadre of mutual evaluation experts.

Strategy

8. Our strategy for developing regional capacity will comprise:
 - Member countries will undertake national skills audits of AML /CFT practitioner requirements and develop national capacity building programmes.
 - Member countries will provide copies of national skills audits to the ESAAMLG secretariat, which will maintain a regional overview of skills.
 - The ESAAMLG secretariat will maintain, with the assistance of NMC, a regional overview and coordinating mechanism for technical assistance and training based on information provided by NMC and national skills audits.
 - The ESAAMLG secretariat will facilitate and organise expert training both regionally and within country at the request of member countries.
 - The ESAAMLG secretariat will facilitate mentoring programmes for evaluators and evaluator’s participation as observers in evaluations carried out by the FATF and other regional style FATF bodies.
 - The ESAAMLG secretariat will carry out a feasibility study on the establishment of a regional AML/CFT and anti-corruption training centre in partnership with a regional institution. Subject to the results of the feasibility study, the ESAAMLG secretariat may also oversee implementation of the centre.
 - The ESAAMLG secretariat will deliver 2 evaluator training courses for 15 regional experts twice yearly.
 - The ESAAMLG secretariat will ensure that the evaluator training courses will result in a

'balanced pool' of some 56 evaluation experts by the end of the strategic planning period.

- A 'virtual' network will be developed and maintained by the ESAAMLG secretariat to ensure that the cadre of evaluation experts are fully apprised of latest developments and encouraged to pass on their knowledge to develop other expertise in country. The ESAAMLG web page will be enhanced to support the network.

Objective 4): The ESAAMLG secretariat will provide guidance and disseminate knowledge on latest AML/CFT developments, emerging risks and other lessons learned to members, regional stakeholders and FATF.

Expected result 4: Council of Ministers and member countries continually improve their strategies based on acquired knowledge.

Strategy

9. Our strategy for strengthening the knowledge base on which strategies are developed will comprise:
 - The ESAAMLG secretariat will produce and distribute reports on issues arising at FATF meetings and implications for the region within 30 days of such meetings.
 - The ESAAMLG secretariat will produce an annual synthesis report covering all issues and lessons learned arising from mutual evaluations, country assessments, implementation plans and progress reports, FATF meetings and typology exercises etc. This will make recommendations to the Council of Ministers on how to apply lessons learned.
 - The ESAAMLG secretariat will undertake one regional typology exercise per year addressing a priority issue of regional concern. Although primarily of benefit to ESAAMLG members the results will be shared internationally through FATF as a means of contributing to global efforts.
 - The ESAAMLG secretariat will keep member countries informed of FATF typology exercises and encourage member countries to participate in such exercises and apply lessons learned.

Objective 5): ESAAMLG Member Countries establish regional priorities for implementing FATF recommendations.

Expected result 5: Improved focus of regional and national AML/CFT activity leading to speedier implementation of FATF recommendations.

Strategy

10. Our strategy for setting regional priorities will comprise:
 - The Council of Ministers will agree annually regional priorities for the year to be incorporated in national strategies and programmes.

- The ESAAMLG secretariat will track implementation of regional priorities through national AML/CFT implementation programme progress reports.

Objective 6): ESAAMLG members should encourage non-ESAAMLG members in the region to cooperate in the global fight against AML / CFT and join ESAAMLG.

Expected result 6: Increased numbers of ESAAMLG member countries providing a stronger regional and international network.

Strategy

11. Our strategy for encouraging non members to join ESAAMLG will comprise:
 - The ESAAMLG secretariat will develop a 'trail in' process for potential new ESAAMLG members for approval by the Council of Ministers.
 - The ESAAMLG secretariat will contact those countries that have expressed an interest in joining ESAAMLG with a view to inducting them into the trail in process.

Objective 7): A sustainable and efficient Secretariat

Expected result 7: Expected results of objectives 1 –6 of the strategic plan achieved and targets set in the complementary annual work plan met.

Strategy

12. A sustainable and efficient secretariat will be achieved through the following:
 - The ESAAMLG secretariat will mobilise the additional funds necessary to carry out the activities attributable to the secretariat in the 3-year strategy and will ensure timely payment of subscriptions from member countries.
 - The ESAAMLG secretariat will prepare and circulate papers for ESAAMLG meetings, including separate briefs for the Chairman of the Task Force and the President of the Council of Ministers, at least 6 weeks in advance of meetings.
 - The ESAAMLG secretariat will follow up and track the implementation of decisions taken at ESAAMLG meetings.
 - The ESAAMLG secretariat will prepare and implement an improved communications strategy.
 - The ESAAMLG secretariat will improve accounting arrangements and respond in writing to external audit observations and recommendations within 30 days of the receipt of a written audit report.
 - The Task Force will commission an efficiency scrutiny of the ESAAMLG secretariat.
 - Member Countries will assist the Secretariat in performing its activities by seconding professional staff to the secretariat subject to a detailed work plan and the approval of the Council of Ministers.

Annex 1

Regional analysis

1. An analysis of the main issues in the region was undertaken on behalf of Member Countries by an ESAAMLG working Group. This identified the strengths, weaknesses and the main challenges faced in the region. The analysis gave rise to the formulation of the 7 strategic objectives on which the 3-year strategy is based. For ease of reference, the analysis is summarised below under each of these objectives.

Objective 1): Member countries will develop national AML/ CFT strategies informed, *inter alia*, by mutual evaluations and Financial Sector Assessment Programme reports.

2. Each member country has unique circumstances and constitutional frameworks and so cannot take identical measures to achieve the required international standard. Individual country AML/CFT strategies and implementation programmes therefore need to be developed and implemented. Developing national strategies and implementation programmes is ultimately the responsibility of each member country, which must own its strategy. The aim should be that all 14 members have satisfactory strategies that are being implemented within the first year of this 3-year ESAAMLG strategy.
3. A key FATF element of the Memorandum of Understanding upon which ESAAMLG is founded is that member countries agree to participate in a programme of mutual evaluations. These are to be undertaken according to a standard comprehensive process, provide a status report and give recommendations for improving systems. The output from mutual evaluations therefore provides a basis for developing and/or improving national AML/CFT strategies and implementation programmes. The World Bank/IMF also engages with some ESAAMLG members in its Financial Sector Assessment Programme (FSAP). Such assessments also address the implementation of FATF recommendations although they cover issues beyond mutual evaluations. As such they too provide a basis for developing and / or improving national AML/CFT strategies and implementation programmes. The ESAAMLG secretariat is coordinating the regional mutual evaluation process. The World Bank / IMF coordinate the FSAP.
4. To maximise synergy and to avoid duplication of effort, ESAAMLG should ensure that all its members benefit from a mutual evaluation or an assessment under the FSAP once every 3 years (see example one). At the commencement of this 3-year strategy, 5 member countries had completed mutual evaluations and a further 4 had been included in the FSAP in the same period.
5. Priority should be given to ensuring that those 5 members that have not yet had the benefit of a mutual evaluation or an FSAP assessment do so as soon as possible. One challenge is for group

Example one:

Mauritius has an AML/CFT strategy that has been refined and improved by recommendations made in a Financial Sector Assessment Programme report. A mutual evaluation is planned for 2006. This too will inform the process of continuous improvement of the Mauritius AML/CFT strategy and provide Government and the international community with a high level of assurance that satisfactory action has been taken.

members to translate the recommendations from mutual evaluations and FSAP reports into national AML/CFT strategies and implementation programmes. This will require articulation of recommendations into a strategy and programme of action. Another challenge within Eastern and Southern Africa is to fully integrate AML/CFT programmes into national development programmes. This is absolutely necessary if AML/CFT programmes are to be given due recognition and funding in light of the many competing national development priorities. In some instances, the results and recommendations of mutual evaluations alone may not be sufficient to make a convincing case for priority consideration within a member country. For example, a detailed assessment of the scale of the money laundering problem in a particular country may also be required to drive home the message that actions need to be taken. It will also be necessary that implementation of the FATF recommendations does not adversely impact on the poor.

6. Another perceived problem within the region is that the issue of money laundering is misunderstood and regarded as a separate, 'stand alone' entity. This is evidenced by the fact that some member countries have developed financial sector reform strategies and anti corruption strategies that have failed to address FATF recommendations. In relatively few instances have measures to combat money laundering and the financing of terrorism been integrated with national development programmes. The isolation of AML / CFT from the wider development efforts in the region is a problem that needs to be remedied by member countries. The ESAAMLG secretariat can help by developing and implementing a regional AML/CFT awareness programme.
7. Country policy makers should be aware that AML/CFT measures are essential to financial sector development and that money laundering is the flip side of corruption and other criminal activity. Corruption is one of the predicate offences for money laundering. Cutting off the means to use the proceeds of crime is a major deterrent. The ability to investigate and repatriate the proceeds of corruption could provide member countries with "many millions of dollars" in returned revenue. It is therefore of paramount importance that that AML/CFT programmes are integrated not only within national development plans but also within financial sector reform and anti corruption programmes.
8. The ideal time to engage country policy makers in detailed discussion on how to integrate AML/CFT measures with wider reform programmes is during the period leading up to the update of national development programmes. It also makes sense to time, wherever possible, mutual evaluation exercises so that the results are available to feed into the information gathering process that takes place prior to updating national development plans. That said, the timing of national development plan updates should not be the sole factor. Regular AML/CFT policy discussions to ensure integration should take place within member countries.
9. Each member country has its own National Multidisciplinary Committee (NMC) to advise on AML/CFT policy and implementation issues. NMC need to be more dynamic in pursuing AML/CFT reform nationally. For example, it has been recognised that stronger links need to be forged at country level between NMC and other major players such as anti corruption agencies, national law enforcement agencies, financial intelligence units and those government bodies leading on national development programmes. Inviting representatives from these

agencies and bodies to be part of NMC may be one way of achieving closer links.

Objective 2): Member countries implement AML/CFT measures, meeting international standards in accordance with their national strategies.

10. ESAAMLG members are at various stages of attaining international AML/CFT standards and can be broadly categorised as advanced, moderately advanced and less advanced. As recorded under objective one, it is expected that each member country will have an integrated AML/CFT strategy and implementation programme funded from its national budget. Progress towards meeting international standards will then be assessed against targets set in national strategies and implementation plans. It is expected that member countries should have robust monitoring systems that will allow them to keep track of national implementation.

11. It is also expected that output from national monitoring systems should be provided annually to the ESAAMLG secretariat each June to enable the secretariat to prepare a performance summary for the August meetings. This will also enable the secretariat to assess what mutual assistance might be given within the group and help members to better manage and coordinate the activity of donors.

12. Advanced members have a role to play in assisting their fellow ESAAMLG members to progress towards meeting international standards. This can be achieved if advanced members provide expert advice and assistance to less advanced countries based on their experience (see [example two](#)). Mutually supportive action helps to raise the collective standard throughout the region. The ESAAMLG secretariat has a role to play in facilitating such support by acting as a 'clearing house' to match available expertise with need.

Example two:

The establishment of Financial Intelligence Units (FIUs) is a key FATF recommendation. Within the region, South Africa and Mauritius have well-established FIUs) that are internationally recognised as centres of excellence. Both units are members of the Egmont Group (the international association of FIUs). Experts from each unit will advise and assist other ESAAMLG members to establish their own FIUS based on unique regional circumstances.

Objective 3): Member countries will develop the capacity of institutions and AML/CFT practitioners

13. There is a global shortage of skills in the field of AML/CFT including within developed countries. With the exception of South Africa and Mauritius the skill base of ESAAMLG AML/CFT practitioners is not surprisingly also perceived as low. This lack of regional capacity is a major drawback to successfully implementing regional AML/CFT strategies and programmes. Three general observations can be made to set the context:

- ESAAMLG members are at various stages of development that can be broadly categorised as advanced, moderately advanced and less advanced.
- National institutions and practitioners require a range of skills that broadly fall into five main categories – strategy development / programme management; legislative / regulatory; financial; law enforcement and judicial; and specialist (such as forensic accountancy and

expertise in mutual legal assistance).

- The immediate requirement for these skills can be mapped onto the stages of development along the lines set out in table one.

Table one: Matching priority capacity requirement to stage of AML / CFT development

Stage of AML/CFT development	Priority capacity requirement
Less advanced members	Develop strategy and implementation skills. Develop capacity for formulating legislation and regulations.
Moderately advanced members	Establish / improve and operationalise national AML/CFT support institutions and individuals working in them such as law enforcement agencies, investigation agencies and Financial Intelligence Units.
Advanced members	Develop specialised skills such as those needed for successful AML prosecutions, forensic accountants, mutual legal assistance experts and skills required for asset repatriation.

14. The ESAAMLG secretariat has facilitated a regional capacity development programme over the last few years that has included:
- 3 sub regional awareness-raising workshops
 - 2 legislative drafting workshops
 - 1 IMF judicial training workshop
 - 1 AML / CFT strategy development workshop
 - 1 specialist drug workshop (see [example three](#))

Example three:

In November 2002, the ESAAMLG secretariat met a request from the Zambian drugs Commission to organise specialised training in respect of investigation techniques needed to support national anti-money laundering laws. The Zambian Drugs Commission has subsequently successfully investigated a number of cases using these techniques.

15. ESAAMLG member countries need to build on earlier capacity development work. In doing so it is recognised that the skill shortage needs to be addressed in a more systematic way and that national skills audits are a prerequisite for developing national and regional capacity development programmes. Member countries should take the lead although the ESAAMLG secretariat should continue to facilitate and organise capacity development training based on national skills audits at the request of member countries. In this respect, the ESAAMLG secretariat should maintain, with the assistance of NMC, a regional overview and coordinating mechanism for technical assistance and training based on information provided by NMC and national skills audits.

16. The ESAAMLG secretariat could also conduct a feasibility study on establishing a regional centre of excellence for training AML/CFT and anti corruption practitioners in partnership with a regional institution. Subject to the results of the feasibility study, the ESAAMLG secretariat may also oversee implementation of the centre. It is envisaged that members will wish to make more use of the computer based training packages that the ESAAMLG secretariat is proposing to develop in association with the United Nations and others. Developing awareness should be an ongoing requirement throughout the period of the strategy.

17. The ESAAMLG secretariat should continue to develop regional capacities in each of the broad skill categories identified above as part of the mutual evaluation process. Specifically it should organise training for individuals that will be involved in the mutual evaluation process that, coupled with the experience of taking part in a mutual evaluation, will provide a solid foundation for those who might subsequently be involved with the implementation and operation of AML/CFT systems. It is envisaged that trained evaluation experts will be able to provide basic training to colleagues in country.
18. The ESAAMLG secretariat has trained a cadre of some 29 regional AML/CFT expert evaluators (see [table two](#) below). The experts need to be further developed into a 'balanced pool' with representatives from each member country. For example, it can be seen from the table that the cadre is currently drawn from 9 of the 14 ESAAMLG member countries and that relatively few law enforcers have been trained as part of the mutual evaluation process. The current cadre also includes only one policy maker. Policy makers as potential 'evaluatees' would benefit greatly from the associated training.

Table two: ESAAMLG cadre of regional evaluators as at December 2004

Category	SA	MR	TZ	NB	KY	UG	SWZ	MW	Total
Policy	1								1
Legislative	1	2	2	1	1	1		1	9
Financial	2	1	2	2	3	1	1	1	13
Enforcement	2	1	1	1			1		6
Total	6	4	5	4	4	2	2	2	29

19. The experience of the ESAAMLG secretariat is that evaluator training should not be given too far in advance of the evaluations. The optimum size of the cadre i.e. to support the mutual evaluation process and to develop a national source of expertise is regarded as 56 i.e. about double the current level. The standard evaluator-training course is two weeks long and can accommodate up to 15 evaluators. Ideally two evaluator-training courses should be undertaken each year. Based on experience, the turnover rate of evaluators is also likely to be high at approximately 15 per year. Given these figures, a sustainable cadre of the optimum level could be achieved by the third year of the strategy.
20. The cost per evaluator training course is estimated at \$25,000. The total cost, which would be additional to the core budget of the ESAAMLG secretariat, will therefore be in the region of \$50,000 per year or \$150,000 over the 3-year period of the strategy. Finally, it should be noted that if the cadre is to be maintained as a national source of expertise that can pass on knowledge to others in country it will be important to maintain a network of trained experts and ensure that they are fully apprised of developments. A 'virtual' network for the electronic exchange of information should therefore be developed by the secretariat. Some enhancement of ESAAMLG's webpage will also be required to support this. 'Top up' training of evaluators may be required in the next strategic planning period.

Objective 4): The ESAAMLG secretariat will provide guidance and disseminate knowledge on latest AML/CFT developments, emerging risks and other lessons learned to members, regional stakeholders and FATF

21. Member countries and other regional stakeholders need to be informed of latest developments, trends, emerging threats and other lessons learned as a means of continuously improving and innovating their AML/CFT strategies. The process of knowledge dissemination and lesson learning needs to be systematic. In acquiring knowledge both global and regional issues need to be embraced. The ESAAMLG secretariat is well placed to inform members on what is happening in the global forum from information obtained from attendance at FATF meetings and its mandate for overall "policy watch".
22. It is also possible to draw on the results of mutual evaluations, country assessments and AML/CFT implementation progress reports as a means of learning lessons for region-wide application. However lessons learned are only useful if they are practically and systematically applied. This will require the production of an annual regional synthesis report with recommendations for action to be taken by ESAAMLG members. Such a report should be presented to the Council of Ministers at its annual meeting. It should be distributed to regional stakeholders and placed on the ESAAMLG website to ensure that lessons are widely communicated.
23. "Typology" exercises examine in depth a particular issue of concern with a view to disseminating knowledge on emerging threats and how these might be addressed. Some member countries have undertaken such studies (see [example four](#)).
24. ESAAMLG members would benefit from other typologies with a regional focus. The ESAAMLG secretariat should therefore commission one typology exercise per year, three over the period of the plan that could focus on one or more of the following areas of concern:
- Non profit organisations
 - Privatisation
 - The growth in regional stock markets
 - Government Procurement, particularly in relation to infrastructure projects
 - Small arms
 - Endangered species (bio diversity)
 - Drugs
 - Minerals
 - Car theft
 - Alternative remittance systems

Example four:

There are a number of endangered species of fish that inhabit the coastal waters off South Africa. A typologies study has identified that some are being illegally caught and processed for the Asian market. The proceeds of this illegal activity, which is estimated at some millions of US dollars per year, are being laundered both in South Africa and internationally including for the purchase of drugs. Cutting off the escape route by eliminating the means by which to use the proceeds of crime will help to secure bio diversity in the region and reduce the associated risks of drug trafficking and trans national crime.

Objective 5): ESAAMLG Member Countries establish regional priorities for implementing FATF recommendations

25. ESAAMLG has a role to play in advising on priority issues that members could pursue in

harmony that would prepare them for full implementation of the FATF recommendations. Advice given by the Council of Ministers has to be evidence-based drawing on lessons learned and in particular the annual synthesis report discussed above under objective four. Advice on priorities should be systematic i.e. annual, as other similar trends or common issues will undoubtedly emerge during the period of the strategy.

26. 26. By way of illustration, the group's experience to date has revealed that action could be taken now on raising regional standards relating to the application of the "Customer Due Diligence" (CDD) principles including the need to develop lists of Politically Exposed Persons (PEPs) - see [example five](#). A concerted regional effort to improve CDD standards based on a regional risk analysis could help move countries forward in a harmonised way while not diluting the twin principles that each country requires unique solutions to its unique problems and that each country will need to meet each of the FATF recommendations.

Example five:

The customer due diligence obligation is fundamental to meeting international standards. Most member countries have a CDD regulation established by their Central Bank. However, the standards by which the FATF obligation is being applied differ greatly throughout the region. A great many Africans do not have ID and many towns and villages in the region do not have addresses. These dilemmas need to be addressed by ESAAMLG. Agreeing a regional standard based on risk could help move members immediately closer towards implementing the FATF recommendations and attaining international standards.

Objective 6): ESAAMLG members should encourage non-ESAAMLG members in the region to cooperate in the global fight against AML / CFT and join ESAAMLG

27. ESAAMLG provides a mutually supportive network for harmonisation and synergy of efforts to combat money laundering and the financing of terrorism. It comprises a homogenous geographical group and should remain that way. There are four countries in the region that are not currently members of ESAAMLG – Angola, the Democratic Republic of Congo, Madagascar and Comoros Island.

28. There would be mutual benefits to these countries joining the group (see [example six](#)). Bringing these four countries into the ESAAMLG fold would strengthen the existing regional network, increase synergy and reduce risks to member countries by eliminating potential hiding places for the proceeds of crime in neighbouring counties. However, care

Example six:

Non-ESAAMLG countries in the region stand to gain a good deal from becoming members. They will be able to share in the exchange of information and mutual support in strengthening systems relating to the fight against corruption and in particular money laundering and the financing of terrorism. They will benefit from the support services provided by the ESAAMLG secretariat. Above all, by joining in the fight against money laundering they will improve the security of their financial systems and cut off a major incentive to corruption and other criminal activity.

needs to be taken when expanding the group membership as there could be administrative problems in respect of non-English speaking countries. As the potential new members will probably be starting from a low FATF-baseline a "trail in" process will also need to be developed.

Objective 7): A sustainable and efficient secretariat

29. When ESAAMLG was first established in 1999, a goal was to finance through membership subscription the core activities of the secretariat i.e. that required by member countries to help them to implement their national AML/CFT strategies. This goal has yet to be achieved because some member countries are not paying their subscriptions until towards the end of the financial year and there are some arrears (see [example seven](#)). It should also be noted that subscriptions only cover the costs of one AML /CFT professional (the Executive Secretary) and 4 administrative personnel. As an increase in the rate of subscriptions is deemed to be unlikely over the period of this strategy none has been assumed.
30. The secretariat remains heavily dependent on the continuation of external assistance. Donations will be sought for programme activity where this is not covered by the funds from subscriptions. An immediate challenge is the shortage of professional expertise. Ideally the secretariat should have professional skills in the areas of finance, law and law enforcement as this would ease the burden placed on the secretariat by this strategic plan and in particular the proposed expansion of the mutual evaluation programme. Any increase in the size of the secretariat should be subject to a detailed work plan and the approval of the Council of Ministers.
31. If the secretariat is to be successful in mobilising additional funds, it will need to demonstrate that it is making the most of its existing resources through efficient work practices. Ideally, work practices should be subject to continuous improvement for the duration of the strategy. This could be ensured by commissioning an independent efficiency scrutiny that looks, *inter alia*, at the structure of human resources including the definition of roles and responsibilities and following up the recommendations of the scrutiny during the period of the strategy. The efficiency scrutiny could also consider the case for a steering group to guide the work of the secretariat. The increased focus on results promulgated by this strategy will require the development of an improved communication strategy and improvements to the ESAAMLG webpage.
32. There are a number of improvements that could be made immediately to the secretariat's work practices pending the proposed efficiency scrutiny. These include setting targets for the distribution of papers prior to group meetings and targets for providing the minutes / recommendations arising from meetings and following these up. Targets should also be set for responding to audit reports and implementing their recommendations.
33. Earlier sections of the strategy have explained the background and justification for the activity for which funds additional to that provided through subscription have to be sought. For ease of reference, details are summarised below in [table three](#). Provision for a law enforcement expert, currently provided by the UN Mentor, and for a legal expert needs to be made subject to a detailed work plan from the Secretariat. It can be seen that \$1.2 million will probably need to be mobilised over the period of the strategy. This is approaching twice the level of annual funds mobilised over the preceding 3-year period. Existing and potential new donors may be approached for pledges of continued and/or increased funding.

Table three: Summary of additional funding requirements

Activity	Cost per year US \$	Cost over 3-year period
Mutual evaluations	125,000	375,000
Evaluator training courses	50,000	150,000
Establish regional training centre	100,000	300,000
Synthesis report	25,000	75,000
Typology exercises	50,000	150,000
Communications strategy and systems enhancement	50,000	150,000
Total	400,000	1,200,000
Average amount currently mobilised annually	(230,000)	
Difference	170,000 (74 %)	

* Law enforcement expert and legal expert are not included in the above table.

34. The secretariat needs to strengthen its accounting arrangements. A new accounting package needs to be implemented with associated training for the group's accountant. Consideration should also be given towards the appointment of professional accountants from one of the large international accountancy firms that is based locally to provide audit and accountancy assistance as provided for in the group's memorandum of understanding. The tight timescale of only a few weeks between the annual closure of the books and the date of the annual meeting is also worth noting. Consideration should be given by the Council of Ministers to changing the dates of the accounting year to allow more time for the closure of the books and the external audit to take place in advance of the meeting.

Annex 2

Summary of strategy by responsibility

Council of Ministers

- The Council of Ministers will agree annually regional priorities for the year to be incorporated in national strategies and programmes.

Member countries

- Member countries through the Task Force and their NMC will develop and maintain national AML/CFT strategies that are informed and updated by mutual evaluations and FSAP.
- Member countries will maintain systems to monitor implementation of their respective AML/CFT strategies and programmes.
- Member countries will provide the ESAAMLG secretariat with updated copies of their implementation plans and national progress reports each June.
- Member countries will undertake national skills audits of AML /CFT practitioner requirements and develop national capacity building programmes.
- Member countries will provide copies of national skills audits to the ESAAMLG secretariat, which will maintain a regional overview of skills.
- Member Countries will assist the Secretariat in performing its activities by seconding professional staff to the secretariat.
- Member countries will ensure timely payment of subscriptions.

Task Force and NMC

- The Task Force in conjunction with NMC will regularly and systematically engage with national policy makers with a view to integrating national AML/ CFT strategies into national financial sector reform programmes, national anti-corruption programmes and wider national development programmes to include securing the necessary national budget for implementation. In doing so, the Task Force in conjunction with NMC will promote action to join up with other key players at national level including national anti corruption bodies and financial intelligence units etc.
- The Task Force will commission an efficiency scrutiny of the ESAAMLG secretariat

ESAAMLG secretariat

- The ESAAMLG secretariat will develop and implement a regional AML/CFT awareness programme.
- The ESAAMLG secretariat will effectively manage a 3-year programme of mutual evaluations i.e. programme formulation, administrative support, quality control and follow up of recommendations

- The ESAAMLG secretariat will develop and maintain an AML/CFT monitoring system to track the development of national strategies and the status of implementation and advise the Council of Ministers on trends and possibilities for mutual support.
- The ESAAMLG secretariat will coordinate the development of a regional advisory and implementation assistance service. This will primarily comprise maintaining a network of experts from within the region who have committed to assist member countries with advice and assistance with implementation issues to which members can tap into.
- The ESAAMLG secretariat will source experts from outside of the region with specialist expertise where this is not available from within the region that member countries could approach for implementation assistance.
- The ESAAMLG secretariat will maintain, with the assistance of NMC, a regional overview and coordinating mechanism for technical assistance and training based on information provided by NMC and national skills audits.
- The ESAAMLG secretariat will facilitate and organise expert training both regionally and within country at the request of member countries.
- The ESAAMLG secretariat will facilitate mentoring programmes for evaluators and evaluators' participation as observers in evaluations carries out by the FATF and other FSRBs.
- The ESAAMLG secretariat will carry out a feasibility study on the establishment of a regional AML/CFT and anti-corruption training centre in partnership with a regional institution. Subject to the results of the feasibility study, the ESAAMLG secretariat may also oversee implementation of the centre.
- The ESAAMLG secretariat will deliver 2 evaluator training courses for 15 regional experts twice yearly.
- The ESAAMLG secretariat will ensure that the evaluator training courses will result in a 'balanced pool' of some 56 evaluation experts by the end of the strategic planning period.
- A 'virtual' network will be developed and maintained by the ESAAMLG secretariat to ensure that the cadre of evaluation experts are fully apprised of latest developments and encouraged to pass on their knowledge to develop other expertise in country. The ESAAMLG web page will be enhanced to support the network.
- The ESAAMLG secretariat will produce and distribute reports on issues arising at FATF meetings and implications for the region within 30 days of such meetings.
- The ESAAMLG secretariat will produce an annual synthesis report covering all issues and lessons learned arising from mutual evaluations, country assessments, implementation plans and progress reports, FATF meetings and typology exercises etc. This will make recommendations to the Council of Ministers on how to apply lessons learned.
- The ESAAMLG secretariat will undertake one regional typology exercise per year addressing a priority issue of regional concern. Although primarily of benefit to ESAAMLG members the results will be shared internationally through FATF as a means of contributing to global efforts.
- The ESAAMLG secretariat will keep Member Countries informed of Member Countries to participate in such exercises and apply lessons learned.

- The ESAAMLG secretariat will track implementation of regional priorities through national AML/CFT implementation programme progress reports.
- The ESAAMLG secretariat will develop a 'trail in' process for potential new ESAAMLG members for approval by the Council of Ministers.
- The ESAAMLG secretariat will contact those countries that have expressed an interest in joining ESAAMLG with a view to inducting them into the trail in process.
- The ESAAMLG secretariat will approach donors for the provision of a legal expert to work in the secretariat subject to a detailed work plan and the approval of the Council of Ministers.
- The ESAAMLG secretariat will mobilise the additional funds necessary to carry out the activities attributable to the secretariat in the 3-year strategy.
- The ESAAMLG secretariat will prepare and circulate papers for ESAAMLG meetings, including separate briefs for the Chairman of the Task Force and the President of the Council of Ministers, at least 6 weeks in advance of meetings.
- The ESAAMLG secretariat will follow up and track the implementation of decisions taken at ESAAMLG meetings.
- The ESAAMLG secretariat will prepare and implement an improved communications strategy.
- The ESAAMLG secretariat will respond in writing to external audit observations and recommendations within 30 days of the receipt of a written audit report.
- The ESAAMLG secretariat will improve accounting arrangements.

Annex 3

A developmental approach for the implementation of the ESAAMLG Strategic Plan

ESAAMLG member countries must remain committed to implementing the full range of the FATF 40+9 Recommendations to combat money laundering and terrorist financing. This objective is expressed in the ESAAMLG Memorandum of Understanding and the draft ESAAMLG Strategic Plan which is due to be considered by the Council of Ministers at its August 2005 meeting. All member countries can achieve real progress in meeting this objective if the steps followed in this process follow a logical sequence to implement an AML/ CFT system built on a solid foundation appropriate to that country's needs.

The developmental approach set out in this annexure seeks to give effect to the objectives of the ESAAMLG Strategic Plan 2005–2008, namely that all member countries implement international AML/CFT standards in accordance with their national strategies. In doing so, it nevertheless focuses on strategic objectives two and three of the strategic plan, which will be the core to a country's future AML/ CFT systems.

The premise of the approach is that a country can achieve real progress in complying with the FATF requirements if the development of its AML/CFT system starts on a solid foundation. This foundation will then provide a basis upon which a complete system can be built in a continuous process. To this end the proposal entails that:

- A list of priority areas for a country should be identified from the FATF 40 + 9 Recommendations.
- A targeted programme commences by which countries first seek to reach compliance with these recommendations.
- Countries implement the recommendations in identifiable stages, using a phased approach.
- Countries' progress in the implementation of the recommendations is appraised.
- Developmental areas in relation to the recommendations are identified on the basis of these appraisals.
- The provision of technical assistance to countries in respect of their individual developmental areas is facilitated.
- Countries continue the process to adapt their national AML/CFT strategies and develop their AML/CFT frameworks in accordance with the full FATF 40 + 9 Recommendations.
- Countries undergo mutual evaluations to monitor their progress in relation to their continued development of their AML/CFT frameworks.

The criteria a country needs to implement as a foundation comprise elements applicable to its criminal justice system; preventive measures; administration of the system; and areas of international cooperation. An example of these priority areas (with the corresponding FATF Recommendations) is set out as follows:

Criminal Justice

R1 and SRI: Criminalise money laundering and financing of terrorism

R3 and SRIII: Freezing and forfeiture of proceeds of crime and terrorist related property

Preventive

Customer due diligence

R 5: Client identification

R6: Systems in financial institutions to deal with PEP's

R10: Keeping records of transactions

Reporting

R13 and SRIV: Reporting of suspicious transactions on money laundering and terrorist financing

R11: Attention to complex transactions

R4: Relax financial institution secrecy

R14: Protect persons making reports

Administrative

R27: Mandate for investigating authorities

R28: Powers of investigating authorities to obtain documents and information

R27: Mandate for investigating authorities

R28: Powers of investigating authorities to obtain documents and information

R23: Supervision of financial institutions

R26: Establish a Financial Intelligence Unit (FIU)

International

R35 and SRI: Ratify UN Conventions and implement UNSC Resolutions

R36 to 39: Offer mutual legal assistance and extradition.

R40: Other forms of co-operation

There may be other criteria of particular relevance to specific countries, depending on the circumstance in that country.

Appraisal

The draft ESAAMLG Strategic Plan states that progress in the implementation of member countries' national strategies will be measured. The strategic plan also requires that member countries will have robust monitoring systems to measure this progress. This will allow member countries to keep track of their national implementation. The proposed mechanism will facilitate this process by providing member countries with additional information to gauge the areas where the development of their AML/CFT frameworks should be focused.

An appraisal mechanism will provide a status report and give recommendations for improving systems. The output from such an appraisal therefore provides a basis for developing and/or improving national AML/CFT strategies and implementation programmes. This mechanism should serve to identify the technical assistance needs of an individual member country in respect of the

fundamental requirements of its AML/CFT framework.

The objective of such a technical assistance appraisal mechanism should not be to rate deficiencies in countries. Instead, individual countries should be able to use the results from such an appraisal mechanism to gauge the stage of development of their AML/CFT frameworks. It makes sense therefore to use the results to feed into the information gathering process that takes place prior to updating national development plans.

The results of these assessments of individual member countries should form the basis for countries in planning the continued implementation of their AML/CFT strategies. These results will indicate the areas where more attention to the development of specific measures is required in each assessed country. This should assist individual member countries to make informed decisions on the sequence of implementation of their respective AML/CFT strategies.

Technical assistance and training

The Strategic Plan indicates that the ESAAMLG secretariat will maintain a coordinating mechanism for technical assistance and training. In identifying the areas where development of AML/CFT measures is needed, individual member countries will be in a position to assess accurately where they will benefit most from technical assistance. Member countries will then be able to collaborate with the ESAAMLG Secretariat in sourcing the most appropriate forms of technical assistance from the donor community.

The process to implement technical assistance should be ESAAMLG-owned and -driven. The ESAAMLG Secretariat should lead this initiative, which should include a high level of involvement from ESAAMLG member countries at each stage of the process.

Technical assistance providers should be encouraged to liaise closely with the Secretariat to ensure that technical assistance is coordinated by the Secretariat and provided on the basis of needs in a targeted and focused manner.

Continuation of the process to build AML/CFT frameworks

The introduction of the fundamental elements of an AML/CFT framework is the first step in the process to establish a complete framework that meets the full FATF 40 + 9 Recommendations. Having these fundamental elements in place should place member countries in a strong position to continue this process. In this way member countries will be able to derive benefit from a continued technical assistance needs analysis process and mutual evaluations within ESAAMLG.



**ESAAMLG STRATEGIC PLAN
APRIL 2009-MARCH 2012**

Introduction

1. The second Three Years Strategic Plan of the ESAAMLG covers the period April 2009 - March 2012 and consolidates the activities and initiatives undertaken under the previous Strategic Plan 2005-2008. It indicates the strategic direction which the ESAAMLG will pursue to attain its objectives and carry out its functions as an FATF Style Regional Body.
2. The Plan contains a vision statement and a mission statement and sets out 9 key strategic objectives, its expected outputs and the strategy needed to achieve these outputs.
3. The Plan seeks to consolidate and sustain efforts to implement the 40+9 recommendations in all member countries in a manner that is consistent with the specific structural peculiarities and vulnerabilities of the region.
4. The document will be complemented on an annual basis by ESAAMLG's work programme which will provide further details on the priorities of the ESAAMLG for each financial year.

Background

5. The first Strategic Plan of the ESAAMLG was approved by the Council of Ministers at its meeting in Livingstone, Zambia in August 2005. It was developed to enable ESAAMLG to focus on developing itself as a fully-fledged FATF Style Regional Body (FSRB). The Plan set out seven key strategic objectives, namely-

- ⇒ Member countries will develop and implement national AML/ CFT strategies.
- ⇒ Member countries implement AML/CFT measures, meeting international standards in accordance with their national strategies and informed, inter alia, by mutual evaluations and Financial Sector Assessment Programme reports.
- ⇒ Member countries will develop the capacity of institutions and AML/CFT practitioners.
- ⇒ The ESAAMLG Secretariat will provide guidance and disseminate knowledge on latest AML /CFT developments, emerging risks and other lessons learned to members, regional stakeholders and FATF.
- ⇒ ESAAMLG Member Countries will establish regional priorities for implementing FATF recommendations.
- ⇒ ESAAMLG members will encourage non-ESAAMLG members in the region to cooperate in the global fight against money laundering and the financing of terrorism and to join ESAAMLG.
- ⇒ A sustainable and efficient ESAAMLG Secretariat.

6. To achieve these strategic objectives, it was anticipated that it would be necessary to develop an efficient and sustainable Secretariat as early as possible.
7. At the time when the Strategic Plan was approved the Secretariat was a weak institution with very limited capacity to effectively implement its work programme. In particular, it had very limited technical staff capacity and for the objectives of the Strategic Plan to be fully realised the staff capacity needed to be improved. One of the key activities that was immediately undertaken in order to address this strategic objective i.e. developing "a sustainable and efficient ESAAMLG Secretariat" was to undertake an " *Efficiency Scrutiny*" of the Secretariat and to determine the minimum resources and staff complement that would enable the Secretariat

to undertake the critical tasks that a FATF- Style Regional Body (FSRB) is meant to carry out. The recommendations of the "*Efficiency Scrutiny*" report are currently being implemented. The technical capacity of the Secretariat has been increased through the implementation of the recommendations.

8. The Strategic Plan did allocate responsibilities to different stakeholders i.e. The Council of Ministers, Member Countries, the Task Force of Senior Officials, the National Multidisciplinary Committees and the Secretariat. On balance, there has been some progress in achieving the objectives of the strategy by each of the above stakeholders. Much, however, is left to be done¹ in order for the expected results of each strategic objective to be realised.
9. The global AML/CFT standards have also evolved since the adoption of the 2005-2008 Strategic Plan. The FATF has consistently revised the 2004 Methodology for Assessing Compliance with the FATF 40+9 Recommendations. The latest amendments date back to February 2008.
10. Further, recognising the particular problems faced by low capacity countries, the FATF has in February 2008 issued "*Guidance on Capacity Building for Mutual Evaluations and Implementation of the FATF Standards within Low Capacity Countries*". The primary purpose of the FATF Guidance, which is to support low capacity countries in implementing the FATF Standards in a manner reflecting their national institutional systems, is consistent with the ML/FT risks they face and takes account of their limited resources. This Guidance will assist member countries to develop and review their national AML/CFT strategies.
11. Further, at a Group level, 10 out of the 14 member countries have been evaluated under the 2004 FATF Methodology while the Kingdom of Lesotho has undergone a Development Strategy Implementation Assessment. Technical assistance needs for the effective implementation of the core Recommendations of the FATF have also been identified.
12. The capacity of institutions and AML/CFT practitioners in countries has been significantly enhanced since the adoption of the first Strategic Plan. About 55 evaluators have been trained so far. The ESAAMLG in collaboration with the supporting nations and organisations has organised training for investigators, prosecutors and law enforcement agents in the region.
13. ESAAMLG welcomed the Union of the Comoros as an observer at the March 2008 Task Force meeting.
14. At the August 2006 Council of Ministers meeting in Harare, the Council agreed that ESAAMLG will apply for FATF Associate Membership at an appropriate date which will be determined in consultation with the Secretariat. Associate membership status will provide better opportunities for ESAAMLG and ESAAMLG member jurisdictions to participate in FATF activities including active participation in developing new AML/CFT standards and having access to plenary meetings, conference, training and participation in consultation processes with the FATF.
15. In order to qualify as an Associate Member of the FATF, ESAAMLG must, *inter alia*, have in place mechanisms which seek to ensure actual and effective implementation of the FATF standards within the body's membership. This is mostly achieved through the mutual evaluation exercise and close monitoring of the follow up actions.
16. In addition, to qualify as an Associate Member, one of the core functions of the ESAAMLG

¹ A review of the implementation status of the 2005-2008 Strategic Plan was circulated at the March 2008 Task Force meeting.

must include conducting regional level research and analysis of ML/TF methods and trends, in particular typologies exercises. To meet this requirement, a Typologies Working Group has been established and it is currently undertaking a number of typologies studies. Further typologies work will be undertaken by the ESAAMLG during the period of implementing the second Strategic Plan.

17. One of the major expected outcomes of the implementation of the 2005-2008 Strategy was to have focused discussion on substantive AML/CFT issues in the meetings of the Task Force of Senior Officials to help shape ESAAMLG meetings so that the Council of Ministers can concentrate on strategic issues and decisions that will drive forward the process of AML/CFT at national level. These expected outcomes have been successfully achieved to a large extent and going forward, the new Strategic Plan aims at consolidating this approach.
18. The second Strategic Plan of the ESAAMLG has been developed against this background. The new Plan which is result-oriented builds on the Strategic Plan 2005- 2008 and also takes into account the regional and international developments described above.

Contents of the Strategic Plan 2009-2012

19. The Strategic Plan 2009-2012 describes ESAAMLG's:
 - vision
 - mission
 - strategic objectives and their expected outputs and
 - strategies to achieve these objectives

ESAAMLG STRATEGIC PLAN APRIL 2009-MARCH 2012

VISION STATEMENT

A strong and dynamic FATF Style Regional Body committed to eradicate money laundering and terrorist financing in the Eastern and Southern African region.

MISSION STATEMENT

To consolidate and sustain the combined efforts to combat money laundering and terrorist financing in the Eastern and Southern African region through effective implementation of AML/CFT standards in all ESAAMLG member countries.

STRATEGIC OBJECTIVES

1. Development and review of implementation of national AML/CFT strategies
2. Sustaining the evaluation and monitoring of ESAAMLG members' compliance with the international standards against money laundering and terrorist financing
3. Undertake research and analysis exercises to better understand money laundering and terrorist financing risks and vulnerabilities in the region and effectively contribute to regional and international AML/CFT policy formulation
4. Expansion of ESAAMLG membership
5. Strengthening regional cooperation among member countries
6. Strengthening ESAAMLG cooperation and participation in AML/CFT global environment
7. Consolidating regional AML/CFT capacity building, training and awareness raising programmes
8. Sustaining the provision of AML/CFT advisory services to member countries
9. Consolidating the sustainability and efficiency of the Secretariat

STRATEGY TO ACHIEVE THE STRATEGIC OBJECTIVES

1 Development and review of implementation of national AML/CFT strategies

Expected output: Each member country has an effective domestic AML/CFT regime consistent with the country's specific structural peculiarities and vulnerabilities taking into account, to the extent possible, the FATF Guidance on Capacity Building for Mutual Evaluations and Implementation of the FATF Standards within Low Capacity Countries.

Strategy

The strategy for achieving the above objective will comprise:

- The Secretariat will support and promote the work of ESAAMLG Working Groups and Project Groups to explore and address specific AML/CFT implementation issues in low capacity countries, including risk profiles and resource constraints which may undermine the speed of implementation.
- Member countries through their established National Multidisciplinary Committees, and where required with the help of technical assistance providers, will update their national AML/CFT implementation plans as informed by assessment programmes such as Mutual Evaluations, Financial Sector Assessment Programme, Development Strategy Implementation and regional AML/CFT priorities as approved by the Council of Ministers on an annual basis and having regard to national risks and resource constraints.
- Member countries will undertake a national ML/TF risk assessment. The Secretariat will coordinate technical assistance to assist member countries in conducting national ML/TF risk assessment and provide guidance on how to implement the international standards in their specific circumstances and to work on all aspects of setting up an effective AML/CFT regime.
- Member countries will consult and engage with the private sector when reviewing their national implementation plans and conducting the national risk assessments.
- Member countries will identify their technical assistance requirements and seek such assistance as may be required to ensure effective implementation of their national strategies.
- Member countries will maintain monitoring systems on national strategy implementation, and will submit annual progress reports, which will also identify implementation constraints to the Secretariat a month before the meetings of the Council of Ministers.
- The Secretariat will update and maintain regional AML/CFT monitoring and evaluation systems informed by national AML/CFT strategy, implementation plans and progress reports and compile a report to the Council of Ministers to consider possible intervention.

- The Task Force, working together with National Multidisciplinary Committees, will promote integration of AML/CFT issues into member countries' national development programmes such as financial sector reform and anti-corruption measures to encourage joint action with key role-players and allocation of necessary budget at national level.

2 Sustaining the evaluation and monitoring of ESAAMLG members' compliance with the international standards against money laundering and terrorist financing

Expected output: Conclusion of first round of evaluations/assessments under the FATF ME 2004 methodology and increase the level of compliance by member countries meeting AML/CFT standards.

Strategy

The strategy for ensuring that lessons learned from country assessments are implemented to achieve the above objective will comprise:

- Member countries will continue to participate in an on-going programme of mutual evaluations conducted in accordance with ESAAMLG mutual evaluation procedures and within the Schedule of Mutual Evaluations as approved by the Council of Ministers.
- Member countries will provide follow up reports indicating the progress they are making in moving towards compliance with the AML/CFT standards. Where applicable, countries may undergo a second round of mutual evaluation.
- The Secretariat will effectively continue to manage a programme of mutual evaluations, comprising programme formulation, administrative support, adherence to quality control standards and conduct follow-up on recommendations.
- The Secretariat, with the support from donors, will provide preparation and post mutual evaluation support and, where required, training for ESAAMLG members undergoing mutual evaluations.
- The Secretariat will coordinate review mechanisms through the Expert Review Group process to ensure and maintain the quality and consistency of ESAAMLG mutual evaluation reports.
- The Secretariat will strengthen post-evaluation reporting mechanisms to follow up on action taken by member countries in response to mutual evaluations.

3 Undertake research and analysis exercises to better understand Money Laundering and Terrorist Financing risks and vulnerabilities in the region and effectively contribute to regional and international AML/CFT policy formulation

Expected output: A comprehensive AML/CFT information and knowledge base to enhance AML/CFT initiatives regionally and internationally

Strategy

The strategy to achieve this objective will comprise:

- The Council of Ministers will on annual basis approve priority regional ML/TF typologies and research work programmes.
- The Task Force in conjunction with the Secretariat will work through the Typologies Working Group to continue studying regional existing and emerging ML/TF risks and vulnerabilities for member countries to consider putting counter measures in place. This will include setting up of sector specific typologies projects and research teams to undertake in-depth ML/TF studies.
- The FATF, other FSRBs and supporting nations and organisations will be encouraged to collaborate in ESAAMLG research and analysis of typologies projects.
- The Secretariat will manage the organisation of the work of the Typologies Working Group in accordance with approved mandate of typologies studies for completion and submission of typologies reports to the Task Force and Council of Ministers.
- The Secretariat will produce an annual synthesis report covering all issues and lessons learned arising from country assessment reports such as mutual evaluations, Financial Sector Assessment Programme, Development Implementation Strategy, implementation plans and follow up reports to evaluations and make recommendations to the Council of Ministers for intervention on lessons learned.
- For the effective formulation of international AML/CFT policies, the ESAAMLG ML/TF Typologies reports will be shared internationally with similar AML/CFT organisation as part of broader contribution to global typologies efforts such as the FATF Annual Typologies Reports. Equally, the Secretariat will distribute such typologies information and the implications thereof for the region to keep member countries informed and encourage their participation in such exercises and apply, where appropriate, lessons learned.
- The Secretariat will organise Typologies meetings and joint meetings with FATF and other FSRBs to discuss the emerging ML/TF typologies.

4 Expansion of ESAAMLG membership

***Expected output:** To provide a strong and unified regional AML/CFT body which promotes compliance with global AML/CFT standards to minimise the risk of money laundering and terrorist financing in the region*

Strategy

The strategy for enlarging membership of the Group will comprise:

- The Secretariat in conjunction with the Task Force of Senior Officials will target and consider eligible countries in Eastern and Southern Africa to apply for membership.
- Member Countries to encourage non-member countries in the eastern and southern Africa

region to cooperate in the fight against ML/TF.

- The Secretariat will manage the implementation of 'trail-in' process as approved by the Task Force and the Council of Ministers for new member countries intending to join the ESAAMLG.
- The Secretariat will continue to welcome international organisations and cooperating nations involved in AML/CFT work who wish to join ESAAMLG as Observer members.
- The Council of Ministers will approve membership application of countries and international organisations and cooperating nations in accordance with ESAAMLG procedures.

5 Strengthening regional cooperation among member countries

***Expected output:** To establish a gateway in order to facilitate cooperation and exchange of information amongst member countries for effectively combating money laundering and terrorist financing in the region.*

Strategy

The strategy to achieve this objective:

- The Secretariat will use existing tools as well as develop new mechanisms for cooperation and exchange of information.
- The Secretariat will organise and provide support for the development of FIUs in member countries to enhance cooperation and exchange of information in the region.
- ESAAMLG member countries will consider and agree on entering into a memorandum of understanding for cooperation and exchange of information to combat money laundering and terrorist financing in the region.
- Where requested, the Secretariat will facilitate the promotion of cooperation on a bilateral or multilateral basis.

6 Strengthening ESAAMLG cooperation and participation in AML/CFT global environment

***Expected output:** To participate effectively in global standard setting activities and other international AML/CFT initiatives.*

Strategy

The strategy for ensuring the relevance of the Group will comprise:

- The Secretariat will enhance its working relations with multilateral and international institutions and partner nations on AML/CFT issues.
- The Secretariat will participate in international standard setting initiatives including

representation in FATF Plenary, Typologies and Working Group meetings.

- Once the ESAAMLG acquires FATF Associate Membership status ESAAMLG member countries will be encouraged to directly participate in FATF activities.

7 Consolidating regional AML/CFT capacity building, training and awareness raising programmes

Expected output: Sustainable and effective national AML/CFT institutional and personnel development.

Strategy

The strategy for achieving this objective will comprise:

- The Council of Ministers will annually approve AML/CFT priorities for the region to assist the Secretariat in prioritising regional capacity building and enhancement initiatives.
- The Secretariat will organise and provide support for the development of financial intelligence unit in each member country. It will organise and facilitate specialised technical assistance and other FIU capacity development and enhancement programmes, including interdisciplinary FIU-law enforcement and FIU-obliged entity workshops to enhance communication, in accordance with member countries needs.
- The Secretariat will work closely with the Egmont Group Secretariat to facilitate the development of and the acquisition of Egmont Group membership by financial intelligence units in the region to broaden the scope for cooperation on information sharing and exchange.
- The Secretariat will organise and facilitate expert training/workshops, including for supervisors, investigators, prosecutors and other law enforcement agencies, at country and regional levels at the request of the member countries and in accordance with the work programme of the ESAAMLG.
- The Secretariat will manage mentoring programmes for evaluators and evaluators' participation as observers in evaluations/assessments carried out by the FATF, other FSRBs as well as the IMF and the World Bank.
- The Secretariat will organise and facilitate mutual evaluation training courses yearly to enhance and maintain the balanced pool of evaluators capable of undertaking mutual evaluations.
- A 'virtual' network will be developed and maintained by the Secretariat to ensure that the cadre of evaluators are fully apprised of latest developments and encouraged to pass on their knowledge to develop other expertise in their country. The ESAAMLG web page will be improved to support the resource network.
- Member countries will continue to undertake national skills audits for submission to the Secretariat, which will maintain a regional overview of skills.
- The Secretariat will maintain, with the assistance of the National Multidisciplinary Committees, a regional overview and coordinating mechanism for technical assistance and training based on training needs provided by National Multidisciplinary Committees and national skills

audits, including workshops to train AML/CFT experts in the region.

8 Sustaining the provision of AML/CFT advisory services to member countries

***Expected output:** Enable member countries to institute appropriately functioning AML/CFT systems informed by reliable knowledge and guidance*

Strategy

- Member countries will use lessons learned from evaluations/assessments, typologies, annual synthesis reports etc to request expert advice and technical assistance from the Secretariat, advanced member countries and collaborating international organisations and nations.
- The Secretariat will strengthen the development of a regional advisory and implementation assistance service by organising a network of AML/CFT experts from within the region to provide advice and support service regarding implementation of national AML/CFT strategies.
- Where AML/CFT specialist expertise is lacking within the ESAAMLG region, the Secretariat will assist in sourcing from outside of the region for member countries to approach for AML/CFT implementation assistance.
- The Secretariat will work in close collaboration with supporting nations and organisations to develop a systematic plan for the provision of technical assistance to member countries.
- The Secretariat will provide advice to member countries on implementation of AML/CFT requirements upon request.

9 Consolidating the sustainability and efficiency of the Secretariat

***Expected output:** Results of the strategic plan 2009-2012 achieved and targets set in the annual work plans met.*

Strategy

The sustainability and efficiency will be consolidated through the following:

- The Secretariat will continue to productively organise and manage the meetings of the Task Force of Senior Officials and the Council of Ministers
- The Secretariat will continue to prepare and circulate papers for ESAAMLG meetings, including separate briefs for the Chairman of the Task Force and the President of the Council of Ministers, at least 4 weeks in advance of meetings.
- The Secretariat will follow up and track progress made on the implementation of decisions taken at ESAAMLG meetings and provide advice when challenges arise.

- Member countries will assist the Secretariat in performing its activities by providing additional support whenever the need arises.
- Supporting nations and collaborating organisations will be encouraged to continue to actively support the work programme of the ESAAMLG.
- The Secretariat will reach out to other FSRBs' for additional coordination, support and assistance when feasible, to include the development of mentoring relationships between FSRBs and between assessors when conducting mutual evaluations.
- The Secretariat will coordinate and/or facilitate donor funding on AML/CFT activities in the region.
- The Secretariat will continue to improve accounting systems and to respond in writing to external audit observations and recommendations within 30 days of the receipt of a written audit report.
- The Secretariat will mobilise the additional funds necessary to carry out the activities of the Secretariat as set out in the 3-year strategy and ensure timely payment of subscriptions from member countries.
- Member countries to ensure that annual subscription payments are made in accordance with the decisions of the Task Force and the Council of Ministers.

Conclusion

Since the first Strategic Plan was adopted ESAAMLG has developed positively as an FATF Style Regional Body. The second Strategic Plan seeks to consolidate and sustain efforts to implement the FATF 40+9 recommendations in all member countries in a combined effort to combat money laundering and terrorist financing in the Eastern and Southern African Region.

