



Presentation by  
Senator the Honourable Arnold J. Nicholson QC,  
Minister of Foreign Affairs and Foreign Trade

---

***Jamaica Bankers Association 4<sup>th</sup> Annual Anti-Money  
Laundering/Counter-Financing of Terrorism  
Conference***

***Monday, 12<sup>th</sup> October 2015***

## Salutations

It is truly a pleasure to participate in this 4<sup>th</sup> Annual Anti-Money Laundering and Counter-Financing of Terrorism Conference.

I congratulate the Jamaica Bankers Association and the Jamaica Institute of Financial Services for hosting this Conference and for choosing the theme: “**Compliance: Ensuring Relevance in the International Financial Community**”. It shows that we are all agreed that keeping pace with international trends in addressing Money Laundering and Counter-Terrorist Financing is vital to ensuring the viability of local institutions.

My address to you this morning will focus on two main areas. Firstly, I will discuss some of Jamaica’s recent efforts in ensuring compliance in the international financial arena; and, secondly, in light of the discussions expected at this year’s Conference, I will briefly outline recent legislative changes regarding the Dangerous Drugs Act which may have implications for financial institutions in Jamaica.

The Financial Action Task Force (FATF) is an international body which establishes, promotes and monitors the implementation of policies designed to combat money laundering and terrorism financing. The FATF issued forty (40) Recommendations on Anti-

Money Laundering and nine (9) Special Recommendations on Combating the Financing of Terrorism, now known as International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation. Together, they are recognized as the global standard on these issues.

The Caribbean Financial Action Task Force, (CFATF) which has also promulgated some nineteen (19) Recommendations, is the regional inter-governmental organisation tasked with monitoring the compliance of Caribbean countries with the international and regional standards on money laundering and terrorism financing issued by the FATF.

The CFATF conducts mutual evaluation exercises on its Member States from time to time, to determine whether the standards on money laundering and counter-terrorism are being effectively implemented.

Jamaica's last Mutual Evaluation Exercise was conducted in June of this year. The consultative process leading up to that exercise highlighted some of the strong measures that have been put in place locally to deal with Anti-Money Laundering and Counter-Terrorist Financing issues.

Admittedly, the system we have developed is not without its flaws. However, with the support and input from NGOs and private sector

stakeholders, the Government is working on a continuous basis to improve the regulatory framework.

Over the past few years, several pieces of legislation have been enacted to improve Jamaica's compliance with the requirements of the international regime.

The Terrorism Prevention Act remains at the centre of Jamaica's anti-terrorism legislative framework. It came into force in June of 2005 and is geared towards fulfilling Jamaica's international obligations.

UN Security Council Resolution 1373 identified eighteen (18) anti-terrorism instruments to which States must become parties. As at October 2013, Jamaica was party to twelve (12) of those Conventions, including the International Convention for the Suppression of Terrorism Financing.

Since that time, Parliament has passed amendments to the Terrorism Prevention Act and Jamaica has now ratified or acceded four more instruments. I am proud to say, therefore, that Jamaica is now a party to sixteen (16) anti-terrorism conventions and protocols under UNSCR 1373 and we have developed the legislative framework to implement those conventions and protocols. The two remaining instruments were negotiated into 2010 concern aircraft security and are being addressed by the Ministry of Transport.

The purpose of the Terrorism Prevention Act is to criminalise all terrorism-related activities, including terrorism financing. This comprehensive piece of legislation covers a gamut of offences, such as:

- Providing or inviting a person to provide financial resources or services for the commission of a terrorist offence;
- Providing financial resources or services to a terrorist organization or a known individual terrorist.

The Act also imposes an obligation on financial institutions to report on transactions with certain entities.

The Government is confident that the recent amendments have helped to implement the recommendations of the CFATF arising from earlier rounds of Jamaica's Mutual Evaluation exercise, as well as improve Jamaica's reputation for compliance with international standards and best practices.

The Government is keen on ensuring that Jamaica remains compliant, as this status is necessary to avert any negative consequence that stakeholders in the Jamaican banking and financial sectors might face as a result of Jamaica being deemed non-compliant.

In November of 2013, the Government passed legislation (The United Nations Security Council Resolutions Implementation Act) to ensure compliance with Recommendation VII of the CFAFT (Targeted Financial Sanctions Related to Proliferation).

This recommendation states:

*“Countries should implement targeted financial sanctions to comply with United Nations Security Council Resolutions relating to the prevention, suppression and disruption of the proliferation of weapons of mass destruction and its financing. These resolutions require countries to freeze the assets or other funds and to ensure that no funds and other assets are made available for the benefit of any person or entity designated by or under the authority of the United Nations Security Council under Chapter VII of the Charter of the United Nations.”*

The United Nations Security Council Resolutions Implementation Act allows Jamaica to implement Security Council resolutions issued under Chapter VII of the United Nations Charter (maintenance of international peace and security). This Act has a regime very similar to the Terrorism Prevention Act and the reporting requirements and format have been streamlined to fit within the existing framework.

The main distinction between this Act and the Terrorism Prevention Act is that the basis for reporting will not relate to persons or entities that are deemed by the United Nations to be terrorists, but to those designated as a threat to international peace and security.

The relevant prohibitions or actions to be taken in relation to designated persons will be addressed through the use of regulations. Each Chapter VII UN Security Council Resolution in the area of threats to international peace and security which creates a sanctions regime will require its own set of regulations for implementation.

In fact, one set of regulations has already been promulgated under the Act. These regulations implement a specific Security Council resolution dealing with natural and legal persons from North Korea and requires specific actions on the part of institutions which may hold the assets of such persons.

Work will begin shortly on the drafting of other regulations to facilitate reporting by financial institutions under this act. This piece of legislation has played an important role in maintaining Jamaica's reputation as being compliant with the international regime.

Complementing the enhanced legislative framework, the Jamaican Government has also addressed a number of obligations under the

Recommendations, by instituting administrative measures against terrorist financing. These include the Bank of Jamaica (AML/CFT) Guidance Notes and the Financial Services Commission Guidelines. These documents set out the primary standard of best practices for financial institutions and other pertinent bodies.

The Government is well aware of the negative consequences which can flow from non-compliance with the international regime – both for the economy as well as for individual institutions. It is this awareness that drives the constant monitoring and updating of our regulatory framework to ensure compliance. The fight against terrorism is multi-faceted and it should be appreciated that the measures outlined are not the only means employed by the Government to combat this issue.

As I have been highlighting throughout my presentation this morning, the Government seeks to actively modernize regulatory frameworks to ensure the continued viability of the Jamaican economy and society in an ever changing global environment.

This approach was reflected in the passage in April of this year of Amendments to the Dangerous Drugs Act, a piece of legislation which has captured the attention of both local and international interests, as it rightly should. We believe that the amendments will allow us to take a more modern, humane and nuanced approach in

addressing some of the age-old issues which feature prominently in the global discussion on drug policy, specifically ganja.

The phenomenon of the use of and illicit trade in dangerous drugs is an issue with which Jamaica and the world have been grappling for decades. Recent trends have shown that global attitudes towards drug policy are shifting.

Prior to the coming into effect of the Dangerous Drugs (Amendment) Act, ganja use was being prohibited locally since 1948. However, our actions regarding drug policy do not, and cannot take place in a vacuum. There is a complex international regime regulating drugs and the Government was keen to ensure that Jamaica would remain compliant with its international obligations notwithstanding the modernization of our drug laws.

On 6<sup>th</sup> October 1989, Jamaica became a party to the **1961 Single Convention on Narcotic Drugs as Amended by the 1972 Protocol**. With 183 States Parties, the 1961 Single Convention, as amended, is undoubtedly one of the most important international legal instruments aimed at addressing the problems surrounding the possession of and illicit trade in dangerous drugs.

The 1961 Single Convention, as amended, places a general duty on States to ‘enact legislative and administrative measures as may be necessary to limit exclusively to medical and scientific purposes the

production, possession, dealing and trading in ganja’, subject to certain exceptions. The 1961 Convention gives consideration to rights which are protected by the constitutions of States Parties and also excludes from the scope of its application certain types of activity involving the cannabis plant.

The provisions of the 1961 Single Convention are reinforced by the 1988 United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Article 3 (2) of that Treaty provides that subject to their constitutions, States Parties should impose criminal sanctions for possession of ganja for personal consumption where this is contrary to the 1961 Single Convention as Amended. However, Article 4 (c) of the 1988 UN Convention also gives Parties the option to impose alternative sanctions for minor offences. Cumulatively, these provisions provide a certain degree of flexibility to States Parties and Jamaica has made use of them.

To deny that the illicit trade in ganja is lucrative would be naïve. However, as has been shown by the successes in other countries, so too can domestic commerce in ganja when conducted in conformity within the accepted international parameters (medicinal and scientific).

The issue of dangerous drugs is a multi-faceted one and the security issues associated with the trade in dangerous drugs are

clear. The 1961 Convention imposes an obligation on States Parties to make the domestic and international trade in dangerous drugs, including ganja, subject to a licensing regime and strict controls.

The Dangerous Drugs Act, therefore, has created a **Cannabis Licensing Authority** for the purpose of enabling the establishment of a lawful, regulated industry in hemp as well as ganja for medicinal, therapeutic and scientific purposes. This ensures compliance with our obligations as outlined in the 1961 Single Convention and the 1988 UN Convention.

It is important to note that the 1961 Single Convention does not apply to the cultivation of the cannabis plant exclusively for industrial purposes (such as hemp) nor does it apply to cultivation solely for horticultural purposes (that is, not for the production of cannabis or cannabis resin).

Financial institutions are encouraged to keep abreast of these developments for many reasons but I will mention just one with which I am sure many of the participants here today are fondly acquainted: ***The Proceeds of Crime Act.***

Human existence has taught us that with opportunity comes risk. With the creation of a lawful industry with the potential to generate billions of dollars, financial institutions must assist the Government in its fight to ensure that criminal elements do not succeed in their

efforts to launder illicit funds or profit from the gains of their criminal activities.

The Proceeds of Crime Act has been an effective tool in combating money laundering. With the relaxation of the rules involving the use, possession and trade in medical cannabis related products, financial institutions must adapt their rules and procedures to be consistent with the amendments to the Dangerous Drugs Act. In doing so, they must continue to be vigilant to ensure that funds which pass through their institutions are acquired only through the regulated trade in cannabis and cannabis related products which are legal; and not through the unregulated trade in illegal cannabis or cannabis related products.

Ladies and Gentlemen,

The challenges faced by small island developing states like Jamaica in keeping pace with complex international regulatory frameworks are many. However, if we are to remain relevant, compliance is imperative.

Notwithstanding resource and capacity constraints, Jamaica continues to make strides in addressing issues concerning money laundering and counter-terrorism. While much has been achieved, there is still work left to be done. We must never lose sight of the fact that the Government, the private sector and NGOs must

continue to collaborate to develop effective systems to respond to the challenges.

Conferences such as this show the commitment of stakeholders to ensure the relevance of Jamaica's financial institutions in the international arena. I wish you success in your deliberations.

Thank you.