REFLECTING ON THE WORK OF THE CARIBBEAN ANTI MONEY LAUNDERING PROGRAMME – A Holistic Approach to Regional Technical Assistance in the Fight Against Anti Money Laundering and the Financing of Terrorism

Also, brief comments on CHINA


INTRODUCTION

I am here to give an overview of, and reflect upon the work of the Caribbean Anti Money Laundering Programme (CALP), between its inception in March 1999, and its conclusion in December 2004. I shall elaborate more on the law enforcement content of the programme in due course, having been directly involved in that sphere. I shall also make brief reference to the more recently established Pacific Money Laundering Project (PALP), which takes much of its structure and composition from the successful achievements attributed to CALP.

Following a series of regional meetings and initiatives over preceding years, the Caribbean Anti Money Laundering Programme commenced in March 1999 with the appointment of a programme director. It concluded in December 2004. However, it is perhaps of some significance to understand how the programme first came about, before expanding on the programme content.

THE KINGSTON DECLARATION

In 1992, in Kingston, Jamaica, Ministers of the Caribbean basin countries comprising the Caribbean Financial Action Task Force (CFATF), agreed to adopt and implement the Vienna Convention (1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances), the Financial Action Task Force (FATF) 40 recommendations on anti money laundering measures, and the CFATF 19 regional recommendations. This commitment was contained in what is known as the Kingston Declaration.
SUMMIT OF THE AMERICAS PLAN OF ACTION

In December 1994, at the Summit of the Americas in Miami, Florida, there emanated a Plan of Action, which included undertakings that governments would:

♦ ratify the Vienna Convention
♦ introduce the necessary legislation to seize, freeze and forfeit the proceeds of money laundering
♦ implement the 19 recommendations of the CFATF
♦ encourage financial institutions to report large and suspicious transactions, and
♦ to work individually and collectively to identify the regions money laundering networks, prosecute their leaders and seize their assets.

THE BARBADOS PLAN OF ACTION

A further Plan of Action came about following a regional meeting on Drug Control Co-operation in the Caribbean, held in Barbados in May 1996, and hosted by the UN International Drug Control Programme (UNDCP). Under the Money Laundering section of the Plan, further commitments are made to the Vienna Convention and the FATF and CFATF recommendations, but in addition, a new recommendation appeared:

In order to provide urgently needed training and assistance at the regional level, a financial investigation expert team should be established, consisting of specialists from within and outside the region, to assist those in the Caribbean responsible for the investigation of money laundering.

This led to a team of consultants being commissioned to formulate the appropriate structure and terms of reference for such an expert team. This was initially referred to as the Regional Anti Money Laundering Training and Technical Assistance Project – later to become the Caribbean Anti Money Laundering Programme (CALP).
THE SANTO DOMINGO REVIEW

Progress on the Barbados Plan of Action was reviewed in Santo Domingo in December 1997, with a call for action by May 1998, being a date which coincided with the 2nd anniversary of the Barbados Plan, and the 10th anniversary of the 1988 Vienna convention. The Santo Domingo review brought about an agreement, not just to initiate the Barbados Plan of Action, but also to ensure that efforts were coordinated with other related projects and organisations, including the University of West Indies and the UNDCP.

You will note that from the Kingston Declaration in 1992, it was to take seven years before CALP was finally initiated in 1999.

The programme was designed as a four year project to assist the 21 Caribbean Basin member countries of CARIFORUM (the representative organisation for Caribbean countries) to develop their anti money laundering procedures. In the event, CALP ran for five years concluding in December 2004. It was funded primarily by the European Union, and the governments of the USA and UK.

The two primary objectives of the CALP were:

- To reduce the incidence of the laundering of the proceeds of all serious crime by facilitating the prevention, investigation, and prosecution of money laundering and the seizure and forfeiture of property connected to such laundering activity.
- To develop a sustainable institutional capacity in the Caribbean region to address the issues related to anti-money laundering efforts at a local, regional and international level, by strengthening existing institutional capacity at the regional level, and developing new, or enhancing existing, institutional capacity at the local level.

The Programme consisted of three separate, yet interlinked, sub-programmes – LEGAL/JUDICIAL, FINANCIAL SECTOR, and LAW ENFORCEMENT. Being that the majority of Caribbean countries followed
the UK common law system, as far as the legal/judicial and law enforcement roles were concerned, it was essential for those positions to be occupied by persons with the appropriate expertise and experience.

**LEGAL/JUDICIAL**

After conducting worldwide research of anti-money laundering laws, regulations and working practices, the legal/judicial advisor made appropriate recommendations to the respective member countries to ensure they have the necessary legal structures in place to combat money laundering. Countries with very limited facilities were also provided legislative drafting assistance. Training was given to prosecutors, magistrates and judges. Awareness training also was given to other organizations within the financial and law enforcement sectors. In 2002, the CALP legal advisor developed a Model Terrorist Financing Law for use by the common law countries covered by the CALP. This model legislation is being considered for adoption by other Commonwealth countries, and particularly by member countries of the Eastern and Southern African Anti-Money Laundering Group.

**FINANCIAL SECTOR**

Experience has shown that much of the intelligence and evidence related to money laundering comes from various financial organizations, in particular, banks, casinos and insurance companies. This sub-program was developed to train staff at all levels within such organizations to identify suspicious financial activity and unusual business transactions. Staff members were made aware of the legal requirements and protection in their respective countries. Particular targets were compliance officers within the financial industry who are normally responsible for some staff training. Most such individuals have anti-money laundering issues as part of their responsibilities, so a "train the trainer" theme was encouraged in an effort to ensure that this aspect of training is sustainable.

**LAW ENFORCEMENT**

The Law Enforcement technical advisor was principally concerned with the development of training to enable Caribbean law enforcement officers to effectively investigate offences brought to their attention. The training, from basic to advanced level, was developed in association with Caribbean law
enforcement training establishments. The objective was for such establishments to continue training once the CALP ended. A further objective of this sub-program was to encourage all member countries to form their own national Financial Intelligence Units (FIUs), with staff trained to liaise with the financial sector, analyze reported suspicious financial activity and prepare intelligence reports to assist the law enforcement officers to investigate suspected offences.

All experts employed within the overall programme were always available to advise investigators, prosecutors and judges on any aspect of anti-money laundering issues.

When the Programme commenced, very few Caribbean countries had any form of anti-money laundering legislation. None had used laws to pursue anti-money laundering cases to completion. As a consequence, most investigators, prosecutors and judges had no experience with such cases.

The CALP’s major thrust was to assist countries of the Eastern Caribbean to improve their anti-money laundering systems and working practices so as to allow them to be removed from the FATF Non Cooperating Countries and Territories (NCCT) list. As of June 2003, this objective was accomplished.

Throughout its life, the CALP undertook a variety of regulatory, law enforcement and legal/judicial training initiatives in accordance with its primary objective of helping to ensure program sustainability in the region. Jamaica has subsequently accepted full responsibility for basic training for financial investigators at its Regional Drug Law Enforcement Training Center (REDTRAC), and the Regional Police Training School in Barbados has taken over the Advanced Investigators Training courses.

“Train the trainer” initiatives in the financial sector have been amplified with the updating and distribution of the CALP’s five training videos/CDs so that relevant financial organizations in the region may undertake their own training in the future.
The holistic approach undertaken by the CALP proved to be very successful. The combination of training and mentoring, using resident advisors, allowed for consistent assistance to the regional jurisdictions on a timely basis and helped to effect the sustainability of the individual regimes. In the annual US International Narcotics Control Strategy Report (INCSR) of 2005, it concluded that the design of the CALP will serve as a model for future regional programmes.

Perhaps it is no surprise therefore, to find that there is in existence “son of CALP”, namely, PALP – the Pacific Anti Money Laundering Project. The US State Dept has contributed US$1.5 million to the Pacific Islands Forum (PIF) to establish the PALP. Officially launched in September 2006 at the PIF in Fiji, and modelled on its fore-runner the CALP, it is projected to be a four year programme, and will target the 14 non-FATF member states of the PIF. (As a matter of interest, Fitzroy Drayton, who was the Legal/Judicial advisor for CALP, has been appointed as the Legal Mentor for PALP, and is currently based in Tonga.)

To quote from the 2006 INCSR, “The programme will provide regional and bi-lateral mentoring support with a staff comprised of a Coordinator and resident Mentors with demonstrated expertise in all elements required to establish viable anti-money laundering/counterterrorism terrorist financing regimes that comport with international standards. The PALP will be coordinated with efforts in the region by the UN Global Programme against Money Laundering, the Asia/Pacific Group on Money Laundering (APG), the Australian Attorney General’s anti-money laundering program, other Australian agencies, and the International Monetary Fund.” I wish every success to those involved in the delivery of the PALP.

THE PRACTICAL ASPECTS OF THE CALP LAW ENFORCEMENT PROGRAMME

Returning to the CALP, it might be of interest if I expand on some of the practical aspects of the law enforcement programme. I should also explain that as the majority of Caribbean countries followed the Common Law system, with much of the legislation taken directly from that in existence in the UK, it was necessary for trainers to be experienced not only in the relevant law, but also in the practical application of that law.
The major initial ingredient was the two-week training course for prospective financial investigators, which involved three phases leading to accreditation as financial investigators.

The first phase was for the student to research and study his/her own legislation as it relates to the investigation of money laundering, asset tracing, freezing of assets, and confiscation and forfeiture procedures, in order to make a presentation or be prepared to answer questions on the subject when attending a Financial Investigation Course.

**BASIC FINANCIAL INVESTIGATION COURSE**

The second phase was the satisfactory completion of a two-week Financial Investigation Course. This was developed, and enhanced, by experienced financial investigation officers from the UK, and featured practical exercises on most subjects covered in the course. These included interviewing techniques, planning operations, link charting, conducting searches, management of exhibits, and culminated in a major paper-fed financial investigation exercise. Feed-back from the course students, and from their senior officers, suggested that the practical exercises were extremely popular and a very effective teaching medium. (The quality of the CALP law enforcement training was also highlighted in an independent assessment conducted by KPMG.)

In addition, the students received presentations from the Legal/Judicial and the Financial Services Technical Advisors on relevant issues, which included terrorist financing.

**MENTORING**

The third phase was conducted “in country” by hands-on mentoring of those financial investigators who had completed the first two phases of training. This led to full accreditation. In a number of cases accreditation was also achieved when Caribbean officers were attached to established FIU’s in other countries. Some were sent to the UK, some to Canada, and others to one of the more established Caribbean jurisdictions.
SPECIAL COURSES
During the life of the CALP, in addition to the standard financial investigation courses, two further specialist courses were delivered. The first took place in Martinique, and was solely for police officers from Haiti. It was conducted jointly with experienced officers from French customs. The second was in Curaçao, Netherlands Antilles, conducted jointly with Dutch speaking officers.

ADVANCED TRAINING
It was almost inevitable that there came a request from the Caribbean countries, for further training and for that training to move up a level. Consequently, an Advanced Financial Investigation course was developed. This included subjects such as forensic accounting, seizing and examining computers, computer evidence, and civil forfeiture.

REGIONAL SUSTAINABILITY
As mentioned previously, regional sustainability was a major objective of the overall programme, and it was with this in mind that a number of “train the trainer” courses were delivered in Jamaica and Barbados – Jamaica accepting responsibility for delivery of the basic training course, and Barbados having taken over responsibility for the advanced course.

FINANCIAL INTELLIGENCE UNITS
In a number of jurisdictions, there was also a need to assist in the establishment of a national FIU, set up a database, introduce systems, and produce standardised documentation, tailored to local needs. Close liaison with government officials and representatives of the local financial sector helped to facilitate the smooth introduction and running of the system of suspicious transaction reporting.

ON REFLECTION
I firmly believe that the CALP made a significant contribution to advances in the fight against money laundering and the financing of terrorism throughout the Caribbean region. Much of its success is due to the considerable funding provided by the EU, the US and the UK, which enabled all jurisdictions
in the region to receive the necessary technical assistance which might otherwise have eluded them. It was also possible to achieve its aims and objectives with a very small but dedicated team of advisors.

**RECIPE FOR SUCCESS**

However, there is one over-riding requirement for any programme of this nature to be successful, and that is that firstly, there must be a political will in the country concerned. Without that pre-requisite, all the efforts by any combination of agencies is doomed to fail.

Funding and continued support from the larger developed countries will also provide an impetus for those countries with weaker economies, but who nonetheless possess the political will to conform to international standards.

And finally, the provision of technical expertise from those with the relevant knowledge and experience, to assist in the practical application of appropriate laws and financial regulation.

**BRAZIL**

It is therefore reassuring to find that within this region, there appears to be a genuine effort to be a party to progress in the global fight against money laundering and the financing of terrorism. This is evidenced by the active involvement of Brazil in a number of high profile organisations. These include:

**GAFISUD (South American FATF)**

I have referred to the FATF, the CFATF and the PIF. But what of your own local organisations? The following information is taken from the FATF website:

“The purpose of the Financial Action Task Force of South America (GAFISUD) is to work toward developing and implementing a comprehensive global strategy to combat money laundering and terrorist financing as set out in the FATF Forty Recommendations and FATF nine Special Recommendations. The effort includes encouraging the creation of the offence of money laundering
in relation to serious crimes, the development of legal systems to effectively investigate and prosecute these offences, the establishment of systems for reporting suspicious transactions, the promotion of mutual legal assistance. GAFISUD also fosters the training of persons involved in anti-money laundering efforts. GAFISUD enables regional factors to be taken into account in the implementation of anti-money laundering measures.

The origins of GAFISUD go back to ongoing efforts to integrate anti-money laundering efforts in South America and was encouraged by the creation of other anti money-laundering regional groups that were established following the FATF model. GAFISUD was created on 8 December 2000 in Cartagena, Colombia by means of a memorandum of understanding by representatives of the governments of nine South American countries. The Organization of American States (OAS) is also a member in an advisory capacity through the Inter-American Commission against Drug Abuse (CICAD).

Following the events of 11 September 2001, GAFISUD expanded its scope to include the countering of terrorist financing.

GAFISUD is committed to carrying out mutual evaluations and co-ordinating anti-money laundering training and educational efforts in the region. Its work mandate is set out in a memorandum of understanding containing specific terms of reference for the group. GAFISUD is supported by a Secretariat, based in Argentina, which serves as the focal point for its activities. GAFISUD became an Associate Member of the FATF in 2006. (The CFATF recently became only the fifth associate member of FATF. Associate membership strengthens the role played by FATF-style regional bodies within the FATF.)

Here in Brazil, you also have the national FIU, the Conselho de Controle de Atividades Financeira, the Council for Financial Activities Control (COAF). It is perhaps worth mentioning at this point that Mr Antonio Gustavo Rodrigues is the President of COAF, and was President of GAFISUD in 2006. It appears that Brazil should be congratulated, as it has recently been announced that they will take on the presidency of the FATF in July 2008, for its 20th year, and they will host the FATF plenary and working group meetings here in Rio de Janeiro from 13 to 17 October 2008.
CHINA

Before I conclude, just a brief word about China.

In late 2005 and early 2006, I was privileged to work with former colleagues from the CALP, as part of a UK government sponsored project in China. Our role was threefold. Firstly, to train staff from the China Anti Money Laundering Monitoring and Analysis Centre (CAMLMAC) – China’s national FIU - in methods of investigating money laundering and the financing of terrorism, and also how to deliver that training to the financial sector. Primarily, a “train the trainers” exercise.

The second part of our role was to deliver money laundering workshops to compliance officers from the financial sector at both senior and junior levels. And finally, we were required to attend a major money laundering training conference held at the State Guest House in Hangzhou, in order to assess the students we had previously trained, who were delivering all the presentations to the delegates, and report back.

Being such a vast country, the scale of cascade training required is huge. With one bank having some 22,000 branches, it can be seen that it will take some time to complete the task.

Until recently, China has been very much a cash culture. Much has been said and written about China as a developing economy, but I firmly believe that hosting the Olympic Games this year will rapidly accelerate that development. And with China being a member of the Asia Pacific Group (APG), the Eurasia Group (EAG) and having recently been accepted as a member of the FATF, the financial world is no doubt watching and waiting.

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May 2008