



# FIRST ROUND MUTUAL EVALUATIONS - POST EVALUATION PROGRESS REPORT OF SWAZILAND

Covering the period August 2016 – July 2017

ESAAMLG (2017), First Round Mutual Evaluation - Post Evaluation Progress Report of SWAZILAND on Anti-Money Laundering and Counter-Terrorist Financing Measures.

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## **A. Introduction**

1. This detailed review was conducted by Review Group A, made up of experts from Angola, Botswana, Namibia, Uganda and Zimbabwe.
2. Swaziland was evaluated by the ESAAMLG. The onsite visit took place from 15 -26 February 2010 and the report was adopted by the Council of Minister's in September 2011. The table below provides the compliance ratings obtained with regard to the FATF Core and Key Recommendations

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

<b>Core Recs</b>	R.1	R.5	R.10	R.13	SR.II	SR.IV
<b>Rating</b>	PC	NC	NC	NC	NC	NC

**Table 2: Ratings of Compliance with Key Recommendations**

<b>Key Recs</b>	R.3	R.4	R.23	R.26	R.35	R.36	R.40	SR.I	SR.III	SR.V
<b>Rating</b>	PC	NC	NC	NC	PC	PC	PC	NC	NC	NC

## **B. Overview of Progress made by Swaziland**

3. In accordance with ESAAMLG'S Mutual Evaluation Procedures and the Terms of Reference (as approved by the Council of Ministers in August 2010), the Review Team has analyzed the progress made by the Kingdom of Swaziland for each Core/Key Recommendation rated NC or PC in the MER, using the information provided by the Swazi Authorities in their current progress report.
4. The erstwhile progress that was made by Swaziland in addressing the deficiencies noted in the Swaziland's MER was attributed to the coming into force of the new law on Money Laundering and Terrorist Financing (Prevention) Act, 2011, which

came into operation in March 2012. This new Act repealed the Money Laundering (Prevention) Act, 2001 but retained the Suppression of Terrorism Act, 2008. On 1<sup>st</sup> March, 2010, Swaziland had enacted the People Trafficking and People Smuggling (Prohibition) Act and two other Bills on The Prevention of Organized Crime and Sexual Offences and Domestic Violence, respectively, which are in the process of being passed into law. The authorities were encouraged to effectively implement the new law which now has been in existence for more than five years. Swaziland needs to issue regulations and guidelines to facilitate compliance with the provisions of the law. Most recently, Swaziland enacted the Money Laundering and Terrorist Financing Prevention (Amendment) Act, 2016 [ML/TFP (Amendment) Act, 2016] which addresses some of the deficiencies identified with the Money Laundering and Terrorist Financing (Prevention) Act, 2012. Swaziland also enacted the Medical and Related Substances Control Act of 2016 and further set up mechanisms to implement the United Nations Security Council Resolutions by the issuance of the Anti-Money Laundering (United Nations Security Council Resolutions) Regulations, 2016 which were gazette on 25<sup>th</sup> August, 2016.

5. The Kingdom made progress in addressing the legal requirements to FATF Recommendations 1, 3, 5, 10, 23, 26, SR I and SR IV. Under the current progress Report, Swaziland made some positive changes with regards to its AML/CFT regime. This progress relates to the enactment of the Money Laundering and Terrorist Financing Prevention (Amendment) Act, 2016 and passing of and coming into force of the Anti-Money Laundering (United Nations Security Council Resolutions) Regulations, 2016. There nevertheless remains general concern with the slow progress by the Swazi authorities in implementing the enacted AML/CFT law and addressing the remaining outstanding MER deficiencies. According to the Progress Report of July, 2017, the remaining outstanding MER recommendations are contingent on the passing by Parliament of the Prevention of Organized Crime Bill and the Sexual Offences and Domestic Violence Bill into law. These 2 Bills have been pending since the adoption of the MER of Swaziland in 2012. In addition, there is the Witness Protection Bill which has not yet been promulgated into law. The Swazi authorities are urged to enact the pertinent pending Bills into law. The Swazi authorities are commended for issuing new AML/CFT Guidelines to enable implementation of the amendments to the AML/CFT law.

6. Swaziland is commended for not only having completed the process of allocating the FIU its own offices but also employing staff to fill in the senior positions in Legal, Finance, Administration, Compliance, Analysis and Information Technology (IT) Departments. The FIU has during the period under review further recruited two analysts, 1 compliance officer and 1 senior IT specialist to complement the senior staff.
7. Also notable is the progress that Swaziland has made in training the law enforcement agencies from the DPP's Office, Police, Swaziland Revenue Authority and the Anti-Corruption Commission in asset forfeiture, financial investigations and forensic accounting. One officer from the DPP's Office was attached to the Asset Forfeiture Unit of South Africa for capacity building.
8. In the February 2017 progress report, Swaziland provided a completed Statistics Template for the period under Review and further submitted samples of templates which have been developed for use in the DPP's office to record statistics on freezing, seizing and confiscation.

### *Analysis of progress*

#### **Building Block 1: Legal Framework-Criminalisation of ML & TF, Provisional measures/confiscation & freezing of assets**

##### ***Recommendation 1 (rated PC)***

###### Criterion 1.1

9. Swaziland was required to ratify the Palermo Convention. The authorities report that this Convention has now been ratified and will be domesticated through the enactment of the Prevention of Organised Crime Act which is currently a Bill before Parliament. As explained in the summary of progress above, the enactment of the Prevention of Organised Crime Bill is still pending. Therefore, Swaziland has not made any progress in addressing the deficiency under Essential Criterion 1.1.

10. The law sufficiently covers the recommendations made in the MER relating to the criminalisation of ML. Essential Criteria 1.2 of the FATF Methodology requires the offence of money laundering to extend to all property which is proceeds of crime regardless of value and accordingly. The assessor's erstwhile concern over the qualification relating to the offences of robbery and theft of a threshold of E10 000.00 (USD1 000), which was provided under Schedule 1 of the Money Laundering and Terrorist Financing (Prevention) Act, 2012 in order for the offences to be recognized as predicate offences to money laundering has now been addressed by section 4(1)(c) of the Money Laundering and Terrorist Financing Prevention (Amendment) Act, 2016 [ML/TFP Act,2016]. The amendment now provides for an all crimes approach on offences which can generate proceeds which can be laundered.

### Criterion 1.3

11. The assessors had recommended that Swaziland should enact a law that covers the minimum range of predicate offences prescribed in each of the designated categories of offences under the FATF Glossary. The authorities enacted the ML/TFP Act and People Smuggling and People Trafficking (Prevention) Act which have criminalized some of the offences, widening the scope of predicate offences for money laundering. The authorities indicate that criminalization of the outstanding predicate offences will be enhanced when the Sexual Offences and Domestic Violence Bill and the Prevention of Organised Crime Bill are passed into law.

12. The recommendation by the assessors that there be consistency between the terms used to define offences listed in the schedule to the Serious Offences Act and those in the ML/TFP Act has now been addressed. The authorities indicate that the deficiency will further be addressed in the Prevention of Organised Crime Bill which will repeal the Serious Offences Act which has still not been passed into law.

## Criminalization of Terrorism Financing

### *Special Recommendation II (rated NC)*

13. Financing of terrorism is now criminalized under the Suppression of Terrorism (Amendment) Act, 2017 which came into force on 25<sup>th</sup> August, 2017.
14. The Suppression of Terrorism (Amendment) Act, 2017 now provides the definition of the term “funds” which is in line with the definition of ‘funds’ in Article 1 of the Terrorism Financing Convention, 1999.
15. The term ‘acts of terrorism’ used in the Suppression of Terrorism (Amendment) Act, 2017 was defined to include the offence of terrorism financing. Progress has been made in this regard.

### *Essential Criterion II.4*

16. The assessors recommended that Swaziland should consider providing civil and/or administrative proceedings to run parallel with criminal proceedings where the persons are criminally liable for terrorist financing. Swaziland has pursuant to this recommendation increased the scope of sanctions to include civil and administrative sanctions in section 21 and Part 7 of the ML/TPF (Amendment) Act, 2016.

### *Special Recommendation III (rated NC)*

#### **SR. III.1 & 11.2**

17. With the passing and coming into force of the Anti- Money Laundering (United Nations Security Council Resolutions) Regulations 2016, Swaziland has now provided a legal basis to improve its compliance with FATF SR III. These newly issued regulations implement section 29 of the Suppression of Terrorism Act and give effect to implementation of the UNSCRs, in particular, UNSCRs 1267 and 1373. The Regulations establish, *inter alia*, a Committee whose mandate is to implement UNSCRs 1267, 1373, 1718 and 1988. Regulation 11 provides for the legal authority to freeze funds or property of designated persons. Regulation 10 provides the procedure for circulation of the UNSCR 1267 List.

18. Section 6 of the Serious Offences (Confiscation of Proceeds) Act provides the legal framework for the protection of the rights of bona fide third parties (Essential criterion III.12). In addition to section 6 of the Serious Offences (Confiscation of Proceeds) Act, the authorities in the current progress report also cited s. 57 (5) of the ML/FTP Act as providing protection of the rights of bona fide third parties. The reviewers are satisfied that they adequately provide for the protection of the rights of bona fide third parties. This recommendation by the assessors has been fully complied with.

### **Building Block 2: Financial Intelligence Unit**

#### ***Recommendation 26 (rated NC)***

19. Sufficient progress is noted in that the MLFTP (Amendment) Act, 2016 provides for the establishment of the SFIU as an autonomous central agency. The SFIU has been allocated its own offices and has now recruited senior staff to head Legal, Finance and Administration, Compliance, Analysis and IT department. For the period under review, the authorities report that the SFIU Board is now in place and all critical positions in the SFIU are now filled. The SFIU structure is now sufficient to carry out/execute its mandate. The SFIU is working closely with the South African FIU to enhance its operational matters and discuss areas of common concern.
20. The SFIU has taken the necessary steps to become an EGMONT member. It remains work in progress.
21. Swaziland was required to ensure that the FIU has systems in place to protect data or any other information held by it. The authorities report that the head of IT and head of Monitoring have been tasked in procuring a system to protect the SFIU's database. Some progress has been made by the authorities in having a system to protect the SFIU's database. The SFIU has installed a server and is in the process of installing a second data-base.
22. The assessors had further recommended that once operational, the SFIU should produce publicly accessible periodic releases such as annual reports which outline in detail its activities. The authorities report that since the SFIU became fully operational in February 2017, it will publish its first annual report in June 2018.

23. Whilst section 29 of the ML/FTP Act provides for the FIU to report annually on its activities to the Minister and for the Minister to table the report before Parliament, there is no indication in the PEIP as to whether such an annual report has been made by the FIU or if it is in place anyway.
24. The FIU has now issued Guidelines for reporting on STRs. The Central Bank also issued Guidelines on AML/CFT to financial institutions. The Financial Services Authority issued similar Guidelines to DNFBPs. The implementation of these Guidelines, particularly on the reporting of STRs, is yet to be evaluated since all the Guidelines have only recently been issued. Non-reporting of STRs by DNFBPs has in the past created a huge gap that made the AML/CFT regime of Swaziland vulnerable to ML/TF.
25. The assessors had recommended that the SFIU issue guidance on the manner and form of reporting as well as provide effective feedback to all accountable institutions, taking into account their diversity. The SFIU, for the period under review has reported that it has an STR form which it issued 8 years ago, which is used by both financial and non-financial institutions to report to the SFIU. This response by the SFIU does not fully meet the recommendation by the assessors as it required the SFIU to issue *guidelines* not a form. The form would only provide for the reporting but it would not provide guidance on the manner of the reporting. In addition, if Swaziland was assessed in 2010 and this form is 8 years old, it means it was in existence when Swaziland was assessed and the assessors were not satisfied that it provided the required guidance to the reporting entities on how they should report. The SFIU has not dealt with the recommendation by the assessors.
26. The authorities have been reporting on the MoU to provide the mechanism to enable the SFIU to access relevant information held by national competent authorities to enable it to properly undertake its functions, to be waiting for Government approval and eventual signing since 2015. Swaziland has not made progress as there has been no movement in having the Government approve and sign the MoU, since 2015.

27. Although authorities had been conducting workshops (either alone or with TA from AUSTRAC or other national stakeholders) from 2010 onwards, the reviewers are of the view that more should be done in this regard. E.g. Authorities indicate that the FIU only participated in the Financial Institutions Day in May 2014 to raise such awareness.
28. As far as awareness raising with accountable institutions is concerned, the FIU has commenced doing so, and the FSRA has done extensive awareness with insurers, brokers and retirement funds. The FIU will embark again on awareness with accountable institutions as soon as the public awareness campaign is completed.

***Recommendation 13 (rated NC)***

29. Sufficient progress noted, however, the authorities still have to address the following issues:

- There is no clear legal requirement for SFIU to give feedback on STRs to reporting institutions. The authorities indicated that this is part of the draft amendments to the ML/FTP Act. More information on provision of feedback should be provided by the SFIU
- SFIU gives feedback, but it is limited to acknowledgement of receipt and issues relating to the filing of STR's. Reviewers duly take note of the fact that the SFIU is in the final stages of set-up and will start interacting with accountable institutions as soon as this is finalized.

**Recommendation:** It should be noted that such feedback is not only limited to typologies but other areas like acknowledgment of STRs, result of the analysis, i.e., whether the report has been sent/disseminated to law enforcement, sanitized cases, analysis on ML/TF trends and methods, etc.

- SFIU needs to provide statistics on feedback, in line with the ESAAMLG template

30. Section 31 of the ML/FTP Act provides for the requirement for the SFIU to give feedback on STRs to reporting institutions. Monthly meetings at which the feedback is given are now held with accountable institutions.

#### ***Special Recommendation IV (NC)***

31. The authorities indicate that all the predicate offences in terms of the FATF Glossary are covered under the ML/FTP Act, but what the MER pointed out is the fact that "...*There is scope issue as only some financial institutions are not obliged to report STRs on terrorism and it's financing. Financial institutions are not aware of obligations to file STRs related to terrorism and it's financing under the Suppression of Terrorism Act.*" So the issue is whether all the predicate offences are covered for purposes of reporting STRs to the FIU. The authorities indicated that Section 12(1) of the AML/CFT Act requires accountable institutions to report STRs on terrorism financing and that they are in fact filing STRs on suspected terrorism financing. The Swazi Authorities are also adamant that financial institutions are aware of their obligations and that they are submitting quarterly reports to the SFIU that they do not hold terrorist funds. This aspect is also covered in the issued guidelines. Notably, the concern of the Reviewers for the SFIU to separate STRs filed on TF from those of ML has again not been attended to by the authorities for the period under review. The statistics submitted by the SFIU (as described under the ESAAMLG Statistics Template) still only provide the overall number of STRs submitted without comments on whether they all relate to ML or others relate to TF. Also, there is no indication on the kind of awareness given to the reporting entities on reporting of STRs relating to TF. The authorities have not adequately addressed the recommendations of the assessors concerning TF under this part.

#### **Building Block 3: Preventative measures**

##### ***Recommendation 5 (rated NC)***

32. Sufficient progress noted. CDD measures and obligations are now adequately provided in sections 6 & 7 of the ML/TFP Act. Further, authorities have circulated

guidelines to accountable institutions which they have instructed them to incorporate as part of their internal policies.

***Recommendation 10 (rated NC)***

33. The record keeping requirements provided for under sections 8(1),(2) and (3)(a) and section 6 of the ML/TFP (Amendment ) Act,2016 now adequately address the MER Recommendations requiring, inter alia, accountable institutions to maintain records on both international and domestic transactions for at least 5 years following completion of the transaction and that the records be kept in such a way as to permit/enable reconstruction of the individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. Section 6 of the ML/TFP (Amendment) Act, 2016 now provides for records to be kept longer than the 5 years, if requested to do so.

**Building Block 4: Regulation and supervision**

***Recommendation 23 (rated NC)***

34. Powers to ensure that reporting institutions are adequately complying and to enforce compliance with AML/CFT obligations are vested in the supervisory authorities and the SFIU in terms of section 35 of ML/TFP Act. These powers have been strengthened by the ML/TFP (Amendment) Act of 2016 to provide the supervisory authorities and the SFIU with powers to impose administrative sanctions to further enhance compliance with the AML/CFT obligations (sections 20 & 21).
35. On the recommendation by the assessors for the supervisors/regulators to undertake effective AML/CFT awareness raising programmes, in addition to the previously reported training which has been provided, the authorities have provided an update on the recent training and awareness they have done. The authorities report that in June 2017, the CBS issued a joint statement with the Bankers Association sensitizing the public on KYC documents and adhering to bank requirements on KYC.
36. The assessors had recommended that the designated authorities carrying out AML/CFT supervision be well structured, funded and appropriately skilled with

operational independence and autonomy. The Swazi authorities have explained that the major two AML/CFT supervisors, Central Bank of Swaziland (CBS) and the Financial Service Regulatory Authority (FSRA) are funded through different budgets.

37. During the year 2015/16, an Assistant Anti-Money Laundering Officer was recruited by the CBS to monitor AML/CFT compliance by Banks and MVTs. The FSRA recruited two Legal Officers to monitor AML/CFT compliance by the Insurance and Retirement Funds sector and the Capital Markets sector.
38. Under the current reporting period the Swazi authorities report that in 2017, three officials from FSRA were trained on AML/CFT risk assessment and that appropriate budget is in place to ensure continuous development through attendance of ESAAMLG and FATF meetings. They further report that CBS has a dedicated enforcement and policy unit to deal with the implementation of administrative sanctions and disciplinary actions and that one officer attended an assessors' training and another one attended the ESAAMLG meeting held in Arusha in April 2017.

#### **Authorities Powers and Sanctions – Recommendations 29 & 17**

39. The assessors had recommended that broad, proportionate, dissuasive and effective sanctions for non-compliance be put in place including keeping of detailed statistics on the sanctions applied. Section 89 of the ML/TFP Act now provides two categories of sanctions for non-compliance with preventive measures. The two categories provide sanctions of imprisonment for 1 year or to a fine of not less than thirty thousand Emalangeni (E30,000) (about USD2 400) for a natural person, and a fine of not less than one hundred thousand Emalangeni (E100,000) (about USD8 000) for a legal person; the second category provides for imprisonment for 5 years or to a fine of not less than fifty thousand Emalangeni (E50,000) (about USD4 000) for a natural person, and a fine of not less than one hundred thousand Emalangeni (E100,000) (about USD8000) for a legal person. In terms of section 21 of the ML/TFP (Amendment) Act which has introduced administrative sanctions, in addition to other various types of sanctions, a supervisory authority or the SFIU is empowered to impose a financial penalty not exceeding E5 000 000 (about USD400 000) on an institution or person who will

have violated the Act. In terms of comparison between the criminal penalties (although the penalty amounts provided are the minimum amounts) and the administrative financial penalty (although the amount given is the maximum amount which can be determined), it appears the penalties provided in the criminal penalty provisions cited above are on the low side and therefore, might not be proportionate and dissuasive enough, particularly to body corporates.

40. The recommendation by the assessors that sanctions cover both natural and legal persons including directors and senior management of accountable institutions is now adequately addressed under section 89 of the ML/TFP Act and section 21 of the ML/TFP (Amendment) Act.

### **Building Block 5: International Cooperation**

#### ***Recommendation 35 (rated PC)***

#### **International Conventions**

41. Except for ratifying the Palermo Convention and passing the ML/FTP Act, the remainder of the MER recommendations under Recommendation 35 remain outstanding. The date of ratification of this Convention has, however, not been provided though it is reported that it is now awaiting domestication through the enactment of the Prevention of Organised Crime Bill. Which also means, implementation of the Convention has not yet taken place.
42. The assessors had recommended that Swaziland amend the offences on drugs and psychotropic substances to be consistent with the requirement of Art. 3(1) of the Vienna Convention. The Swazi authorities submitted that these deficiencies have been addressed through the enactment of the Medicines and Related Substances Control Act. The Act has however not been provided. The authorities should submit this Act so that Reviewers can scrutinize the adequacy of it and provide comments during their next review meeting. The Medicines and Related Substances Control Act has still not been submitted as was requested by the Reviewers.
43. The deficiencies relating to witness protection, assistance to and protection of victims to be addressed by the Witness Protection Bill and those inhibiting cooperation by LEs to, among other things, gather information from members of

organized criminal groups for purposes of carrying out their investigations and evidence gathering and in deserving situations to offer immunity from prosecution to persons offering such information to be addressed by the Prevention of Organised Crime Bill, are still pending since both Bills have not yet been passed into law. There has been no change during the period under review.

44. The Swazi authorities report that 230 police officers, 30 officers from SRA, 15 officers from the DPP's office, 30 officers from ACC have been trained on asset forfeiture, financial investigations and forensic accounting sponsored by the UNODC and ARINSA and that the training is still on-going. The authorities however do not give dates of when this training was done and which training is still on-going as some of these figures are the same as those provided during the last review. Most importantly, the authorities still do not indicate whether a training programme has been developed for LEAs as had been recommended by the assessors. The authorities did not provide any updates for the period under review.
45. The assessors had recommended that the authorities make clear provisions relating to extradition or mutual legal assistance requests involving fiscal matters. The authorities have submitted that "*current Act applies to fiscal matters as well*" but they are not saying which Act is this and the relevant sections to guide the Reviewers. For the period under review the authorities have submitted that Double Taxation Avoidance Agreements (DTAs) and tax information exchange agreements meet the recommendation by the assessors but they do not cite any clauses of the agreements or the actual agreements they have entered into, which provide for exchange of information on matters relating to MLA and extradition requests to meet the recommendation by the assessors.
46. The authorities have still not ratified and implemented the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation. The authorities have now reported that the Protocol was ratified in August 2016, but no proof was submitted in this regard.
47. No progress has been made on the other recommendations made by the assessors under Building Block V.1.

*Recommendation 36 & SR. V (rated PC)*

**Mutual legal Assistance (MLA) (R. 36 and SR. V)**

48. The assessors had recommended that the DPP's Office establish effective mechanisms to deal with mutual legal assistance requests in a timely, constructive and effective manner and be able to properly account for the manner in which each one of the requests is handled. The authorities, for the period under review have submitted that the number of officers dealing with MLA requests in the DPP's Office has been increased from two to four and they have also provided copies of the register where they keep statistics of such requests. Although, the authorities have to be commended for the efforts they are making to retain statistics through a register, the statistics kept can still be improved on by adding information, e.g. date of receipt for incoming requests, date of allocation to an officer, if outsourcing of information relating to the request was required when the request was dispatched and when the information was received, the quality of the information received, etc. The current register shows remarkable improvement in capturing of statistics but there are finer details of the information, particularly on MLA requests which are still missing. A holistic approach to maintaining of such information would help Reviewers/Assessors to determine whether the requests are being attended to in a timely, constructive and effective manner as required under the FATF Standards.
49. The recommendation by the assessors for the Criminal Matters (Mutual Assistance) Act to be amended to enable provision of mutual legal assistance to non-designated countries has not been attended to by the authorities. The authorities indicate in *their* progress report for the period under review that section 3 of the Criminal Matters (Mutual Assistance) Act empowers the Minister to designate any country through publication in the Gazette. We opine that this provision does not meet the requirement by the assessors given that MLA requests due to their nature have to be attended to timeously and considering the kind of consultations which have to be made by the Minister before acceding to the request to designate such a country, the provisions of this section would certainly not meet this requirement. Furthermore, this provision should have been there at

the time of Swaziland being assessed and the assessors were not satisfied that it adequately provided for provision of timely MLA to non-designated countries. May be the matter would have been approached differently, if the discretion to provide MLA in such cases was left to the Central Authority, this in some way would have ensured timeous responses to such requests.

50. The assessors had recommended that the authorities put measures in place to determine the time it takes to provide assistance on provisional measures including confiscation. The authorities have submitted that *"guidelines provide 90 days duration for assistance on provisional measures including confiscation"*. The guidelines have not been provided to the Reviewers to verify what they provide for. If the authorities can provide the guidelines. The guidelines have not been provided for the period under review so the position remains the same.
51. The authorities have not made progress in addressing the remaining recommendations made by the assessors under R. 36 & SR V.

***Recommendation 40 & SR. V (rated PC)***

**Other Forms of International cooperation and exchange of information (R. 40, SR.V)**

52. Whilst most of the remaining recommendations made in the MER by the assessors were not addressed by the authorities during the relevant period, the Swazi authorities indicated that they had entered into MoUs with the authorities of South Africa and Namibia. The CBS has only signed MoUs with countries that are members to the CMA and the Multilateral Monetary Agreement. There has not been any significant improvement in this area since the assessment of Swaziland in 2010. The position has not changed during the period under review. Swaziland has consequently not made progress in widening the mechanisms which will enable it to implement the widest possible range of exchange of information.

## SWAZILAND HIGH LEVEL MISSION REPORT

53. Due to the slow progress made by Swaziland a High Level Mission was authorized by the Council of Ministers to visit Swaziland, to convey to the Authorities the Council's concerns with the slow progress and to determine the challenges hampering the jurisdiction from addressing the deficiencies noted in the MER. The High Level Mission took place from 04 - 05 August 2016.
54. At the end of the visit the Mission and the Authorities agreed on the following immediate or short terms actions:
1. Passing of the ML/TF (Prevention) Amendment Bill and AML Regulations to implement the UNSCR's 1267 & 1373 by August 2016,
  2. Passing the Prevention of Organised Crime Bill and the Witness Protection Bill by end of 2016,
  3. Appoint FIU Board by August 2016,
  4. Recruit critical staff to the FIU, especially heads of key units, within 6 months of the Mission,
  5. Second competent staff to the FIU from other competent authorities for a period of minimum 2 years, and
  6. Obtain necessary tools for FIU to discharge its duties by August 2017.
55. Since the High Level Mission Report was adopted by the Council of Ministers in September 2016, the Reviewers are obliged to follow up on the progress made in respect of the short term actions during the April 2017 meeting.
56. Action items 1, 3 & 4 have been complied with, but during the April 2017 session the Authorities reported real challenges with regard to implementation of action items 2, 5 & 6.
57. During the current period under review, it should be noted that Swaziland did not submit their HML progress report in this regard on time and did not provide the Reviewers with any good reason as to why the HLM progress report was

submitted late, as such the Reviewers did not consider the content of the said progress report.

58. However, the Reviewers note that short term action items 2, 5 & 6 remain outstanding.

## **RECOMMENDATIONS**

59. The Kingdom of Swaziland has made significant progress by amending its ML/TPF law in 2016 and the issuance of the Anti-Money Laundering (UNSCR) Regulations, 2016 which substantially address the deficiencies in the MER. The authorities should expeditiously continue with the process of implementing the provisions of the new ML/TF legislation.

60. The authorities are urged to issue the necessary guidelines to compliment implementation of the ML/FTP Act as a matter of priority.

61. During the April 2017 session, the reviewers also considered the short-term goals of the High Level Mission Report, and found that some of these goals, that were due by August 2016 and 6 weeks after the on-site Mission had not been complied with. In terms of ESAAMLG procedures, the Reviewers had to consider whether a public statement should be issued on Swaziland or whether the country should be referred to the FATF ICRG. After careful consideration of the answers provided by the Authorities during the face-to-face meeting, the Reviewers found that the delay in compliance was not due to the negligence or tardiness of the Authorities, but the challenges experienced were beyond their control.

62. The Reviewers then recommended that Swaziland be given a chance until the Aug/Sept 2017 meeting to comply with the remaining short term action items. Should the action items not be completed by then the Reviewers had to request that a public statement be made on Swaziland.

63. At this meeting in September 2017, the Task Force Plenary deliberated on the above position extensively and eventually agreed that given the progress which had been made by Swaziland in passing amendments to the ML/TPF law in 2016 and the issuance of the Anti-Money Laundering (UNSCR) Regulations, 2016

which addressed most of the outstanding recommendations of the MER weighed against what was still outstanding, Swaziland should be given more time to address the remaining issues and report progress at the next Task Force meeting in April 2018.

64. It was recommended that the Swazi Authorities continue to report bi-annually and should report progress on the outstanding recommendations in April 2018.