



INTER-GOVERNMENTAL ACTION GROUP AGAINST  
MONEY LAUNDERING IN WEST AFRICA

# Mutual Evaluation

## Executive Summary

Anti-Money Laundering and Combating  
the Financing of Terrorism

SÃO TOMÉ AND  
PRÍNCIPE

MAY 10 2013

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## **Executive Summary**

1. This report summarises AML/CFT measures in place in STP as of the time of the on-site mutual evaluation visit December 2012 and shortly thereafter. The report describes and analyses those measures and provides recommendations on how the system could be strengthened. It also sets out STP's levels of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations (see the attached table on the Ratings of Compliance with the FATF Recommendations).

2. The Democratic Republic of São Tomé and Príncipe (STP) is a small island State located in the Gulf of Guinea. It consists of two main islands, the island of São Tomé with a surface area of eight hundred and fifty nine square kilometers (859 km<sup>2</sup>) and the island of Príncipe with approximately 142 km<sup>2</sup>. The country does not have land borders and is located relatively near the coast of Nigeria, Cameroon, Equatorial Guinea and Gabon. Its Exclusive Economic Zone (EEZ) covers about one hundred and seventy thousand square kilometres (170,000 km<sup>2</sup>).

3. STP is one of the smallest independent States in the world and the second smallest in Africa, after the Seychelles. STP became independent in 1975. Of volcanic activity in origin, the archipelago is characterized by its extremely varied terrain, high levels of rainfall and soils of medium fertility.

### **Key Findings**

4. While STP has not conducted a national risk assessment, independent assessments make it clear that STP is vulnerable as a target for potentially money laundering and terrorist activities, particularly given that the economy is cash-based, providing an attractive environment for the placement and layering of funds. The risks are intensified given the absence of a fully operational and effectively functioning Financial Intelligence Unit (FIU), weak or lack of AML/CFT regulation and supervision of financial institutions and designated non-financial businesses and professions (DNFBPs), absence of a cross-border declaration/disclosure system, lack of implementation of effective, proportionate and dissuasive sanctions against natural or legal persons that do not comply with the national AML/CFT requirements.

5. Money laundering (ML) and terrorist financing (FT) have been autonomous offences in STP since 2008 and 2010, respectively. There have been no investigations, prosecutions or convictions for ML or FT. AML/CFT measures including preventative measures comprising customer due diligence (CDD), record keeping and suspicious transaction reporting (STR) are provided in the AML/CFT Law. The FIU was established by Law No 60/2009 as an independent institution but operates under the supervision of the Ministry of Finance and International Cooperation. The FIU is empowered to centralize, analyze and disseminate financial information to the competent authorities responsible for the prevention or prosecution of money laundering and terrorist financing offences and provide and receive information from entities outside STP concerning the crimes of money laundering and terrorist financing in accordance with international agreements or any other international law

instrument. However, there is no corresponding requirement for reporting entities to submit STRs to the FIU. Article 16 of the AML/CFT Law requires a financial institution to immediately inform the Attorney General's Office, if its monitoring of transactions result in suspicion or knowledge of certain facts that indicate the commission of money laundering or terrorist financing offence. Article 27(1) of the AML/CFT Law requires financial institutions to inform the Attorney-General's Office as soon as they discover or suspect that any amounts registered in their books originate from the commission of illicit acts, or when they notice any facts that could constitute evidence of the commission of money laundering or terrorist financing offence. Currently, financial institutions are submitting STRs to the FIU based on NAP 20/2012 issued by the Central Bank of STP requiring financial institutions to submit STRs to the competent authority. STP is reviewing the AML/CFT Law to expressly require financial institutions and DNFBPs to submit STRs to the FIU.

6. STP plans to develop a comprehensive National AML/CFT Strategy in keeping with national priorities. Plans are underway to promote implementation of the new regime, including developing and updating on-site examinations manuals and procedures for financial institutions as well as provide additional training for supervisors.

### **Legal Systems and Related Institutional Measures**

7. Money laundering has been a stand-alone criminal offence in STP since 2008. Article 272 of the Penal Code criminalises the conversion, transfer, aiding or facilitation of any operation for the conversion or transfer of goods or products derived from the commission of any of the crimes of drug trafficking, terrorism, trafficking in nuclear materials or weapons, human trafficking, pornography involving minors, corruption or extortion, tax evasion or fraud in obtaining or embezzlement of subsidies, in the context of economic and financial violations of international or transnational trafficking in protected species and trafficking of human organs or tissues or other crimes of which the maximum punishment is more than ten years in prison. Article 5 of the AML/CFT Law criminalises the same offences under article 272 of the Penal Code, as well as the purchase (acquisition), receipt or use of proceeds of crime knowing that the property or proceeds were derived from the commission of any of the afore-mentioned crimes. There is conversion or transfer of property if the act is for the purpose of concealing or disguising the illicit origin or of assisting a person involved in the commission of any of these offenses to evade the legal consequences of their actions. These actions are also criminalised by Article 292 of the Penal Code, but only cover issues relating to drug trafficking.

8. The ML offence meets the physical and material elements of the offence as required by the Vienna and Palermo Conventions. STP ML offence uses a combined (list and minimum threshold) approach to predicate crimes but does not cover counterfeiting and piracy of products and insider trading and market manipulation. Article 272 of the Penal Code lists a number offences from which proceeds can be obtained and laundered. These include other crimes which attract maximum penalty of more than ten years in prison. Article 3(c) of the AML/CFT Law defines "serious crime" to mean "an act that constitutes an infraction punishable by a prison sentence of no less than three years". Consequently, all the categories of predicate offences, except those that have not been criminalised by STP, are covered. Ancillary offences to the ML offence are covered by the Penal Code. Terrorist financing is designated as a predicate to the ML offence by article 4(a) of the AML/CFT Law.

9. The mental element of the ML offence and criminal liability of legal persons is covered by the Penal Code and the AML/CFT Law. There have been no ML investigations, prosecutions and convictions for ML in STP since the enactment of the AML/CFT Law in 2008.

10. STP has criminalised terrorist financing under article 5-A of the new AML/CFT Law which defines FT with reference to articles 359 and 360 of the Penal Code. Article 359 of the Penal Code criminalises the promotion or establishment of a terrorist group or terrorist organisation, while article 360 criminalises terrorism.

11. The AML/CFT Law provides for confiscation of laundered property, proceeds of money laundering, terrorist financing or predicate offences; instrumentalities used in or intended for use in the commission of these offences and property of corresponding value. Seizure of proceeds and instrumentalities can be effected under the Criminal Procedure Code. Except for suspension of transactions, there are no specific provisions for freezing of proceeds and instrumentalities of crime, as well as terrorist funds or other assets. It is possible to apply any provisional measures ex parte or without prior notification but this is not expressly stated in the Criminal Procedure Code. STP has not conducted any investigations or prosecutions on ML/FT in STP. There are no statistics available regarding the amount of property frozen, seized and confiscated relating to ML/FT and no statistics are available for property relating to predicate offences.

12. There is no specific mechanism for freezing of funds or other assets of terrorists, those who finance terrorism and terrorist organisations without delay in accordance with the relevant UN Security Council Resolutions. The Central Bank of STP (CBSTP) has not provided financial institutions with a list of individuals and organisations that have been designated by the United Nations as terrorists in accordance with the United Nations Security Council Resolutions (UNSCRs) 1267 and 1373. The authorities stated that the country would rely on Article 13 of the Constitution to implement its obligations under UNSCRs 1267 and 1373

13. Article 60-A of the AML/CFT Law provides a Financial Intelligence Unit (FIU) is hereby created through a specific legislation stating the type and responsibilities in relation to the prevention of money laundering and terrorist financing. Consequently, the Financial Intelligence Unit (FIU) of STP was established by Article 1 of Decree n.o 60/2009. By Article 11 of the FIU Decree, the FIU operates under the supervision of the Ministry of Planning and Finance (now Ministry of Finance and International Cooperation). The FIU is an administrative type with perpetual succession except for the tenure of office of the governing board which is for four years. The Board consists of the Ministry of Planning and Finance, the Central Bank, the Ministry of Justice and Parliamentary Affairs, Criminal Investigation Police, the Ministry of Commerce, Trade and Investment Directorate, and Directorate of Inspection Games. Article 3 of Decree no 60/2009 provides that the function of the FIU is to centralize, analyze and disseminate financial information to the competent authorities responsible for the prevention or prosecution of money laundering and terrorist financing offences. It is also empowered to provide and receive information from entities outside STP concerning the crimes of money laundering and terrorist financing in accordance with international agreements or any other international law instrument.

14. The Public Prosecutor (Attorney-General) (as lead agency), the Criminal Investigation Police and the Public Ministry are the primary law enforcement authorities with responsibility

for ML/FT investigations and prosecutions in STP, and have powers to search persons and premises, seize property and compel the production of records. However, these powers have not been utilized for AML/CFT purposes. There is a general lack of capacity and resources to undertake financial analysis, investigation and prosecution of cases relating to ML and TF.

15. STP is yet to adopt a declaration system which will require every individual entering or leaving the territory of STP to declare currency or bearer negotiable instruments (BNI) or electronic currencies whenever they carrying amount equal to or exceeding two hundred and forty-five million (Dbs 245,000,000.00). STP Customs will be responsible for monitoring declarations of currency and BNIs. Whenever there is a suspicion of money laundering or terrorist financing or when false declarations are filed to the customs authorities, the customs agent in charge of the shift will be empowered to seize or retain part or all the amount of currency or bearer negotiable instruments that were not declared. On the other hand, the Council of Ministers recently approved Venerando Model Values Statement presented by the Directorate of Customs to be used by all persons entering and leaving the country. STP has also prepared a draft AML/CFT Legislation which incorporates elements of Special Recommendation IX. However, customs officials are not adequately trained to implement procedures relating to cross border declaration of currency and BNIs. There is currently no arrangement for coordinated exchange of information between domestic agencies in STP or with other countries in relation to cross-border declarations and cash seizures. It is envisaged that this will occur following the adoption of the declaration system.

#### **Preventive Measures—Financial Institutions**

16. STP has not undertaken a national AML/CFT risk assessment, but there are number of factors which suggest that the domestic financial sector presents some risk of ML and FT. These factors include: the small size of the financial sector which is dominated by eight banks that are not supervised for AML/CFT purposes (seven of the eight banks are under foreign control and their major shareholders are mostly from Angola, Nigeria and Cameroon, and mainly established in anticipation of oil revenue); limited use of the banking system as cash remains the main means of payment in the economy, absence of specific regulation on correspondent banking relationships. However, there are policies and procedures in place that prevent banks in STP from engaging in non-face-to-face account opening and use of third party intermediaries and introduced businesses.

17. CDD requirements are set out in the AML/CFT Law, as well as Guidelines (NAPs) issued by the Central Bank of STP. The eight licensed banks, whose assets amounted to almost 67% of the country's GDP at the end of 2011, are the main actors in the financial sector. Practices and procedures are similar across the banking industry. In practice, banks indicated that they follow the national AML/CFT requirements as well as those of their home-countries. Banks have incorporated the AML/CFT requirements in the FATF Recommendations into their policies and procedures. The AML/CFT Law covers a significant number of CDD requirements. However, some gaps exist in relation to identification of beneficial owners and verification of the identity of customers, whether existing or potential, obtaining information on the purpose and nature of the business relationship, understanding the ownership and control structure and determining the identity of individuals who actually own or control the customer and the purpose and nature of business relationship and risk profile of legal persons; ongoing monitoring of the business relationship of operations / customers to ensure that transactions are consistent with the risk profile of the customer,

including if necessary the source of funds; application of enhanced due diligence for higher risk categories of customers, business relationships or transactions; application of CDD measures to existing customers on the basis of materiality and risk and conducting CDD on such existing relationships at appropriate times; adopting risk management procedures regarding the conditions in which a customer is allowed to benefit from the business relationship prior to verification of identity; refusing any transaction, refraining from starting business relationship or performing any occasional transaction when the identification data of the customer, his representative or the beneficial owner is not forthcoming, or information on ownership and control structure of the client, the nature and purpose of the business relationship and the origin and destination of the funds is not provided; and the requirement to terminate business relationship and consider making a suspicious transaction report where the financial institution has already commenced the business relationship and the financial institution is unable to identify and verify the identity of a customer, that a person purporting to act on behalf of a customer is so authorized, or identify and verify the identity of a beneficial owner. There is no explicit provision for reduced or simplified CDD. CBSTP has not conducted on-site examinations to ensure compliance with AML/CFT measures and the level of compliance is unknown.

18. Due diligence requirements for foreign politically exposed persons (PEPs) are contained in article 20(3) of the AML/CFT Law and article 5 of the KYC Guidelines (NAP 6/2007). The AML/CFT Law does not define PEPs, but definition of PEPs can be found in the KYC Guidelines. The AML/CFT Law require FIs to have to have adequate risk-based procedures in order to determine if a client is a politically exposed person (PEP). This provision is to apply when the FIs engage in occasional business transactions or relations with PEPs residing outside the territory of STP. There are gaps pertaining to the requirements to ascertain whether a potential customer or a beneficial owner is a PEP and obtain senior management approval to continue business relationship with a customer that has been accepted and for the customer or beneficial owner who has subsequently been found to be or subsequently becomes a PEP.

19. There is no requirement for banks to obtain approval from senior management before establishing new cross-border correspondent banking relationships or to document the respective AML/CFT responsibilities of each institution. Outside the banking sector, financial institutions in STP do not have correspondent relationships with other financial institutions.

20. There is no enforceable instruction in STP that permits banks or other financial institutions to rely upon third party services to perform CDD and this does not occur in practice.

21. Financial secrecy does not constitute an obstacle for the effective implementation of the FATF Recommendations in STP. Reporting entities are required by Article 18 of the AML/CFT Law to provide all information and submit all document requested by the judicial authority responsible for handling a case or by a supervisory authority in fulfillment of its duties required under the Law. However, Assessors were informed that Sao Tomeans are generally seen as suspicious and are not confident to provide information for fear that the information will not be well protected until it is forwarded to the FIU. This situation is attributed to the small size of the population. Thus, issues relating confidentiality are handled very delicately. Focal points in banks are often anonymous in order to protect themselves against possible intimidation. The prevalence of this situation will inhibit the implementation of FATF Recommendations.

22. The main record-keeping requirements are set out in article 14 of the AML/CFT Law and article 9 of the KYC Guidelines issued by the CBSTP, and largely meets the FATF standards. Effective implementation of the record-keeping requirement across all sectors cannot be established yet as there has been no monitoring for compliance.

23. Wire transfer services are provided by banks and are subject to the same AML/CFT requirements as other financial relationships. Article 12(4) of the AML/CFT Law requires FIs to apply CDD measures in long-distance transactions involving amounts that are equal to or greater than two hundred and forty-five million Dobra (Dbs 245,000,000) and do not result from service provision contracts.

24. FIs in STP are required to monitor unusual transactions and transactions from non-cooperative jurisdictions (high risk countries). Supervisory authorities for the various sectors are required to issue public notices regarding high risk jurisdictions. However, no such notice had been issued to FIs and there was no indication that this requirement was being implemented by FIs as they were not even aware that STP was on targeted review under the FATF International Cooperation Review Group (ICRG) process for insufficiently applying the FATF Recommendations.

25. The AML/CFT Law creates obligations for financial institutions (and non-financial business and professions, except lawyers, to report suspicious transactions for ML and TF to the Attorney-General. This is contrary to the FATF requirement to submit such reports to the FIU. In view of this, the CBSTP has issued NAP 6/2007 and NAP 20/2011, Guidelines on CDD and STRs, respectively, in which it requires FIs to submit STRs to the competent authority (the FIU). Based on this, banks have been submitting STRs to the FIU. However, the requirement to submit STRs to the FIU is a basic obligation which is required to be in law or regulation. The NAPs may be categorized as “other enforceable means” and do not meet the requirements of the FATF Recommendations. Furthermore, the provisions of the NAPs cannot operate to override the provisions of the AML/CFT Law. Having recognized this, STP is reviewing the AML/CFT law to expressly require FIs to submit STRs to the FIU. 64 STRs on ML have been submitted to the FIU by banks since the issuance of the STR Guidelines by the CBSTP. The deficiencies in the list of predicate offences and in the FT offence may affect the scope of the requirements to report STRs. Despite the small size of the financial sector, the rate of STR reporting is very low although the authorities were optimistic that the number will increase when there has been general sensitization and capacity building, including strengthening the FIU.

26. FIs are required to have internal controls and reporting processes that enable them to fulfill their obligations under the AML/CFT Law. FIs have designated focal points to ensure compliance with AML/CFT requirements, particularly with regard to submission of STRs. Not all financial institutions have designated compliance officers at senior management level. There are also gaps pertaining to timely access to customer identification data, audit function, training of employees and screening procedures to ensure high standards when hiring employees.

27. There is no express provision in STP Laws that prohibit the establishment of shell banks. However, STP’s FIs Law effectively precludes the establishment of shell banks due to its market entry requirements.

28. The CBSTP is exclusively responsible for the regulation, licensing, registration, and supervision of all financial institutions in STP, but the power to sanction FIs for violation of AML/CFT requirements is conferred on the Ministry of Finance. While a broad range of sanctions is available, no sanctions have been imposed by the Ministry of Finance for the violation of AML/CFT requirements.

29. The CBSTP has not conducted any examinations for AML/CFT compliance. The CBSTP needs adequate human and technical resources to ensure the effective implementation of the AML/CFT Law, as well as Guidelines issued by the CBSTP.

30. The informal remittance sector operates without regulation. The CBSTP informed Assessors that it plans to license and regulate this sector within the shortest possible time.

### **Preventive Measures—Designated Non-Financial Businesses and Professions (DNFBPs)**

31. A significant number of DNFBPs, including lawyers, are currently subject to the requirements of the AML/CFT Law including CDD, monitoring, suspicious transaction reporting. There are no trust service providers as trusts are not recognized in the legal framework of STP. There has been no effective implementation of AML/CFT obligations in the DNFBP sector and no regulation or guidance has been issued to the DNFBPs.

### **Legal Persons and Arrangements and Non-Profit Organizations**

32. STP's legal framework for corporate entities requires the registration of legal entities. Under STP law, the names of owners of the legal persons are required at the time of registration and documents to be registered include passports and national identification documents. Owners of legal persons who are unable to appear personally at the registry are required to provide their representatives with notarized power of attorney.

33. STP does not permit the creation of trusts and does not recognise foreign trusts.

34. No review has been undertaken of the adequacy of existing laws and regulations that relate to non-profit organisations (NPOs) that can be abused for the financing of terrorism or of the TF/ML risks to the sector. No concrete outreach, supervision or monitoring for AML/CFT purposes has been undertaken with the NPO sector with a view to protecting the sector from TF abuse. STP passed a new legislation in 2012 regulating the establishment and registration of NPOs. It prohibits the establishment of any NGOs intended to be used to promote violence, racism, xenophobia, dictatorship or for the purpose of pursuing criminal activities contrary to law.

### **National and International Co-operation**

35. STP has acceded to the Palermo Convention, the Vienna Convention and the Terrorist Financing Convention. STP has not yet implemented the UNSCRs 1267 and 1373.

36. Article 13 of the Constitution, Chapter IV of the Criminal Procedure Code (article 190-194), and Article 60-A of the AML/CFT Law provide the legal basis for international

cooperation, including mutual legal assistance (MLA) and extradition. The deficiencies relating to coverage of domestic predicate offences for ML may limit coverage of MLA and extradition. STP has MLA treaties mainly with members of the Community of Portuguese Speaking Countries (CPLP). Furthermore, the country lacks resources and capacity to respond to MLA and extradition requests, even to the limited number of countries in the CPLP. STP has never received or made any request for MLA or extradition.

37. The can provide FIU to FIU international cooperation in accordance with the FIU Law and its Internal Regulations. Article 60-A of the AML/CFT Law allows competent authorities to aim for the ‘broadest possible cooperation’ with foreign counterparts on criminal matters. STP is a member of the INTERPOL and the World Customs Organisation (WCO). There are bilateral arrangements on the exchange of information on security matters. Co-operation agreements also exist in judicial and criminal investigations between STP and members of the CPLP. Chapter IV of the CPC permits LEAs to provide international cooperation. LEAs have not applied these provisions to ML and TF.

## **Priority Next Steps / Primary Recommendations**

- Based on its assessment of risks and its review of the AML/CFT regime, the Assessors suggests the following essential priority action over the next 18 – 24 months:
- Enact the draft AML/CFT Bill to criminalize the full range of predicate offences of money laundering in accordance with the FATF Recommendations
- Review existing CBSTP Guidelines to ensure consistency with AML/CFT Law.
- Relevant supervisors should, in collaboration with the FIU, issue guidelines to DNFBPs on to ensure effective implementation of AML/CFT obligations
- legal and procedural framework to effectively implement SRIII.
- Commence licensing/registration and regulation of the informal money changing sector as soon as possible
- Amend the AML/CFT Law or issue a regulation to require all financial institutions to:
  - identify the beneficial owners and take necessary steps to verify the identity of customers, be they existing or potential;
  - obtain information on the purpose and nature of the business relationship in general and customers and beneficial owners;
  - for customers that are legal persons or entities without legal personality, take steps to understand the structure of ownership and control and determine the identity of individuals who actually own or control the customer and the purpose and nature of business relationship and its risk profile;
  - conduct ongoing monitoring of the business relationship of operations / customers to ensure that transactions are consistent with the risk profile of the customer, including if necessary the source of funds;

- apply enhanced due diligence for customers, business relationships or transactions into categories of higher risk;
  - apply CDD measures to existing customers on the basis of materiality and risk and to conduct CDD on such existing relationships at appropriate times;
  - in cases where the customer is allowed to benefit from the business relationship prior to verification of your identity, adopt risk management procedures regarding the conditions in which this situation occurs.
  - refuse any transaction, start business relationship or perform any occasional transaction when the identification data of the customer, his representative or the beneficial owner is not forthcoming, or information on the structure of ownership and control of the client, the nature and purpose of the business relationship and the origin and destination of the funds is not provided.
- Develop a national AML/CFT strategy commensurate with the resources available to the government;
  - Establish and maintain an updated and comprehensive system for recording statistics regarding the ML offence and the corresponding predicate offences that will allow for a better understanding of the overall effectiveness of the AML/CFT regime.

**Table 1: Ratings of Compliance with FATF Recommendations**

The ratings of compliance are made in accordance with FATF Recommendations based on the four levels mentioned in the 2004 Methodology namely, (Compliant-( C ), Largely Compliant ( LC), Partially Compliant ( PC ), Non- Compliant (NC), or could in exceptional cases be marked as not applicable (N/A).

<b>Compliant</b>	The Recommendation is fully observed with respect to all essential criteria.
<b>Largely compliant</b>	There are only minor shortcomings, with a large majority of the essential criteria being fully met.
<b>Partially compliant</b>	The country has taken some substantive action and complies with some of the essential criteria.
<b>Non-compliant</b>	There are major shortcomings, with a large majority of the essential criteria not being met.
<b>Not applicable</b>	A requirement or part of a requirement does not apply, due to the structural, legal or institutional features of a country e.g. a particular type of financial institution does not exist in that country

<b>Forty Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating</b>
<b>Legal Systems</b>		
1. ML offence	PC	<ul style="list-style-type: none"> <li>• Piracy and counterfeiting of products and insider trading and market manipulation have not been criminalized</li> <li>• Relevant authorities lack the knowledge and capacity to expeditiously respond to ML risks and threats</li> <li>• There has been no implementation of the provisions relating to this Recommendation, including self-laundering.</li> </ul>
2. ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> <li>• Proof that property is the proceeds of crime without conviction of a predicate offence applies only to instrumentalities</li> <li>• Sanctions have not been applied to ascertain their effectiveness</li> </ul>
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>• There are no clear procedures to freeze property subject to confiscation</li> <li>• There has been no seizure, freezing or confiscation of proceeds of crime or instrumentalities used in or</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
		intended for use in the commission of a crime
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> <li>• The duty of confidentiality is a sensitive point in STP given the small size of its society and the consequent difficulty to keep certain transactions/situations confidential. This issue is reflected in the lack of communication to the competent authorities.</li> </ul>
5. Customer due diligence	NC	<ul style="list-style-type: none"> <li>• Requirement for CDD relating to suspicious transactions defined to incorporate elements of unusual transactions</li> <li>• No requirement to take reasonable steps to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source</li> <li>• No requirement to obtain information on the purpose and intended nature of the business relationship</li> <li>• No requirement to understand the ownership and control structure of legal persons or entities without legal personality to determine the identity of individuals who own or control the customer.</li> <li>• No express requirement to terminate business relationship and consider submitting an STR when business relations have already commenced</li> <li>• No requirement in law or regulation for FIs to ensure that documents, data or information collected under the CDD process is kept up-to-date and relevant by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships</li> <li>• No requirement to apply CDD requirements to existing customers on the basis of materiality and risk and to conduct CDD on such existing relationships at appropriate times</li> <li>• No requirement for FIs to apply simplified or reduced CDD measures to customers resident in another country</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
		<ul style="list-style-type: none"> <li>• No requirement to apply simplified or reduced CDD measures where there are low risks. There are rather exemptions</li> <li>• Situations of duty of refusal and possible declaration of suspicious transaction should be established.</li> <li>• Implementation of CDD measures is not effective</li> </ul>
6. Politically exposed persons	NC	<ul style="list-style-type: none"> <li>• Requirement to determine whether a customer is a PEP only relate to occasional transactions</li> <li>• No requirement to establish the source of wealth and funds of beneficial owners identified as PEPs.</li> <li>• No express requirement to conduct enhanced ongoing monitoring of business relationship with PEPs.</li> </ul>
7. Correspondent banking	NC	<ul style="list-style-type: none"> <li>• The requirements on correspondent banking have not been reflected in the legal framework of STP despite the existence of correspondent banking relationships</li> </ul>
8. New technologies & non face to- face business	NC	<ul style="list-style-type: none"> <li>• Provision on new technologies only applies to banks</li> </ul>
9. Third parties and business introducers	NC	<ul style="list-style-type: none"> <li>• This recommendation is not reflected in the legal framework of STP because FIs do not rely on third parties and business introducers to conduct CDD.</li> </ul>
10. Record keeping	PC	<ul style="list-style-type: none"> <li>• No evidence of effective implementation of record keeping requirements</li> </ul>
11. Unusual transactions	PC	<ul style="list-style-type: none"> <li>• Requirement applies only to transactions involving an amount equal to or more than Dbs 245,000,000 conducted on behalf of third parties</li> <li>• In practice, there are no automated analysis of customer transactions</li> <li>• There is no reference to transaction that has “No apparent or visible lawful purpose”</li> </ul>
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> <li>• Authorities have not issued any regulation or</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
		<p>guidance accordingly and DNFBPs have not complied with their obligations under the Law</p> <ul style="list-style-type: none"> <li>• The description of the shortcomings of preventive regime with respect to FIs applies almost entirely to DNFBPs (especially the limited range of CDD measures, monitoring and the duty to report suspicious transactions).</li> <li>• Lawyers have not submitted STRs to the Bar Association</li> </ul>
13. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> <li>• There is no requirement to submit STRs to the FIU</li> <li>• No express requirement to report attempted transactions</li> <li>• Requirement to report suspicious transaction relating to high risk countries is based on a threshold</li> <li>• The full range of predicate offences have not been criminalised</li> <li>• Poor quality of STRs submitted No effective</li> <li>• No effective implementation of requirement to submit STRs</li> </ul>
14. Protection & no tipping-off	LC	<ul style="list-style-type: none"> <li>• No express provision for protection of those who provide information even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred</li> </ul>
15. Internal controls, compliance & audit	NC	<ul style="list-style-type: none"> <li>• No requirement to appoint compliance officer at management level.</li> <li>• No requirement for compliance officer and other appropriate employees to have timely access to customer identification data and other STR information, transaction records and other relevant information.</li> <li>• No requirement for FIs to maintain independent and</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
		<p>adequately resourced internal audit function to test compliance with AML/CFT procedures, policies and controls.</p> <ul style="list-style-type: none"> <li>• Inadequate AML/CFT training programs, including information on methods and trends of ML and TF, explanation of all laws and obligations relating to AML/CFT, particularly the obligations relating to CDD and suspicious transactions reporting, to ensure that employees are up to date on new developments.</li> <li>• No express requirement to put in place screening procedures to ensure high standards when hiring employees.</li> </ul>
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> <li>• See comments on R.12 above</li> </ul>
17. Sanctions	PC	<ul style="list-style-type: none"> <li>• There has been no sanctions for violation of AML/CFT obligations</li> </ul>
18. Shell banks	PC	<ul style="list-style-type: none"> <li>• The legal standards prohibit the establishment of correspondence with shell banks, but there is no express prohibition of the establishment of shell banks in STP</li> </ul>
19. Other forms of reporting	NC	<ul style="list-style-type: none"> <li>• STP has not considered the feasibility and utility of implementing a system where FIs report all transactions in currency above a fixed threshold to a national central agency with a computerized data base</li> <li>• Absence of a national central agency with a computerised database to receive reports</li> </ul>
20. Other NFBP& secure transaction techniques	NC	<ul style="list-style-type: none"> <li>• Other non financial businesses and professions have not been issued with guidelines</li> <li>• No supervision for compliance with AML/CFT obligations</li> <li>• No submission of STRs to the FIU</li> <li>• The economy of STP relies heavily on cash</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> <li>• No effective measures in place to ensure that FIs are advised of concerns about weaknesses in the AML/CFT systems of other countries</li> <li>• There is no requirement to examine the background and purpose of transactions and take related actions</li> <li>• No express requirement to apply appropriate counter-measures where a country continues not to apply or insufficiently apply the FATF Recommendations</li> </ul>
22. Foreign branches & subsidiaries	NC	<ul style="list-style-type: none"> <li>• No requirement for financial institutions to ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements and the FATF Recommendations, to the extent that the local laws and regulations permit.</li> <li>• There is no requirement for FIs to pay particular attention that this principle is observed with respect to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations, or apply a higher standard to the extent that local laws will permit, where the requirements of the home and host countries differ</li> <li>• There is no requirement for financial institutions to inform their home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by host country laws, regulations and other measures</li> </ul>
23. Regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>• Lack of risk assessment and appropriate strategy for AML/CFT regulation and supervision of FIs which are operating in STP</li> <li>• Lack of consistency in assessing the competence and suitability of managers and employees</li> </ul>
24. DNFBP - regulation, Supervision and monitoring	NC	<ul style="list-style-type: none"> <li>• There is no supervision of DNFBPs for AML/CFT purposes</li> <li>• Insufficient technical and other resources to perform</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
		supervisory functions
25.Guidelines & Feedback	NC	<ul style="list-style-type: none"> <li>• Lack of effective guidance to FIs</li> <li>• Limited provision for feedback</li> <li>• No guidance for DNFBPs on how to submit STRs</li> <li>• Banks that submit STRs are not provided with feedback</li> <li>• No guidelines has been issued and, except for the Bar Association, there is no expectation that this will occur in the short term</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	PC	<ul style="list-style-type: none"> <li>• Although the FIU is designated as a national centre for receiving, analyzing and disseminating disclosures of STR and other relevant information concerning ML or FT activities, there is no express requirement for reporting entities to submit STRs to the FIU</li> <li>• The FIU does not have access, directly or indirectly, on a timely basis to administrative and law enforcement information that it requires to properly undertake its functions</li> <li>• FIU is empowered to request for additional information to enrich its database rather than to properly undertake its functions</li> <li>• The FIU lacks sufficient operational independence and autonomy to ensure that it is free from undue influence <ul style="list-style-type: none"> <li>- inadequate financial and other resources</li> <li>- too much influence by the Minister in the affairs of the FIU</li> <li>- no certainty about tenure of office of Coordinator and Deputy Coordinator</li> </ul> </li> <li>• There is no requirement for the FIU to publicly release periodic reports, including statistics,</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
		<p>typologies and trends of money laundering or terrorist financing</p> <ul style="list-style-type: none"> <li>• Though the FIU had received some STRs, it has not disseminated any report to the competent authorities to facilitate investigations.</li> </ul>
27. Law enforcement authorities	PC	<ul style="list-style-type: none"> <li>• No authority to investigate migrant smuggling, counterfeiting of products and insider trading and market manipulation unless they are criminalised</li> <li>• Lack of resources, capacity and training to deal with issues relating to ML/TF and general crime fighting</li> <li>• No investigation of ML/TF cases</li> <li>• Absence of review of methods, techniques and trends</li> </ul>
28. Powers of competent authorities	PC	<ul style="list-style-type: none"> <li>• Lack of application of available powers for AML/CFT purposes</li> </ul>
R. 29 Supervisors	NC	<ul style="list-style-type: none"> <li>• Absence of monitoring of FIs to ensure compliance with requirements to combat ML and TF</li> <li>• There has been no inspections of FIs, including on-site inspections to ensure compliance</li> <li>• There is no evidence of the use of available powers of enforcement and sanction against FIs</li> </ul>
30. Resources, integrity and training	PC	<ul style="list-style-type: none"> <li>• General lack of staff, expertise, technical and other resources to fully and effectively perform functions</li> <li>• Staff of all competent authorities have not been provided with adequate and relevant training for combating ML and TF</li> </ul>
31. National co-operation	PC	<ul style="list-style-type: none"> <li>• Lack of capacity and resources to ensure effective coordination and cooperation</li> </ul>
32. Statistics	NC	<ul style="list-style-type: none"> <li>• Competent authorities are not maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of systems for</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
		<p>combating ML and TF</p> <ul style="list-style-type: none"> <li>The statistics of the FIU are insignificant and are not adequately detailed.</li> </ul>
33. Legal persons - beneficial owners	PC	<ul style="list-style-type: none"> <li>Adequate measures are not in place to ensure that there is adequate, accurate and timely information on the beneficial ownership</li> <li>Information on the companies registrar pertains only to legal ownership/control and does not include information on beneficial ownership</li> <li>There is no mechanism in place to verify the identity of owners for AML/CFT purposes</li> </ul>
34. Legal arrangements beneficial owners	NA	Trusts do not exist in STP
<b>International operation</b>	<b>Co-</b>	
35. Conventions	PC	<ul style="list-style-type: none"> <li>Piracy and counterfeiting of products, migrant smuggling, and insider trading and market manipulation have not been criminalized</li> <li>The provisions of the Vienna and Palermo Conventions have not been fully implemented</li> </ul>
36. Mutual Legal Assistance (MLA)	PC	<ul style="list-style-type: none"> <li>The requirements of this Recommendation have not been implemented</li> <li>The scope of MLA treaties is limited to members of the CPLP</li> <li>Lack of capacity and resources to provide MLA</li> </ul>
37. Dual criminality	PC	<ul style="list-style-type: none"> <li>The requirements of this Recommendation have not been implemented</li> </ul>
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> <li>No formal procedures are in place to coordinate seizure and confiscation actions with countries other than member States of the CPLP</li> <li>The establishment of an asset forfeiture fund has been considered but is yet to be effectuated</li> </ul>

Forty Recommendations	Rating	Summary of factors underlying rating
		<ul style="list-style-type: none"> <li>• Existing provisions have not been implemented</li> </ul>
39. Extradition	NC	<ul style="list-style-type: none"> <li>• STP has not criminalized the full range of predicate offences of money laundering</li> <li>• STP has no specific laws or procedures on extradition to ensure timely response to or submission of extradition requests</li> <li>• STP does not extradite its nationals and there is no requirement to submit a case without undue delay to competent authorities for the purpose of prosecution of an offence set forth in a request involving a national</li> <li>• There is no legal provision which permits cooperation for the prosecution of nationals</li> <li>• Extradition treaties are limited to CPLP countries</li> <li>• There has been no implementation of existing provisions on extradition</li> </ul>
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> <li>• No clear procedures for providing international cooperation</li> <li>• Cooperation will be impeded in cases relating to offences that have not been criminalized</li> <li>• Provisions on international cooperation have not been implemented</li> </ul>

Nine Special Recommendations	Rating	Summary of factors underlying rating
I. Implement UN instruments	PC	<ul style="list-style-type: none"> <li>• Not all instruments have been ratified</li> <li>• Absence of mechanisms to implement UNSCRs 1267 and 1373</li> <li>• Lack of full implementation of relevant international instruments</li> </ul>
II. Criminalise terrorist financing	PC	<ul style="list-style-type: none"> <li>• Relevant personnel and institutions lack the capacity to implement CFT provisions</li> <li>• Terrorist financing provisions, including sanctions, have not been implemented</li> </ul>
III. Freeze and confiscate terrorist assets	NC	<ul style="list-style-type: none"> <li>• Financing of individual terrorist is not criminalised</li> <li>• No measures to freeze or seize terrorist funds or other assets in accordance with UNSCR 1267 and 1373</li> </ul>
IV. Suspicious transaction reporting	NC	<ul style="list-style-type: none"> <li>• Requirement on STR relating to terrorist financing have not been implemented</li> </ul>
V. International co-operation	NC	<ul style="list-style-type: none"> <li>• STP has no specific laws or procedures on extradition to ensure timely response to or submission of extradition requests</li> <li>• No clear procedures on international cooperation</li> <li>• STP does not extradite its nationals and there is no requirement to submit a case without undue delay to competent authorities for the purpose of prosecution of an offence set forth in a request involving a national</li> <li>• There is no legal provision which permits cooperation for the prosecution of nationals</li> <li>• Extradition treaties are limited to CPLP countries</li> <li>• There has been no implementation of existing provisions on extradition</li> </ul>
VI. AML requirements for money/value transfer services	PC	<ul style="list-style-type: none"> <li>• There is no monitoring of money or value transfer services</li> <li>• Existence of informal money changing businesses that are not being regulated</li> </ul>
VII. Wire transfer rules	NC	<ul style="list-style-type: none"> <li>• Measures for treatment of obligations of Special Recommendation VII are not defined.</li> </ul>

Nine Special Recommendations	Rating	Summary of factors underlying rating
		<ul style="list-style-type: none"> <li>• No requirement to include the originator’s address, or any provision permitting FIs to substitute the address with a national identity number, customer identification number, or the date and place of birth of the originator in respect of domestic wire transfer</li> <li>• There are no regulations that indicate which procedures to adopt for incoming wire transfers that do not contain complete originator information.</li> <li>• The KYC regulation does not provide for sanctions for violation of the regulations, including wire transfer requirements</li> <li>• No supervision to ensure compliance with rules and regulations implementing cross-border and domestic wire transfers between FIs.</li> </ul>
<b>VIII.</b> Non-profit organisations	NC	<ul style="list-style-type: none"> <li>• There has been no review of the NPO sector and no identification of its vulnerabilities for terrorist financing.</li> <li>• The authorities have not conducted outreach or provide effective guidance on terrorist financing to the NPO sector.</li> <li>• The register of NGOs is not kept up-to-date</li> <li>• There is no supervision or monitoring of the NPO sector.</li> <li>• There is no effective domestic co-operation or coordination amongst authorities that would eventually have information on NPOs.</li> <li>• It is not clear as to whether STP can exchange information with foreign counterpart regarding particular NPOs that are suspected of TF.</li> </ul>
<b>IX.</b> Cross Border Declaration & Disclosure	NC	<ul style="list-style-type: none"> <li>• There is no declaration system in place</li> <li>• Customs officials are not adequately trained nor have the means for effective control of cross border movements of currency and bearer negotiable instruments.</li> </ul>